

1988 No. 1275

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping
(Weighing of Goods Vehicles and other Cargo)
Regulations 1988**

Made - - - - - 26th July 1988

Laid before Parliament 29th July 1988

Coming into force 1st February 1989

The Secretary of State for Transport, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979(a) in exercise of the powers conferred on him by section 21(1)(a), (3), (4), (5) and (6) and section 22(1) of that Act, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, interpretation and application

1.—(1) These Regulations may be cited as the Merchant Shipping (Weighing of Goods Vehicles and other Cargo) Regulations 1988 and shall come into force on 1st February 1989.

(2) In these Regulations the following expressions have the following meanings respectively unless the context otherwise requires and subject to regulation 12 below:—

“bus” has the same meaning as in the Road Vehicles (Construction and Use) Regulations 1986(b);

“goods vehicle” has the same meaning as in the Road Traffic Act 1972(c);

“harbour” and “harbour authority” have the same meanings as in the Harbours Act 1964(d);

“maximum gross weight” has the same meaning as in the Road Vehicles (Construction and Use) Regulations 1986;

“motor vehicle” has the same meaning as in the Road Traffic Act 1972;

“passenger ship” means a ship carrying more than 12 passengers and propelled by electricity or other mechanical power;

“port premises” means in relation to any harbour the docks, landing places and all other works and land at any time vested in, belonging to or administered by the harbour authority (as harbour authority in relation to that harbour) and includes all berths adjoining that harbour from which ships to which these Regulations apply sail from time to time and all premises vested in, belonging to or administered by berth operators or shipowners which are contiguous with those premises or any of those berths;

“road vehicle” means a vehicle intended or adapted for use on roads;

(a) 1979 c.39. Section 21 was amended by section 49(3) of the Criminal Justice Act 1982 (c.48) and by section 11 of the Safety at Sea Act 1986 (c.23).

(b) S.I. 1986/1078.

(c) 1972 c.20.

(d) 1964 c.40.

“ro/ro passenger ship” means a passenger ship provided with cargo or vehicle spaces in which cargo or vehicles can be loaded and unloaded in a horizontal direction;
“trailer” means a vehicle drawn by a motor vehicle and includes a semi-trailer within the meaning of the Road Vehicles (Construction and Use) Regulations 1986;
“unladen weight” has the same meaning as in the Road Vehicles (Construction and Use) Regulations 1986; and
“weighing manager” means any authority or person who is for the time being responsible for the management of a weighing machine within port premises.

(3) The following are “qualifying cargo items”:

- (a) any goods vehicle, together with (in the case of a goods vehicle which is a motor vehicle) any trailer drawn by it, of which
 - (i) the weight, or as the case may be the aggregate weight, including any load, any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, and any loose tools and loose equipment, or
 - (ii) the maximum gross weight, exceeds 7.5 tonnes;
- (b) any other individual unit of cargo other than a bus, of which the weight exceeds 7.5 tonnes, unless it forms part of a qualifying cargo item under (a).

(4) These Regulations apply to any ro/ro passenger ship which is operating as a ship of Class II or II(A) within the meaning of the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984(a) and is a United Kingdom ship.

(5) Where a ship is managed by a person other than its owner (whether on behalf of the owner or some other person or on his own behalf), a reference in these Regulations to the owner shall be construed as including a reference to that person.

(6) A reference in these Regulations to a numbered regulation is a reference to the regulation of that number in these Regulations.

(7) Any approval given pursuant to these Regulations shall be given in writing and shall specify the date when it is to come into force and the conditions (if any) on which it is given.

Requirement for weighing of cargo items, and use of weights for stability calculations

2.—(1) Subject to regulations 4(5) and 5(3) and (4), no qualifying cargo item shall be loaded on to a ship to which these Regulations apply—

- (a) when sailing from any United Kingdom port for a port outside the United Kingdom;
- (b) when sailing from a port in Great Britain for a port in Northern Ireland, or vice versa; or
- (c) when sailing from a port listed in the Schedule hereto to a destination there indicated in relation to that port;

unless—

- (i) its weight has previously been determined in accordance with regulations 4 and 5, by means of a weighing machine complying with and used and operated in accordance with regulation 3 or, in a case where regulation 4 or 5 so provides, by an alternative method authorised there for that case;
- (ii) arrangements at the port in question to prevent fraud by changing the composition of qualifying cargo items after weighing have been approved by the Secretary of State;
- (iii) if weighed outside the port premises, a certificate has been supplied as evidence of weighing; and
- (iv) there are reliable arrangements in place for the retention, within the port premises or on board the ship, of records or documents demonstrating that the requirements of paragraph (i) have been complied with.

(2) The weights of qualifying cargo items obtained in compliance with paragraph (1) of this regulation shall be used for the purposes of any calculations of the stability of the ship that are required to be carried out under the Merchant Shipping Acts.

(a) S.I. 1984/1216, to which there are amendments not relevant to these Regulations.

Accuracy of Weighing Machines, and Persons Qualified to Use Them

3.—(1) Any weighing machine used for the purpose of these Regulations within the port premises shall either—

- (a) have been passed by an inspector of weights and measures as fit for use for trade and comply with the requirements of the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988(a) relating to weighing equipment of Class I, II or III and bear the prescribed stamp; or
- (b) bear the mark of EEC initial verification and be of class of special, high or medium accuracy as specified in the Measuring Instruments (EEC Requirements) Regulations 1988(b); or
- (c) have been the subject, upon application by the weighing manager, of a satisfactory test and report under section 74(4) of the Weights and Measures Act 1985(c) stating that the machine is capable of weighing qualifying cargo items between 7.5 tonnes and the maximum capacity of the weighing machine within an accuracy of plus or minus 2 per cent.

(2) Such a weighing machine shall be used for the purposes of these Regulations in accordance with such conditions of use as the inspector of weights and measures may specify for the purpose of ensuring that it meets the required level of accuracy.

(3) Any person operating a weighing machine, other than a self-operated weighing machine within the meaning of paragraph (4) of this regulation, shall hold a certificate of competence to operate the machine, issued by a chief inspector of weights and measures or on his authority.

(4) The conditions of use given under paragraph (2) shall include notification of whether the equipment is for use only by operators certified under paragraph (3) or is able to be used by uncertified operators when the machine will be designated a self-operated weighing machine. Such a machine shall—

- (a) incorporate or be used in conjunction with arrangements approved by the Secretary of State to ensure that the identity of a qualifying cargo item is not falsified; and
- (b) be provided with instructions approved by an inspector of weights and measures which shall be displayed near the machine indicating the manner in which it is to be used.

(5) Any weighing machine used for the purposes of these Regulations outside the port premises shall comply with the requirements of paragraph (1)(a) or (b) of this regulation and such use shall comply with the requirements of the Weights and Measures Act 1985 and the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988 relating to use for trade.

Manner of Weighing

4.—(1) Subject to the following paragraphs of this regulation, a qualifying cargo item shall be weighed alone.

(2) A qualifying cargo item which is a motor vehicle or motor vehicle and trailer may be weighed with or without the driver, and it shall be recorded whether the driver is included.

(3) A qualifying cargo item may—

- (a) if it is a trailer, be weighed in combination with the motor vehicle by which it is drawn, and
- (b) if it is an individual unit of cargo which is not a road vehicle and there is no other load (except for any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, loose tools or loose equipment), be weighed in combination with the motor vehicle or trailer on which it is carried or (as the case may be) with the trailer and the motor vehicle by which the trailer is drawn,

(a) S.I. 1988/876.

(b) S.I. 1988/186.

(c) 1985 c.72.

the weight of the qualifying cargo item being obtained by subtraction from the total weight so obtained of the weight of the vehicle, or of the motor vehicle and trailer, in accordance with paragraph (4) of this regulation.

(4) The weight of the vehicle or, as the case may be, motor vehicle and trailer required to be subtracted under paragraph (3) shall be—

- (a) obtained by weighing within the port premises after the qualifying cargo item is detached or otherwise removed;
- (b) in the case of a motor vehicle drawing a qualifying cargo item which is a trailer, or a motor vehicle which is carrying a qualifying cargo item and no other load (except for any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, loose tools or loose equipment), either the weight obtained under (a) at the same port on a previous occasion, or the mean operating weight determined previously and recorded on a certificate which is kept with the vehicle or is retained, in original or photocopy, by the weighing manager;
- (c) in the case of a trailer which is carrying a qualifying cargo item and no other load (except for any loose tools or loose equipment), either the weight obtained under (a) at the same port on a previous occasion or the unladen weight determined previously and recorded on a certificate which is presented at the time of weighing of the qualifying cargo item or is retained, in original or photocopy, by the weighing manager;
- (d) in the case of a trailer which is carrying a qualifying cargo item and no other load (except for any loose tools or loose equipment) and is drawn by a motor vehicle, the weights of the motor vehicle and trailer determined as under (b) and (c) respectively; or
- (e) determined according to a method approved by the Secretary of State.

(5) The weight of a qualifying cargo item which is a road vehicle or a motor vehicle and trailer may, if it is carrying no load (except for any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, loose tools and loose equipment),

- (a) be taken as the weight obtained by weighing the same vehicle or motor vehicle and trailer without a load at the same port on a previous occasion; or
- (b) in the case of a motor vehicle or a motor vehicle and trailer, be taken as the mean operating weight measured previously and recorded on a certificate which is kept with the vehicle or is retained, in original or photocopy, by the weighing manager; or
- (c) in the case of a trailer, be taken as the unladen weight measured previously and recorded on a certificate which is presented before loading or is retained, in original or photocopy, by the weighing manager; or
- (d) in the case of a motor vehicle and trailer, be obtained by adding the weights of the motor vehicle and trailer determined as under (b) and (c) respectively; or
- (e) be determined according to a method approved by the Secretary of State.

(6) The mean operating weight referred to in paragraphs (4)(b) and (5)(b) shall be the overall weight of the motor vehicle, without any load but with any loose tools and equipment, one-half of the maximum capacity of fuel, and a reasonable allowance for the driver.

Place of Weighing

5.—(1) Subject to the following paragraphs of this regulation, the weighing of qualifying cargo items shall be carried out within the port premises of the harbour at which the cargo is to be loaded.

(2) Qualifying cargo items which have been sealed for customs purposes may, if weighed alone, be weighed on a weighing machine outside the port premises.

(3) The weights of the following cargo items may be determined by weighing on a weighing machine outside the port premises, or by any method which the owner of the ship is satisfied is reliable:

- (a) items which are road vehicles, or motor vehicles and trailers, which exceed, and are not prohibited by the Road Traffic Act 1972 from use on a road when exceeding, 38 tonnes in weight, 18 metres in length, or 2.6 metres in width;
 - (b) items, other than goods vehicles or motor vehicles and trailers, which because of their physical dimensions, weight or other characteristics or because they are track laying vehicles are not capable of being weighed on any weighing machine within the port premises which is used to weigh goods vehicles, or motor vehicles and trailers, for the purposes of these regulations.
- (4) The Secretary of State may approve in advance, subject to such conditions as he may specify—
- (a) arrangements for the weighing of qualifying cargo items outside the port premises, or as to the weights to be used for the purpose of the calculations referred to in regulation 2(2), during periods when a weighing machine within the port premises is unserviceable; and
 - (b) arrangements as to the weights to be used for the purpose of the calculations referred to in regulation 2(2) in respect of cargo items referred to in paragraph (3) of this regulation.

Prevention of Fraud

6. Any person submitting arrangements for approval under regulation 2(1)(ii) shall comply with those arrangements when approved.

Offences

7.—(1) It shall be an offence by the shipowner and the master if a qualifying cargo item is loaded on to a ship to which these Regulations apply in breach of regulation 2(1).

(2) It shall be an offence by the master if regulation 2(2) is not complied with.

(3) It shall be an offence by the weighing manager if a weighing machine within the port premises is used for the purposes of these Regulations—

- (a) which does not comply with the requirements of regulation 3(1);
- (b) other than in accordance with the conditions specified under regulation 3(2);
- (c) by a person not holding a certificate of competence required under regulation 3(3);
- (d) in breach of regulation 4; or
- (e) without arrangements at the port in question having previously been approved in accordance with regulation 2(1)(ii).

(4) It shall be an offence by the weighing manager if a self-operated weighing machine is made available for operation and the requirements of regulation 3(4) relating to such machines are not complied with.

(5) It shall be an offence for any person operating a self-operated weighing machine not to comply with the instructions required to be displayed under regulation 3(4)(b).

(6) Failure to comply with regulation 6 shall be an offence by the person who has submitted the arrangements.

(7) It shall be an offence for any person—

- (a) to supply information for the purposes of these Regulations knowing or having grounds to believe it to be false;
- (b) knowingly or recklessly to falsify information supplied for the purposes of these Regulations;
- (c) materially to change the composition of a qualifying cargo item after it has been weighed within the port premises without first making arrangements to have it re-weighed.

(8) Proceedings for any offence under paragraph (3) or (5) of this regulation, save for failure to comply with regulation 3(4)(a), shall not be instituted except by or on behalf of a local weights and measures authority.

8. Where an offence under these Regulations is committed, or would have been committed except for the operation of regulation 9, by a person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

Defence

9. It shall be a good defence to a charge under these Regulations for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Penalties

10.—(1) For any offence under regulation 7(1), the shipowner and the master shall each be liable on summary conviction to a fine not exceeding £2,000.

(2) For any offence under regulation 7(2), the master shall be liable on summary conviction to a fine not exceeding £2,000.

(3) For any offence under regulation 7(3) or (4), the weighing manager shall be liable on summary conviction to a fine not exceeding £2,000.

(4) Any person committing an offence under regulation 7(5) shall be liable on summary conviction to a fine not exceeding £400.

(5) Any person committing an offence under regulation 7(6) shall be liable on summary conviction to a fine not exceeding £2,000.

(6) Any person committing an offence under regulation 7(7)(a) or (b) shall be liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(7) Any person committing an offence under regulation 7(7)(c) shall be liable on summary conviction to a fine not exceeding £2,000.

Exemptions

11. The Secretary of State may make such exemptions from the provisions of regulations 2, 3, 4, 5 and 6 in relation to such ships, services or qualifying cargo items or classes thereof, and subject to such conditions, as he may specify and may, subject to giving reasonable notice, alter or cancel any exemption so granted.

12.—(1) In the application of these Regulations to Northern Ireland:—

(a) “bus” has the same meaning as in the Public Service—Vehicles Regulations (N.I.) (1985)(a);

“goods vehicles” has the same meaning as in Article 2 of the Road Traffic (Northern Ireland) Order 1981(b);

“harbour” and “harbour authority” have the same meaning as in section 38 of the Harbours Act (N.I.) 1970(c);

“maximum gross weight” has the same meaning as in Article 19 of the Road Traffic (Northern Ireland) Order 1981;

“motor vehicle” has the same meaning as in Article 2 of the Road Traffic (Northern Ireland) Order 1981;

“trailer” means a vehicle drawn by a motor vehicle and includes a semi-trailer within the meaning of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1976(d);

(a) S.R. 1985 No. 123.

(b) S.I. 1981/154 (N.I. 1).

(c) 1970 c.1 (N.I.).

(d) S.R. 1976 No. 320.

“unladen weight” has the same meaning as in Schedule 7 to the Vehicles (Excise) Act (N.I.) 1972(a);

(b) References in regulation 3 to:-

- (i) the Weighing Equipment (Non-automatic Weighing Machines) Regulations 1988 shall be references to the Weights and Measures Regulations (Northern Ireland) 1967(b);
- (ii) section 74(4) of the Weights and Measures Act 1985 shall be a reference to article 44 of the Weights and Measures (Northern Ireland) Order 1981(c);
- (iii) the Weights and Measures Act 1985 shall be a reference to the Weights and Measures Regulations (Northern Ireland) 1967.

(2) For the purposes of the application of regulation 7(8) to Northern Ireland for the reference to “a local weights and measures authority” there shall be substituted “the Department of Economic Development”.

26th July 1988

Paul Channon
Secretary of State for Transport

SCHEDULE

Regulation 2(1)

APPLICATION TO SERVICES WITHIN GREAT BRITAIN

<i>Port</i>	<i>Destination</i>
Scrabster	All destinations
Stromness	Destinations in Shetlands or Scottish mainland
Aberdeen	All destinations
Lerwick	Destinations in Orkneys or Scottish mainland
Ullapool	All destinations
Stornoway	Destinations on Scottish mainland
Oban	All destinations

(a) 1972 c.10 (N.I.)

(b) S.R. & O. (N.I.) 1967 No. 237; relevant amending Statutory Rules are S.R. & O. 1971 No. 342; S.R. & O. 1972 No. 278; S.R. 1974 No. 280; S.R. 1979 No. 436; S.R. 1984 No. 85, S.R. 1985 No. 319, S.R. 1985 No. 364, S.R. 1986 No. 308 and S.R. 1986 No. 311.

(c) S.I. 1981/231 (N.I. 10).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to United Kingdom Class II and II(A) ro/ro passenger ships, and require the weighing of all road vehicles (except buses) and all non-vehicular items of cargo exceeding, in each case, 7.5 tonnes for all voyages on which passengers are carried. Subject to certain exceptions, cargo must be weighed within the port at which the ship is to be loaded, and the weighing machine must be certified, and operated in accordance with conditions laid down, by an inspector of weights and measures.

It is an offence under the Regulations by the master and by the owner or manager of a ship if qualifying cargo is loaded in breach of the Regulations and by the weighing machine manager if the machine is not operated in accordance with the conditions. It is also an offence for any person to supply information for the purposes of the Regulations knowing or having grounds to believe it to be false, knowingly or recklessly to falsify information supplied for the purposes of the Regulations, or materially to change the composition of an item of cargo after it has been weighed without first making arrangements for re-weighing.

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