

Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC (Text with EEA relevance)

Article 1

Scope

1 This Directive applies to ro-ro passenger ships and high-speed passenger craft operating:

- a on a regular service between a port of a Member State and a port of a third country where the flag of the vessel is the same as that of the Member State in question; or
- b on a regular service on domestic voyages in sea areas in which ships of Class A may operate in accordance with Article 4 of Directive 2009/45/EC of the European Parliament and of the Council⁽¹⁾.

2 This Directive does not apply to ro-ro passenger ships and high-speed passenger craft falling under Directive 2009/16/EC.

3 Member States may apply this Directive to ro-ro passenger ships and high-speed passenger craft operating on a regular service on domestic voyages in sea areas other than those referred to in paragraph 1(b).

4 Member States which do not have seaports and which can verify that of the total number of individual vessels calling annually over a period of the 3 previous years at their river ports, less than 5 % are passenger ships or high-speed passenger craft covered by this Directive, may derogate from the provisions of this Directive except for the obligation set out in the second subparagraph.

Those Member States which do not have seaports shall communicate to the Commission by 21 December 2019 the total number of vessels and the number of ro-ro passenger ships and high-speed passenger craft calling at their ports during the 3-year period referred to in the first subparagraph and shall inform the Commission annually thereafter of any subsequent change to the abovementioned figures.

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

- (1) ‘ro-ro passenger ship’ means a ship with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers;
- (2) ‘high-speed passenger craft’ means a craft as defined in Regulation 1 of Chapter X of SOLAS 74, and carrying more than 12 passengers;
- (3) ‘SOLAS 74’ means the 1974 International Convention for the Safety of Life at Sea, including Protocols and amendments thereto, in its up-to-date version;

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- (4) ‘High Speed Craft Code’ means the ‘International Code of Safety for High Speed Craft’ contained in IMO Maritime Safety Committee Resolution MSC.36(63) of 20 May 1994 or the International Code of Safety for High-Speed Craft, 2000 (2000 HSC Code), contained in IMO Resolution MSC.97(73) of December 2000, in its up-to-date version;
- (5) ‘HSSC’ means the IMO Survey Guidelines under the Harmonized System of Survey and Certification, in its up-to-date version;
- (6) ‘regular service’ means a series of ro-ro passenger ship or high-speed passenger craft crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:
 - (a) according to a published timetable; or
 - (b) with crossings so regular or frequent that they constitute a recognisable systematic series;
- (7) ‘sea area’ means any sea area or sea route established pursuant to Article 4 of Directive 2009/45/EC;
- (8) ‘certificates’ means:
 - (a) for ro-ro passenger ships and high-speed passenger craft engaged on international voyages, the safety certificates issued under SOLAS 74 or under the High Speed Craft Code respectively, together with the relevant attached records of equipment;
 - (b) for ro-ro passenger ships and high-speed passenger craft engaged on domestic voyages, the safety certificates issued in accordance with Directive 2009/45/EC together with the relevant attached records of equipment;
- (9) ‘administration of the flag State’ means the competent authorities of the State whose flag the ro-ro passenger ship or the high-speed passenger craft is entitled to fly;
- (10) ‘domestic voyage’ means a voyage in sea areas from a port of a Member State to the same or another port within that Member State;
- (11) ‘company’ means the organisation or person who has agreed to take over all the duties and responsibilities imposed by the International Management Code for Safe Operation of Ships and for Pollution Prevention (the ISM Code) in its up-to-date version or, in cases where Chapter IX of SOLAS 74 does not apply, the owner of the ro-ro passenger ship or the high-speed passenger craft or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ro-ro passenger ship or the high-speed passenger craft from its owner;
- (12) ‘inspector’ means a public-sector employee or other person, duly authorised by the competent authority of a Member State to carry out the inspections provided for in this Directive, who is responsible to that competent authority and who fulfills the minimum criteria specified in Annex XI to Directive 2009/16/EC;
- (13) ‘competent authority of the Member State’ means the authority appointed by the Member State under this Directive and responsible for carrying out the tasks assigned to it by this Directive.

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Article 3

Pre-commencement inspections

- 1 Before a ro-ro passenger ship or high-speed passenger craft starts to operate on a regular service covered by this Directive, the competent authorities of the Member States shall carry out a pre-commencement inspection, consisting of:
 - a verification of the compliance with the requirements laid down in Annex I; and
 - b an inspection, in accordance with Annex II, to satisfy themselves that the ro-ro passenger ship or high-speed craft fulfills the necessary requirements for safe operation of a regular service.
- 2 The pre-commencement inspection shall be carried out by an inspector.
- 3 When requested by a Member State, companies shall provide evidence of compliance with the requirements of Annex I in advance of but not earlier than 1 month before the pre-commencement inspection.

Article 4

Exceptions to the pre-commencement inspection obligation

- 1 In the case of pre-commencement inspections, a Member State may decide not to apply certain requirements or procedures in Annexes I and II relevant to any annual flag State survey or inspection carried out within the previous 6 months, provided that relevant procedures and guidelines for surveys specified in HSSC or procedures designed to achieve the same goal have been followed. Member States shall transfer the relevant information to the inspection database in accordance with Article 10.
- 2 When a ro-ro passenger ship or high-speed passenger craft is to be engaged on a regular service, the Member State may take into account inspections and surveys previously carried out in respect of that ro-ro passenger ship or high-speed passenger craft for operation on another regular service covered by this Directive. Provided that the Member State is satisfied with those previous inspections and surveys and that they are relevant to the new operational conditions, the inspections provided for in Article 3(1) do not need to be applied before the ro-ro passenger ship or high-speed passenger craft starts operating on the new regular service.
- 3 At the request of a company, Member States may confirm in advance that they agree that the previous inspections and surveys are relevant to the new operational conditions.
- 4 Where, due to unforeseen circumstances, there is an urgent need for the rapid introduction of a replacement ro-ro passenger ship or high-speed passenger craft to ensure continuity of service, and paragraph 2 does not apply, the Member State may allow the ro-ro passenger ship or craft to start operating provided that the following conditions are met:
 - a a visual inspection and document check raises no concerns that the ro-ro passenger ship or high-speed passenger craft does not fulfil the necessary requirements for safe operation; and
 - b the Member State completes the pre-commencement inspection provided for in Article 3(1) within 1 month.

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Article 5

Regular inspections

- 1 Member States shall once in every 12-month period, carry out:
 - a an inspection, in accordance with Annex II; and
 - b an inspection during a regular service, taking place not before 4 months but not later than 8 months after the inspection referred to in point (a) and covering the items listed in Annex III and what, in the professional judgment of the inspector, constitutes a sufficient number of the items listed in Annexes I and II to ensure that the ro-ro passenger ship or high-speed passenger craft continues to fulfill all the necessary requirements for safe operation.

A pre-commencement inspection in accordance with Article 3 shall be considered to be an inspection for the purposes of point (a).

- 2 The inspection referred to in point (a) of paragraph 1 may, at the discretion of the Member State, be carried out at the same time as, or in conjunction with, the annual flag State survey provided that the relevant procedures and guidelines for surveys as specified in HSSC or procedures designed to achieve the same goal are followed.

- 3 Member States shall carry out an inspection in accordance with Annex II each time the ro-ro passenger ship or high-speed passenger craft undergoes repairs, alterations and modifications of a major character, or when there is a change of management, or a transfer of class. However, in the case of a change of management, or transfer of class, the Member State may, after taking account of inspections previously carried out in respect of the ro-ro passenger ship or high-speed passenger craft, and provided that the safe operation of the ro-ro passenger ship or craft is not affected by this change or transfer, exempt the ro-ro passenger ship or high-speed passenger craft from the inspection required by the first sentence of this paragraph.

Article 6

Inspection report

- 1 On completion of any inspection carried out in accordance with this Directive, the inspector shall draw up a report in accordance with Annex IX to Directive 2009/16/EC.
- 2 The information contained in the report shall be communicated to the inspection database provided for in Article 10. The master shall also be provided with a copy of the inspection report.

Article 7

Rectification of deficiencies, prohibition of departure and suspension of inspection

- 1 Member States shall ensure that any deficiencies confirmed or revealed by an inspection carried out in accordance with this Directive are rectified.
- 2 Where the deficiencies are clearly hazardous to health or safety or pose an immediate danger to health or life, the ro-ro passenger ship or high-speed passenger craft, its crew and passengers, the competent authority of the Member State shall ensure that the ro-ro passenger

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ship or high-speed passenger craft is subject to an order prohibiting its departure ('a prohibition of departure order'). The master shall be provided with a copy of that order.

3 The prohibition of departure order shall not be lifted until the deficiency has been rectified and the hazard has been removed to the satisfaction of the competent authority of the Member State or until the competent authority of the Member State has established that the ship or craft can, subject to any necessary conditions, proceed to sea or resume operation without risk to the safety and health of passengers or crew, or risk to the ro-ro passenger ship or high-speed passenger craft or other ships.

4 If a deficiency referred to in paragraph 2 cannot be readily rectified in the port in which the deficiency has been confirmed or revealed, the competent authority of the Member State may agree to allow the ship or craft to proceed to an appropriate repair yard where the deficiency can be readily rectified.

5 In exceptional circumstances, where the overall condition of a ro-ro passenger ship or high-speed passenger craft is obviously substandard, the competent authority of the Member State may suspend the inspection of that ship or craft until the company takes the steps necessary to ensure that the ro-ro passenger ship or high-speed passenger craft is no longer clearly hazardous to safety or health or no longer poses an immediate danger to the life of its crew and passengers or to ensure that it complies with the relevant requirements of applicable international conventions.

6 Where the competent authority of the Member State suspends the inspection in accordance with paragraph 5, the ro-ro passenger ship or high-speed passenger craft shall be automatically placed under a prohibition of departure order. The prohibition of departure order shall be lifted where the inspection has been resumed and successfully completed and where the conditions set out in paragraph 3 of this Article and in Article 9(2) have been complied with.

7 In order to alleviate port congestion, the competent authority of the Member State may allow a ro-ro passenger ship or high-speed passenger craft subject to a prohibition of departure order to be moved to another part of the port if it is safe to do so. However, the risk of port congestion shall not be a consideration when deciding whether to impose or to lift a prohibition of departure order. Port authorities or bodies shall facilitate the accommodation of such ships.

Article 8

Right of appeal

1 The company shall have a right of appeal against a prohibition of departure order issued by the competent authority of the Member State. An appeal shall not suspend the prohibition of departure order, unless interim measures are granted in accordance with national law. Member States shall establish and maintain appropriate procedures for this purpose in accordance with their national legislation.

2 The competent authority of the Member State shall inform the master of the ro-ro passenger ship or high-speed passenger craft subject to a prohibition of departure order of the right of appeal and the applicable procedures. When, as a result of an appeal, a prohibition of departure order is revoked or amended, Member States shall ensure that the inspection database provided for in Article 10 is updated accordingly without delay.

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Article 9

Costs

1 Where the inspections referred to in Articles 3 and 5 confirm or reveal deficiencies warranting a prohibition of departure order, all costs relating to the inspections shall be covered by the company.

2 The prohibition of departure order shall not be lifted until full payment is made or a sufficient guarantee is given for reimbursement of the costs.

Article 10

Inspection database

1 The Commission shall develop, maintain and update an inspection database to which all Member States shall be connected and which shall contain all the information required for the implementation of the inspection system provided for by this Directive. This database will be based on the inspection database referred to in Article 24 of Directive 2009/16/EC and shall have similar functionalities to that database.

2 Member States shall ensure that the information related to inspections carried out in accordance with this Directive, including information concerning deficiencies and prohibition of departure orders, is transferred without delay to the inspection database as soon as the inspection report is completed or the prohibition of departure order lifted. With regard to the particulars of the information, provisions of Annex XIII to Directive 2009/16/EC shall apply *mutatis mutandis*.

3 Member States shall ensure that the information transferred to the inspection database is validated for publication purposes within 72 hours.

4 The Commission shall ensure that the inspection database makes it possible to retrieve any relevant data concerning the implementation of this Directive based on inspection data provided by Member States.

5 Member States shall have access to all the information recorded in the inspection database which is relevant for implementing the inspection system provided for in this Directive and in Directive 2009/16/EC.

Article 11

Penalties

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

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Article 12

Amendment procedure

1 The Commission is empowered to adopt delegated acts in accordance with Article 13, amending the Annexes to this Directive in order to take account of developments at international level, in particular within the IMO, and to improve the technical specifications thereof in the light of experience gained.

2 In exceptional circumstances, where duly justified by an appropriate analysis by the Commission and in order to avoid a serious and unacceptable threat to maritime safety, to health, to shipboard living or working conditions or to the marine environment, or to avoid incompatibility with Union maritime legislation, the Commission is empowered to adopt delegated acts in accordance with Article 13, amending this Directive in order not to apply, for the purpose of this Directive, an amendment to the international instruments referred to in Article 2.

Those delegated acts shall be adopted at least 3 months before the expiration of the period established internationally for the tacit acceptance of the amendment concerned or the envisaged date for the entry into force of such an amendment. In the period preceding the entry into force of such delegated act, Member States shall refrain from any initiative intended to integrate the amendment in national legislation or to apply the amendment to the international instrument concerned.

Article 13

Exercise of the delegation

1 The power to adopt delegated acts referred to in Article 12 is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for a period of 7 years from 20 December 2017. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the 7-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.

3 The delegation of power referred to in Article 12 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a

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period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

Article 14

Amendments to Directive 2009/16/EC

Directive 2009/16/EC is amended as follows:

- (1) in Article 2, the following points are inserted:
 25. “ro-ro passenger ship” means a ship with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers;
 26. “high-speed passenger craft” means a craft as defined in Regulation 1 of Chapter X of SOLAS 74, and carrying more than 12 passengers;
 27. “regular service” means a series of ro-ro passenger ship or high-speed passenger craft crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:
 - (i) according to a published timetable; or
 - (ii) with crossings so regular or frequent that they constitute a recognisable systematic series;;
- (2) in Article 3(1), the following subparagraph is added:

This Directive shall also apply to inspections of ro-ro passenger ships and high-speed passenger craft carried out outside a port or away from an anchorage during a regular service in accordance with Article 14a.;
- (3) in Article 13, the introductory phrase is replaced by the following:

Member States shall ensure that ships which are selected for inspection in accordance with Article 12 or Article 14a are subject to an initial inspection or a more detailed inspection as follows.;
- (4) the following Article is inserted:

Article 14a

Inspection of ro-ro passenger ships and high speed passenger craft in regular service

- 1 Ro-ro passenger ships and high-speed passenger craft operating on a regular service are eligible for inspections in accordance with the time frame and other requirements set out in Annex XVII.
- 2 Member States shall, when planning inspections of a ro-ro passenger ship or high-speed passenger craft, take due account of the operational and maintenance schedule of the ro-ro passenger ship or high-speed passenger craft.

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3 When a ro-ro passenger ship or high-speed passenger craft has been subject to an inspection in accordance with Annex XVII, such inspection shall be recorded in the inspection database, and shall be taken into account for the purposes of Articles 10, 11 and 12 and for calculating the fulfillment of the inspection commitment of each Member State. It shall be included in the total number of annual inspections carried out by each Member State, provided for in Article 5.

4 Article 9(1), Article 11(a) and Article 14 shall not apply to ro-ro passenger ships and high-speed passenger craft on a regular service inspected under this Article.

5 The competent authority shall ensure that the ro-ro passenger ships or high-speed passenger craft that are subject to an additional inspection in accordance with Article 11(b) are selected for inspection in accordance with Annex I, Part II 3A(c) and 3B(c). Inspections carried out under this paragraph shall not affect the inspection interval provided for in paragraph 2 of Annex XVII.

6 The inspector of the competent authority of the port State may agree to be accompanied, during an inspection of a ro-ro passenger ship or high-speed passenger craft, by a port State inspector of another Member State acting as an observer. Where the flag of the vessel is that of a Member State, the port State shall, upon request, invite a representative of the flag State to accompany the inspection as an observer.;

(5) in Article 15, paragraph 3 is deleted;

(6) in Article 16, paragraph 1 is replaced by the following:

1. A Member State shall refuse access to its ports and anchorages to any ship which:

- flies the flag of a State whose detention rate falls into the black list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 36 months in a port or anchorage of a Member State or of a State signatory of the Paris MOU, or
- flies the flag of a State whose detention rate falls into the grey list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 24 months in a port or anchorage of a Member State or of a State signatory of the Paris MOU.

The first subparagraph shall not apply to the situations described in Article 21(6).

The refusal of access shall be applicable as soon as the ship leaves the port or anchorage where it has been the subject of a third detention and where a refusal of access order has been issued.;

(7) The following Annex is added:

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ANNEX XVII

Inspection of ro-ro passenger ships and high-speed passenger craft on a regular service

- 1.1. Before a ro-ro passenger ship or high-speed passenger craft starts to operate on a regular service covered by this Directive, Member States shall carry out an inspection, in accordance with Article 3(1) of Directive (EU) 2017/2110⁽²⁾, to ensure that that ro-ro passenger ship or high-speed passenger craft fulfills the necessary requirements for the safe operation of a regular service.
- 1.2. When a ro-ro passenger ship or high-speed passenger craft is to be engaged on a regular service, the Member State concerned may take into account inspections carried out within the last 8 months by another Member State in respect of that ro-ro passenger ship or high-speed passenger craft for operations on another regular service covered by this Directive, provided that the Member State is satisfied in every case that those previous inspections are relevant to the new operational conditions and that during those inspections the necessary requirements for the safe operation of a regular service were fulfilled. The inspections provided for in point 1.1 do not need to be applied before the ro-ro passenger ship or high-speed passenger craft starts operating on the new regular service.
- 1.3. Where, due to unforeseen circumstances, there is an urgent need for the rapid introduction of a replacement ro-ro passenger ship or high-speed passenger craft to ensure continuity of service, and point 1.2 is not applicable, the Member State may allow the passenger ship or craft to start operating provided that the following conditions are met:
 - (a) a visual inspection and document check raises no concerns that the ro-ro passenger ship or high-speed passenger craft does not fulfill the necessary requirements for safe operation; and
 - (b) the Member State completes the inspection provided for in Article 3(1) of Directive (EU) 2017/2110 within 1 month.
2. Member States shall, once per year, but not before 4 months and not later than 8 months following the previous inspection, carry out:
 - (a) an inspection, including the requirements of Annex II to Directive (EU) 2017/2110 and of Commission Regulation (EU) No 428/2010⁽³⁾ as applicable; and
 - (b) an inspection during a regular service. This inspection shall cover the items listed in Annex III to Directive (EU) 2017/2110 and what, in the professional judgment of the inspector, constitutes a sufficient number of the items listed in Annexes I and II to Directive (EU) 2017/2110, to ensure that the ro-ro passenger ship or high-speed passenger craft continues to fulfill all the necessary requirements for safe operation.
3. Where a ro-ro passenger ship or high-speed passenger craft has not been inspected in accordance with point 2, the ro-ro passenger ship or high-speed passenger craft shall be considered to be Priority I.

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4. An inspection in accordance with point 1.1 shall be considered to be an inspection for the purposes of point 2(a) of this Annex..

Article 15

Repeal

Directive 1999/35/EC is repealed.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex IV.

Article 16

Review

The Commission shall evaluate the implementation of this Directive and submit the results of the evaluation to the European Parliament and the Council by 21 December 2026.

Article 17

Transposition

1 By 21 December 2019, Member States shall adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from 21 December 2019.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 18

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 19

Addressees

This Directive is addressed to the Member States.

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Done at Strasbourg, 15 November 2017.

For the European Parliament

The President

A. TAJANI

For the Council

The President

M. MAASIKAS

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- (1) Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships ([OJ L 163, 25.6.2009, p. 1](#)).
- (2) Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC ([OJ L 315, 30.11.2017, p. 61](#)).
- (3) Commission Regulation (EU) No 428/2010 of 20 May 2010 implementing Article 14 of Directive 2009/16/EC of the European Parliament and of the Council as regards expanded inspections of ships ([OJ L 125, 21.5.2010, p. 2](#)).