

1990 No. 659

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Passenger Counting and
Recording Systems) Regulations 1990**

<i>Made - - - -</i>	<i>15th March 1990</i>
<i>Laid before Parliament</i>	<i>22nd March 1990</i>
<i>Coming into force</i>	<i>12th April 1990</i>

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) to (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 (Passenger Counting and Recording Systems) Regulations 1990 and shall come into force on 12th April 1990.

(2) In these Regulations the following expressions have the following meanings respectively unless the context otherwise requires:—

“the Notice” means Merchant Shipping Notice No. 1408;

“landing point” means any berth, excursion point, floating pier or stage, link span, pier, port or stop from where passengers are embarked and disembarked, or, as the case may be, embarked or disembarked;

“passenger” has the meaning given in section 26 of the Merchant Shipping (Safety Convention) Act 1949(b); and

“passenger ship” means a ship carrying more than 12 passengers.

(3) A reference to the Notice shall include reference to any subsequent Merchant Shipping Notice amending or replacing the Notice which specifies the date on which such subsequent Notice takes effect and which the Secretary of State considers relevant from time to time.

(4) These Regulations apply to United Kingdom passenger ships when operating as passenger ships of Classes III, IV, V, VI and VI(A) within the meaning of the Merchant Shipping (Life Saving Appliances) Regulations 1986(c).

(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.

(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) 1949 c.43.

(c) S.I. 1986/1066.

(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.

Operation of a passenger counting system

2.—(1) The owner of a passenger ship shall ensure that there is a passenger counting and recording system which—

- (a) conforms to the requirements in paragraphs (2) and (3) below and paragraphs 5–13 in the Notice; and
- (b) is approved by the Secretary of State.

(2) All passenger ships shall operate a passenger counting and recording system on each occasion when passengers are carried whereby—

- (a) (i) all passengers boarding such a vessel at a landing point at the beginning of a journey are counted individually on, or just prior to, boarding; and, as the case may be
- (ii) all passengers disembarking at subsequent landing points, during the course of a journey, are counted individually as they disembark; and
- (iii) all passengers boarding at subsequent landing points, during the course of a journey, are counted individually on, or just prior to, boarding; and
- (iv) the number of passengers remaining on board at each landing point is determined; or
- (b) passenger numbers are determined and recorded according to an alternative method approved by the Secretary of State, which shall be of equivalent effectiveness in determining and recording passenger numbers as the system set out in paragraph (2)(a) above.

(3) Immediately before a passenger ship leaves any landing point the total number of passengers on board at that time shall be determined by means of a passenger counting system, the master shall be informed of that number, and a record of that number, and the number of crew members on board, shall be placed or communicated ashore.

(4) The arrangements made in pursuance of the requirement in paragraph (1) above shall be described in written instructions which shall be kept on board the ship at all times in the custody of the master.

(5) No passenger ship shall leave any landing point unless the requirements of paragraph (3) above have been complied with.

Retention of documents

3.—(1) Records and documents relating to the number of passengers and crew on board, and the count of passengers boarding and disembarking shall, if taken on the ship, be placed ashore before departure, or, as the case may be, communicated ashore by a member of the crew or the master before departure and then recorded.

In this paragraph “records and documents” means, in relation to each occasion on which the ship sails, records and documents relating to the operation of the passenger counting system on that occasion.

(2) Any person duly authorised by the Secretary of State shall be furnished with such information relating to the operation of the passenger counting system as he may request including, if he so requests, (for retention by him or otherwise as he may specify) any records or documents under paragraph (1) above which have been retained and such records and documents shall be retained pending any such request for a period of one week or such longer or shorter period (if any) as may be specified in, or approved in accordance with, the Notice.

False statements

4. A person shall not, in connection with a passenger counting system, knowingly or recklessly make any false statement liable or intended to lead to error in the determination of the total number of passengers, or falsify the records or documents referred to in regulation 3.

Offences

5.—(1) If there is any breach of regulation 2(1) then the owner of the ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(2) If there is any breach of regulation 2(2) then the master of the ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum, and if there is any breach of regulation 2(4) then the master and owner shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum.

(3) If there is any breach of regulation 2(5) then the master and owner of the ship shall each be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(4) If there is any breach of regulation 3 then the owner of the ship shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) Any person contravening regulation 4 shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or a fine or both.

(6) It shall be a good defence to a charge under these Regulations to prove that the person charged took all reasonable steps to avoid commission of the offence.

Exemptions

6. The Secretary of State may make such exemptions from the provisions of regulations 2 and 3 in relation to such ships or services 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.

15th March 1990

Cecil Parkinson
Secretary of State for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to United Kingdom passenger ships operating as passenger ships of Classes III, IV, V, VI, and VI(A), and require the operation of passenger counting and recording systems for all voyages on which passengers are carried. They require documentation to be retained for future inspection by persons duly authorised by the Secretary of State. It is to be an offence under the Regulations for a ship to put out before the total number of passengers on board has been determined by means of a passenger counting system and the master informed and a record of the number of passengers and the number of crew on board on a particular voyage placed or communicated ashore before departure. It is also to be an offence for any person to make a false statement in connection with the passenger counting system, or to falsify the documentation.

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