

2004 No. 2884

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Ro-Ro Passenger Ships) (Stability)
Regulations 2004**

<i>Made</i> - - - -	<i>1st November 2004</i>
<i>Laid before Parliament</i>	<i>5th November 2004</i>
<i>Coming into force</i> - -	<i>29th November 2004</i>

The Secretary of State, for Transport, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995(a), in exercise of the powers conferred upon him by sections 85(1)(a) and (b), (3) and (5) to (7) and section 86(1) of that Act(b), and of all other powers enabling him in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Ro-Ro Passenger Ships) (Stability) Regulations 2004 and shall come into force on 29th November 2004.

Interpretation

2.—(1) In these Regulations:

“the Directive” means Directive 2003/25/EC of the European Parliament and of the Council of 14th April 2003 on specific stability requirements for ro-ro passenger ships(c);

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993(d);

“EEA State” means a State which is a Contracting Party to the EEA Agreement;

“existing ship” means a ship which is not a new ship,

“high speed craft” means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding: $3.7\nabla^{0.1667}$ where ∇ = volume of displacement corresponding to the design waterline (m³), excluding craft the hull of which is supported clear above the water surface in non displacement mode by aerodynamic forces generated by ground effect,

(a) 1995 c.21.

(b) Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c28), section 8, and are applied to hovercraft by the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350).

(c) O.J. L 123, 17.5.2003, p22.

(d) CM 2073 and CM 2183.

“international voyage” means a sea voyage from a port of an EEA State to a port outside that Member State, or vice versa,

“Maritime and Coastguard Agency” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

“Merchant Shipping Notice” means a Notice described as such, issued by the Maritime and Coastguard Agency, and any reference to a particular Merchant Shipping Notice includes a reference to any such document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time;

“new ship” means a ship the keel of which is laid or which is at a similar stage of construction on or after 1st October 2004,

“passenger” means every person other than the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship and other than a child under one year of age,

“regular service” means a series of ro-ro passenger ship crossings serving traffic between the same two or more ports, which is operated either –

- (a) according to a published timetable, or
- (b) with crossings so regular or frequent that they constitute a recognisable systematic series,

“regular scheduled service” means an advertised service which provides for the carriage of passengers at specific intervals along specified routes,

“ro-ro passenger ship” means a ship carrying more than 12 passengers, having ro-ro cargo spaces or special category spaces as defined in Regulation II-2/3 of the SOLAS Convention,

“significant wave height” is the average height of the highest third of wave heights observed over a given period,

“similar stage of construction” means the stage at which construction identifiable with a specific ship begins, and assembly of that ship has commenced comprising at least 50 tonnes or 1% of the estimated mass of structural material, whichever is less,

“the SOLAS Convention” means the International Convention for the Safety of Life at Sea 1974(a) as amended in accordance with its Protocol of 1988(b), “Stockholm Agreement” means the Agreement concluded at Stockholm on 27th and 28 February 1996 and set out in Merchant Shipping Notice M1673.

- (2) For the purposes of these Regulations, Merchant Shipping Notice 1790 identifies:
- (a) the sea areas crossed by ro-ro passenger ships operating a regular service to or from ports in the United Kingdom, and
 - (b) the values of the significant wave heights in those sea areas which are applicable:
 - (i) all year round, and
 - (ii) for any period, not exceeding six months in a year, during which a ro-ro passenger ship operates a regular seasonal service.

Application

- 3.—(1) These Regulations shall apply to:
- (a) a United Kingdom ro-ro passenger ship operating to or from a port of an EEA State on a regular service which is an international voyage, and
 - (b) a non-United Kingdom ro-ro passenger ship operating to or from a port in the United Kingdom on a regular service which is an international voyage.
- (2) In addition, regulations 5(3), 6(4) and (5) and 7 to 10 of these Regulations shall apply to:

(a) Cmnd 7874.
(b) Cm 4420.

- (a) a United Kingdom ro-ro passenger ship which is a high speed craft operating on a regular scheduled service which is an international voyage to or from a port in a State which is party to the Stockholm Agreement,
- (b) a non-United Kingdom ro-ro passenger ship which is a high speed craft operating on a regular scheduled service which is an international voyage to or from a port in the United Kingdom, and
- (c) a ro-ro passenger ship, including a ro-ro passenger ship which is a high speed craft, which is operating in the United Kingdom on a regular scheduled service which is not an international voyage, in the course of which the ship or craft is more than 15 miles from a place of refuge or more than 5 miles from the line of the coast, where shipwrecked persons can land, corresponding to the medium tide height.

Stability requirements of Directive 2003/25/EC

4.—(1) Subject to paragraph (4), a ro-ro passenger ship which is a new ship shall comply with the stability requirements specified in Merchant Shipping Notice 1790 which are the requirements of Article 4 of and Annex I to the Directive, taking into account in such compliance the guidelines set out in Annex II of the Directive in so far as this is practicable and compatible with the design of that ship.

(2) On and after 1st October 2010 a ro-ro passenger ship which is an existing ship, other than a ship which:

- (a) operates exclusively in one or more sea areas where the significant wave height is equal to or lower than 1.5 metres, or
- (b) on 17th May 2003 complied with the requirements of Regulation II-1/B8 of the SOLAS Convention,

shall comply with the stability requirements specified in Merchant Shipping Notice 1790 which are the requirements of Article 4 of and Annex I to the Directive, taking into account in such compliance the guidelines set out in Annex II of the Directive in so far as this is practicable and compatible with the design of that ship.

(3) On and after 1st October 2015 a ro-ro passenger ship which is an existing ship other than a ship:

- (a) which operates exclusively in one or more sea areas where the significant wave height is equal to or lower than 1.5 metres, or
- (b) to which paragraph (2) above applies,

shall comply with the stability requirements specified in Merchant Shipping Notice 1790 which are the requirements of Article 4 of and Annex I to the Directive, taking into account in such compliance the guidelines set out in Annex II of the Directive in so far as this is practicable and compatible with the design of that ship.

(4) A ro-ro passenger ship which operates exclusively in one or more sea areas where the significant wave height is equal to or lower than 1.5 metres shall comply with the stability requirements of Merchant Shipping Notice 1698 which are the requirements of Regulation II-1/B/8 of the SOLAS Convention.

(5) A ro-ro passenger ship required to comply with stability requirements in accordance with paragraphs (1) to (4) shall alternatively or additionally (as the case may be) comply with such requirements, applying to a ship of its description, which:

- (a) relate to amendments from time to time of Article 4 of or Annex I to the Directive or of Regulation II-1/B/8 of the SOLAS Convention,
- (b) are specified in a Merchant Shipping Notice amending or replacing Merchant Shipping Notice 1790 or Merchant Shipping Notice 1698 which is considered by the Secretary of State to be relevant from time to time, and
- (c) relate to all or any of the purposes set out in section 85(1) of the Merchant Shipping Act 1995.

Stability requirements of the Stockholm Agreement

5.—(1) A United Kingdom ro-ro passenger ship which is an existing ship operating on a regular scheduled service which is an international voyage to or from a port in a State which is party to the Stockholm Agreement shall comply with the requirements specified in Merchant Shipping Notice 1790 which are the stability requirements of the Stockholm Agreement, taking into account in such compliance the guidelines set out in Annex II of the Directive in so far as this is practicable and compatible with the design of that ship:

- (a) if it is a ship to which regulation 4(2) applies, from 29th November 2004 until 30th September 2010, and
- (b) if it is any other ship, from 29th November 2004 until 30th September 2015.

(2) A non-United Kingdom ro-ro passenger ship which is an existing ship operating on a regular scheduled service which is an international voyage to or from a port in the United Kingdom shall comply with the requirements specified in Merchant Shipping Notice 1790 which are the stability requirements of the Stockholm Agreement, taking into account in such compliance the guidelines set out in Annex II of the Directive in so far as this is practicable and compatible with the design of that ship:

- (a) if it is a ship to which regulation 4(2) applies, from 29th November 2004 until 30th September 2010, and
- (b) if it is any other ship, from 29th November 2004 until 30th September 2015.

(3) A ro-ro passenger ship or high speed craft to which this paragraph of this regulation applies shall comply with the stability requirements specified in Merchant Shipping Notice 1790 which are the stability requirements of the Stockholm Agreement, taking into account in such compliance the guidelines set out in Annex II of the Directive in so far as this is practicable and compatible with the design of that ship or craft.

Certification

6.—(1) Paragraphs (2) and (3) of this regulation do not apply to a ro-ro passenger ship operating exclusively in sea areas where the significant wave height is equal to or lower than 1.5 metres.

(2) A United Kingdom ro-ro passenger ship to which the requirements of regulation 4 apply shall carry a certificate, issued by the Secretary of State in accordance with the guidelines set out in Annex II of the Directive (in so far as those guidelines are practicable and compatible with the design of that ship), which:

- (a) confirms that the ship complies with the stability requirements of regulation 4, and
- (b) indicates the highest value of significant wave height up to which the ship satisfies the requirements of regulation 4.

(3) A non-United Kingdom ro-ro passenger ship to which the requirements of regulation 4 apply shall carry a certificate issued by the administration of the EEA State or third country whose flag it flies which:

- (a) confirms that the ship complies with the stability requirements of regulation 4, and
- (b) indicates the highest value of significant wave height up to which the ship satisfies the requirements of regulation 4.

(4) A ship or high speed craft to which the stability requirements specified in Merchant Shipping Notice 1790 which are the stability requirements of the Stockholm Agreement apply shall carry a certificate, issued:

- (a) if it is a United Kingdom ship or craft, by the Secretary of State, and
- (b) if it is any other ship or craft, by the administration of the EEA State or third country whose flag it flies,

which confirms that the ship or high speed craft complies with the stability requirements of the Stockholm Agreement and indicates the highest value of significant wave height up to which the ship satisfies those requirements.

(5) A ship or high speed craft shall not operate in a sea area with a higher value of significant wave height than that shown on its certificate.

Seasonal and short-time period operation

7.—(1) Where the operator of a regular service or regular scheduled service which operates throughout the year wishes to introduce an additional ship or high speed craft onto that service for a period of less than one year, that operator shall give the Secretary of State at least one month's notice of the proposed operation of the ship or craft.

(2) Where:

- (a) a ro-ro passenger ship or high speed craft is being introduced onto a regular service or regular scheduled service which operates throughout the year following unforeseen circumstances and in order to ensure continuity of service, and
- (b) that ship or craft complies with the requirements of the Merchant Shipping (Mandatory Surveys for Ro-Ro Ferry and High Speed Passenger Craft) Regulations 2001(a),

regulation 4 or 5 of these Regulations (as the case may be) and paragraph (1) above shall not apply to that ship or craft.

(3) The operator of a regular service or regular scheduled service which operates seasonally for a period not exceeding six months in an annual period shall give the Secretary of State three month's notice of the proposed operation of the service.

(4) Where a regular service or regular scheduled service which operates seasonally for a period not exceeding six months in an annual period operates under conditions of lower significant wave height than those established for year round operation in Merchant Shipping Notice 1790, the significant wave height value applicable for this shorter time period may be used for determining the height of water on the deck when applying the stability requirements contained in regulation 4.

Exemptions

8. The Secretary of State may grant an exemption from all or any of the provisions of regulations 5 and 6(4) and (5) (as may be specified in the exemption) for a ro-ro passenger ship or high speed craft which is not normally operating on a regular scheduled service but which is to undertake a single passage to or from a port in the United Kingdom as part of such a service, if he is satisfied that:

- (a) compliance with such provision is either impracticable or unreasonable in that case, and
- (b) the exemption is subject to such conditions and limitations as will provide a level of safety which in the opinion of:
 - (i) the Secretary of State,
 - (ii) the administration of the party to the Stockholm Agreement which is the flag state of the ship or craft, and
 - (iii) the administration of each party to the Stockholm Agreement to or from which the passage is being undertaken,

is adequate for the intended passage.

(2) The Secretary of State may, on giving reasonable notice, alter or cancel any exemption granted under paragraph (1).

(3) An exemption granted under paragraph (1) and an alternation or cancellation under paragraph (2) shall be given in writing and shall specify the date on which it takes effect and the terms (if any) on which it is given.

(a) S.I. 2001/152.

Penalties

9.—(1) Any contravention of regulations 4 to 6 of these Regulations in respect of a ship or high speed craft shall be an offence by both the owner and the master of that ship punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

(2) Any contravention of regulation 7(1) or (3) of these Regulations by the operator of a regular service shall be an offence by that operator punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

(3) It shall be a defence for a person charged under these Regulations to show that he took all reasonable steps to avoid the commission of the offence.

Detention

10. In any case where a ship or high speed craft does not comply with the requirements of these Regulations, the ship or craft shall be liable to be detained and section 284(1) to (6) and (8) of the Merchant Shipping Act 1995(a) (which relates to the detention of a ship) shall have effect in relation to that ship or craft, as if for the words “this Act” wherever they appear, there were substituted the words “the Merchant Shipping (Ro-Ro Passenger Ship) (Stability) Regulations 2004” and as if for the word “ship” wherever it appears there were substituted the words “ship or craft”.

Revocation and amendment of Regulations

11.—(1) The Merchant Shipping (Ro-Ro Passenger Ship Survivability) Regulations 1997(b) shall be revoked.

(2) In regulation 44(1)(a) of the Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998(c), for the words “the Merchant Shipping (Ro-Ro Passenger Ship Survivability) Regulations 1997” there shall be substituted the words “the Merchant Shipping (Ro-Ro Passenger Ships) (Stability) Regulations 2004”.

Signed by authority of the Secretary of State

1st November 2004

David Jamieson
Parliamentary Under Secretary of State
Department for Transport

(a) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997 (c.28), Schedule 1, paragraph 5.
(b) S.I. 1997/647.
(c) S.I. 1998/2514.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive 2003/25/EC of the European Parliament and of the Council of 14th April 2003 on specific stability requirements for ro-ro passenger ships (O.J. L 123, 17.5.2003, p.22) (“the Directive”), which applies to the European Economic Area by virtue of Joint Committee Decision 157 and 158.

Regulation 3(1) of the Regulations sets out the ships to which the Directive applies. Regulation 4 sets out the stability requirements to which such ships are subject: in the case of existing ships those requirements are imposed by the Directive only from 2010 or 2015, as appropriate. Regulation 6 sets out the certification requirements of the Directive, and regulation 7 contains provisions regarding seasonal and short-time period operation.

The Regulations also implement those provisions of the Agreement concluded at Stockholm on 27 and 28 February 1996 (“the Stockholm Agreement”, published in Merchant Shipping Notice M1673) which have now been superseded by Directive 2003/25/EC. They also extend the requirements of the Stockholm Agreement to High Speed Craft which are ro-ro passenger craft operating on regular scheduled services in the United Kingdom.

Regulation 3(2) sets out the ships to which the requirements of the Stockholm Agreement are applied, and regulation 5(3) specifies the stability requirements applicable to those ships. Regulation 5(1) and (2) makes ships to which the Directive applies only from 2010 or 2015 subject to the requirements of the Stockholm Agreement in the period before the requirements of the Directive apply. Regulation 8 enables the Secretary of State to make exemptions from the requirements of the Stockholm Agreement.

The Merchant Shipping (Ro-Ro Passenger Ship Survivability) Regulations 1997 (S.I. 1997/647), which previously implemented the Stockholm Agreement, are revoked, and a statutory reference to those Regulations amended.

A Regulatory Impact Assessment and Transposition Note have been prepared and copies placed in the Library of each House of Parliament. Copies can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton, SO15 1EG.

Merchant Shipping Notices can be read or downloaded free from the Maritime and Coastguard Agency website (www.mcga.gov.uk). Printed copies can be obtained from Mail Marketing (Scotland) Ltd, Unit 6 Blooms Grove Industrial Estate, Norton Street, Nottingham, NG7 3JG (telephone 0115 901 3336). Resolutions of the International Maritime Organisation can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.

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