



Jersey

## SHIPPING (SURVEY AND CERTIFICATION) (JERSEY) ORDER 2013

### Arrangement

---

#### Article

1	UK Survey and Certification Regulations to apply in Jersey .....	3
2	Modification etc. of UK Survey and Certification Regulations .....	3
3	UK Domestic Voyages Regulations to apply in Jersey .....	7
4	Modification etc. of UK Domestic Voyages Regulations .....	8
5	Revocation of Order.....	10
6	Citation and commencement.....	10





Jersey

## SHIPPING (SURVEY AND CERTIFICATION) (JERSEY) ORDER 2013

*Made**21st November 2013**Coming into force**in accordance with Article 6*

**THE MINISTER FOR ECONOMIC DEVELOPMENT**, in pursuance of Articles 29, 49 and 196 of the Shipping (Jersey) Law 2002<sup>1</sup> and Regulation 1 of the Shipping (SOLAS) (Jersey) Regulations 2004<sup>2</sup>, orders as follows –

### **1 UK Survey and Certification Regulations to apply in Jersey**

- (1) Subject to paragraph (2), the Merchant Shipping (Survey and Certification) Regulations 1995 of the United Kingdom (as amended by further statutory instruments of the United Kingdom up to and including the Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2012) (the “UK 1995 Regulations”) shall apply to Jersey as part of the law of Jersey.
- (2) The UK 1995 Regulations shall apply –
  - (a) as if (except where otherwise indicated by this Order) references in those Regulations –
    - (i) to the United Kingdom, were references to Jersey,
    - (ii) to a United Kingdom ship, a United Kingdom passenger ship or a United Kingdom cargo ship, were references to a Jersey ship of the same kind,
    - (iii) to the Secretary of State, were references to the Minister, and
    - (iv) to the Maritime and Coastguard Agency, were references to the Minister;
  - and
  - (b) as described and with the further modifications set out in Article 2.

### **2 Modification etc. of UK Survey and Certification Regulations**

- (1) In Regulation 1(2) of the UK 1995 Regulations –

- (a) in the definition “appropriate certifying authority” for the words “Secretary of State” in each place in which they occur there shall be substituted the words “Minister or the Secretary of State”;
  - (b) after the definition “EEA State” there shall be inserted the following definition –
    - “ ‘high speed passenger craft’ means a passenger craft capable of a maximum speed in metres per second equal to or exceeding  $3.7\sqrt{0.1667V}$  where  $V$  = the volume of displacement corresponding to the design waterline ( $m^3$ ), excluding craft the hull of which is supported clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect;”;
  - (c) in the definition “Merchant Shipping Notice” –
    - (i) for the words “Marine Safety Agency” there shall be substituted the words “Maritime and Coastguard Agency of the United Kingdom Department for Transport”, and
    - (ii) the reference to “the Secretary of State” shall remain unaffected by Article 1(2)(a)(iii) of this Order;
  - (d) after the definition “mile” there shall be inserted the following definition –
    - “ ‘Minister’ means the Minister for Economic Development;”;
  - (e) for the definition “Passenger Certificate” there shall be substituted the following definition –
    - “ ‘Passenger Certificate’ means a certificate of that name issued pursuant to Regulation 11;”;
  - (f) in the definition “proper officer”, references to the United Kingdom shall remain unaffected by Article 1(2)(a)(i) of this Order;
  - (g) the definitions “British Telecom”, “initial survey”, “Maritime and Coastguard Agency” and “relevant regulations” shall be omitted.
- (2) Paragraphs (4) to (10) of Regulation 1 of the UK 1995 Regulations shall be omitted.
  - (3) In Regulation 2(1A) of the UK 1995 Regulations, for sub-paragraphs (b) to (e) there shall be substituted the following sub-paragraph –
    - “(b) pleasure vessels and ships in commercial use to which the Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013<sup>3</sup> apply.”.
  - (4) Regulation 2A of the UK 1995 Regulations shall be omitted.
  - (5) In Regulation 3 of the UK 1995 Regulations, in sub-paragraph (2)(b)(ii), for the words “surveyor of the Maritime and Coastguard Agency” there shall be substituted the words “surveyor appointed by the Minister”.
  - (6) For Regulation 4A of the UK 1995 Regulations there shall be substituted the following –

**“4A Surveys of Jersey passenger ships to which the Directive applies**

- (1) A Jersey passenger ship to which the Directive applies shall, before it is put into service, be subject to a passenger ship initial survey as set out in the Directive.
- (2) A Jersey passenger ship to which the Directive applies shall also be subject to –
  - (a) a periodical survey; and
  - (b) additional surveys,as set out in the Directive.
- (3) In this Regulation, ‘a Jersey passenger ship to which the Directive applies’ means –
  - (a) a Jersey ship that is a new passenger ship;
  - (b) an existing Jersey passenger ship of 24 metres or more in length; and
  - (c) a high speed passenger craft used only in Jersey waters.”.
- (7) Regulation 5 of the UK 1995 Regulations shall be omitted.
- (8) In Regulation 8(1) of the UK 1995 Regulations, in sub-paragraph (a) for the words “regulations 4 to 7” there shall be substituted the words “Regulations 4, 4A, 6 and 7”.
- (9) In Regulation 9(2) of the UK 1995 Regulations, for the words “surveyor of the Maritime and Coastguard Agency” there shall be substituted the words “surveyor appointed by the Minister”.
- (10) In Regulation 10 of the UK 1995 Regulations, in sub-paragraph (b)(iv) for the words “regulation 5 to 7” there shall be substituted the words “Regulations 6 and 7”.
- (11) In Regulation 11 of the UK 1995 Regulations, paragraph (b) shall be omitted.
- (12) In Regulation 12 of the UK 1995 Regulations –
  - (a) in paragraph (1), for the words “the Merchant Shipping Acts” there shall be substituted the words “all relevant maritime legislation in force at the time in Jersey”;
  - (b) paragraph (2) shall be omitted.
- (13) In Regulation 13 of the UK 1995 Regulations, in paragraphs (4) and (6)(b), for the words “regulations 4 to 7” in each place in which they occur there shall be substituted the words “Regulations 4, 4A, 6 and 7”.
- (14) In Regulation 15 of the UK 1995 Regulations, in paragraphs (1), (2) and (3) for the words “regulations 5 to 7” in each place in which they occur there shall be substituted the words “Regulations 6 and 7”.
- (15) In Regulation 19(3) of the UK 1995 Regulations, sub-paragraph (f) shall be omitted.
- (16) For Regulation 21 of the UK Regulations there shall be substituted the following –

**“21 Prohibition on proceeding to sea without the appropriate documentation**

- (1) A ship registered in a country to which the 1974 SOLAS Convention applies shall not proceed to sea from a port in Jersey unless there are in force such Convention certificates as would be required if the ship were a Jersey ship. The extension provisions in Regulation 15 shall apply to such certificates as if the ship were a Jersey ship and the Government of the country in which the ship is registered is substituted for the Minister.
  - (2) A ship registered in a country to which the 1974 SOLAS Convention does not apply shall not proceed to sea from a port in Jersey unless the ship is in the possession of documentation which shows that the ship has been surveyed for compliance with the appropriate Jersey Regulations.
  - (3) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with or, as the case may be, that the ship operates only in the specified sea areas.
  - (4) The master of every ship shall produce to a customs officer from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this Regulation.
  - (5) Whenever reasonably requested to do so, the master of every ship shall produce the certificates or documentation referred to in this Regulation to a person appointed for that purpose by the Minister under Article 156(1)(d) of the Shipping (Jersey) Law 2002<sup>4</sup>.
  - (6) In this Regulation, reference to a Convention certificate in respect of a high speed passenger craft includes reference to the requirement laid down in Regulation 3 of Chapter X of the 1974 SOLAS Convention.”.
- (17) For Regulation 24 of the UK 1995 Regulations there shall be substituted the following –

**“24 Penalties**

- (1) If a ship to which these Regulations applies proceeds or attempts to proceed to sea or on a voyage or excursion without complying with a requirement of Regulations 4, 4A, 6 and 7, the owner and master of the ship shall each be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
- (2) Any contravention of Regulations 8(1), 21(1) to (4) or 22 shall be an offence by both the owner and master each of whom shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.

- (3) Any contravention of Regulation 19(3) shall be an offence punishable on conviction by imprisonment for a term not exceeding 6 months or a fine, or both.
  - (4) If a ship proceeds to sea without complying with the requirement in Regulation 20, the owner and master of the ship shall each be guilty of an offence and liable on conviction to a fine not exceeding level 3 on the standard scale.
  - (5) Any contravention of Regulation 21(5) shall be an offence by the master of the ship who shall be liable on conviction to a fine not exceeding level 3 on the standard scale.
  - (6) Any contravention of Regulation 23, being an offence corresponding to the offence under section 283 of the Merchant Shipping Act 1894 of the United Kingdom, shall be an offence by both the owner and master of the ship each of whom shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
  - (7) It shall be a defence for a person charged with an offence under these Regulations to show that the person took all reasonable steps to ensure compliance with the relevant requirement of these Regulations.”.
- (18) For Regulation 25 of the UK 1995 Regulations, there shall be substituted the following –

#### **“25 Powers to detain**

In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the Shipping (Jersey) Law 2002<sup>5</sup> (which relate to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as though for the words ‘this Law’, wherever they appear in those provisions, there were substituted the words ‘the Shipping (Survey and Certification) (Jersey) Order 2013<sup>6</sup>’.”.

- (19) In Regulation 26(3)(b) of the UK 1995 Regulations, for the words “in Scotland” there shall be substituted the words “in Jersey, Guernsey or Scotland”.
- (20) Regulation 27 of the UK 1995 Regulations shall be omitted.

### **3 UK Domestic Voyages Regulations to apply in Jersey**

- (1) Subject to paragraph (2), the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 of the United Kingdom (as amended by further statutory instruments of the United Kingdom up to and including the Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2012) (the “UK 2000 Regulations”) shall apply to Jersey as part of the law of Jersey.
- (2) The UK 2000 Regulations shall apply –

- (a) as if (except where otherwise indicated by this Order) references in those Regulations –
  - (i) to the United Kingdom, were references to Jersey,
  - (ii) to a United Kingdom ship or a United Kingdom passenger ship, were to a Jersey ship of the same kind, and
  - (iii) to the Secretary of State, were references to the Minister;

and

- (b) as described and with the further modifications set out in Article 4.

#### 4 Modification etc. of UK Domestic Voyages Regulations

- (1) In Regulation 2(1) of the UK 2000 Regulations –
  - (a) for the definition “domestic voyage” there shall be substituted the following definition –
 

“ ‘domestic voyage’ means a voyage in sea areas from a port in Jersey to the same or another port in Jersey;”;
  - (b) after the definition “EEA State” there shall be inserted the following definition –
 

“ ‘high speed passenger craft’ means a passenger craft capable of a maximum speed in metres per second equal to or exceeding  $3.7\sqrt{0.1667}$  where  $\nabla$  = the volume of displacement corresponding to the design waterline (m<sup>3</sup>), excluding craft the hull of which is supported clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect;”;
  - (c) the definition “Maritime and Coastguard Agency” shall be omitted;
  - (d) in the definition “Merchant Shipping Notice” –
    - (i) after the words “Maritime and Coastguard Agency” there shall be inserted the words “of the United Kingdom Department for Transport”, and
    - (ii) the reference to “the Secretary of State” shall remain unaffected by Article 3(2)(a)(iii) of this Order;
  - (e) after the definition “Merchant Shipping Notice” there shall be inserted the following definition –
 

“ ‘Minister’ means the Minister for Economic Development;”.
- (2) For Regulation 2(2) of the UK 2000 Regulations there shall be substituted the following paragraph –
 

“(2) With the exception of the expression ‘domestic voyage’ (which is defined in paragraph (1)), words and expressions used in these Regulations which also occur in the Directive shall have the same meaning in these Regulations as they are given by article 2 of the Directive.”.
- (3) For Regulation 2(2A) of the UK 2000 Regulations there shall be substituted the following paragraph –



- “(2A) References in the Directive to Conventions or Codes in their up to date versions shall have effect so far as they are –
- (a) considered by the Minister to be relevant from time to time; and
  - (b) specified in a Merchant Shipping Notice.”.
- (4) In Regulation 3 of the UK 2000 Regulations, paragraph (2) shall be omitted.
- (5) In Regulation 4 of the UK 2000 Regulations –
- (a) in paragraph (1), in sub-paragraphs (b) and (d), the words “within the United Kingdom” shall be omitted from each place in which they occur;
  - (b) in paragraph (2) –
    - (i) in sub-paragraph (g), the words “to which the Merchant Shipping (High Speed Craft) Regulations 2004 apply”, and
    - (ii) sub-paragraphs (h) to (j), shall be omitted.
- (6) Regulation 5 of the UK 2000 Regulations shall be omitted.
- (7) In Regulation 6 of the UK 2000 Regulations –
- (a) in paragraph (3), for the word “he” in both places in which it occurs there shall be substituted the words “the Minister”;
  - (b) paragraph (5) shall be omitted.
- (8) For Regulation 7(1) of the UK 2000 Regulations there shall be substituted the following paragraph –
- “(1) Where these Regulations require that the hull or machinery of a ship shall be constructed in a particular manner, or that particular equipment shall be provided or particular provision made, the Minister may approve the construction of the hull or machinery in any other manner, or the provision of other equipment or the making of other provision, if the Minister is satisfied by trial or otherwise that such other construction or provision is at least as effective as is required by these Regulations.”.
- (9) Regulations 7A, 7B and 7C of the UK 2000 Regulations shall be omitted.
- (10) In Regulation 8 of the UK 2000 Regulations for the words “as he may specify” there shall be substituted the words “as may be specified”.
- (11) For Regulations 9 and 10 of the UK 2000 Regulations there shall be substituted the following –

#### **“9 Penalties**

- (1) A contravention of these Regulations in respect of a ship shall be an offence by both the owner and the master of the ship for which each shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.

- (2) It shall be a defence for a person charged with an offence under these Regulations to show that the person took all reasonable steps to avoid committing the offence.

#### **10 Powers to detain**

In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the Shipping (Jersey) Law 2002<sup>7</sup> (which relate to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as though for the words ‘this Law’, wherever they appear in those provisions, there were substituted the words ‘the Shipping (Survey and Certification) (Jersey) Order 2013<sup>8</sup>’.”.

- (12) Regulation 11 of, and the Schedule to, the UK 2000 Regulations shall be omitted.

#### **5 Revocation of Order**

The Shipping (Survey and Certification) (No. 2) (Jersey) Order 2005<sup>9</sup> is revoked.

#### **6 Citation and commencement**

This Order may be cited as the Shipping (Survey and Certification) (Jersey) Order 2013, and shall come into force immediately after the coming into force of the Shipping (Safety Code – Yachts and Small Ships) Regulations 2013<sup>10</sup>.

**SENATOR A.J.H. MACLEAN**

*Minister for Economic Development*

**THE MERCHANT SHIPPING (SURVEY AND CERTIFICATION)  
REGULATIONS 1995, AS IN FORCE IN THE UNITED KINGDOM AND AS  
MODIFIED BY THIS ORDER**

**(THE OPERATIVE PROVISIONS OF THE UK 1995 REGULATIONS ARE  
SET OUT HERE FOR INFORMATION ONLY. THEY DO NOT FORM PART  
OF THE ORDER)**

**1 Citation, commencement, interpretation, modification, revocation and  
supplemental**

(1) These Regulations may be cited as the Merchant Shipping (Survey and Certification) Regulations 1995 and shall come into force on 1st June 1995.

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

“1974 SOLAS Convention” means the International Convention for the Safety of Life at Sea, 1974, as amended in accordance with its Article VIII and as modified by its Protocol of 1978, as in force at the end of 1992, and by its Protocol of 1988 and the resolution of the Maritime Safety Committee of the International Maritime Organization published by that Organization as Resolution MSC.99(73) of December 2000;

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the relevant certificate;

“appropriate Certifying Authority” means:

- (a) in relation to passenger ships and safety equipment of cargo ships, [the Minister] or the Secretary of State;
- (b) in relation to cargo ships, except in relation to their radio installations and safety equipment, [the Minister] or the Secretary of State or any person authorised by [the Minister] or the Secretary of State and includes in particular (if so authorised) Lloyd’s Register of Shipping, the British Committee of Bureau Veritas, the British Committee of Det Norske Veritas, the British Committee of Germanischer Lloyd, and the British Technical Committee of the American Bureau of Shipping;
- (c) in relation to radio installations of cargo ships, any person authorised by [the Minister] or the Secretary of State;

\* \* \* \* \*

“cargo ship” means any ship that is not a –

- (a) passenger ship;
- (b) ship of war;
- (c) fishing vessel; or a
- (d) pleasure vessel;

“Cargo Ship Safety Construction Certificate”, “Cargo Ship Safety Equipment Certificate”, “Cargo Ship Safety Radio Certificate”, “Cargo Ship Safety Certificate” and “Passenger Ship Safety Certificate” means the certificates of those names issued pursuant to regulation 10;

“Class II(A) ship” means a passenger ship engaged on voyages other than international voyages, which is not –

- (i) a ship of Classes III to VI(A) as defined in the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998; or
- (ii) a ship of Class A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 which is a new ship, engaged on domestic voyages, for the purposes of those Regulations;

“Convention Certificate” means a certificate issued in accordance with the requirements of the 1974 SOLAS Convention;

“the Directive” means Directive 2009/45/EC of 6th May 2009 on Safety Rules and Standards for Passenger Ships as amended by Commission Directive 2002/25/EC of 5th March 2002 amending Council Directive 98/18/EC on safety rules and standards for passenger ships and as amended by Directive 2002/84/EC of the European Parliament and of the Council of 5th November 2002 amending the Directives on maritime safety and the prevention of pollution from ships and as amended by Commission Directive 2003/75/EC of 29th July 2003 amending Annex I to Council Directive 98/18/EC on safety rules and standards for passenger ships and by Directive 2003/24/EC of the European Parliament and of the Council of 14th April 2003 amending Council Directive 98/18/EC on safety rules and standards for passenger ships;

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

[“high speed passenger craft” means a passenger craft capable of a maximum speed in metres per second equal to or exceeding  $3.7\sqrt{0.1667}$  where  $\nabla$  = the volume of displacement corresponding to the design waterline (m<sup>3</sup>), excluding craft the hull of which is supported clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect;]

\* \* \* \* \*

“international voyage” means a voyage from a port in one country to a port in another country, either of the countries being a country to which the 1974 SOLAS Convention applies;

\* \* \* \* \*

“Member State” means a Member State of the European Communities;

“Merchant Shipping Notice” means a Notice described as such, issued by the [Maritime and Coastguard Agency of the United Kingdom Department for Transport], and includes a reference to any document amending or replacing that Notice which is considered by the Secretary

of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“mile” means an international nautical mile of 1852 metres;

[“Minister” means the Minister for Economic Development;]

“passenger” means any person carried on a ship except:

- (a) a person employed or engaged in any capacity on the business of the ship,
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled,
- (c) a child of under one year of age;

[“Passenger Certificate” means a certificate of that name issued pursuant to Regulation 11;]

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

“pleasure vessel” means –

- (a) any vessel which at the time it is being used is:
  - (i)
    - (a) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
    - (b) in the case of a vessel owned by a body corporate, one on which the persons are employees or officers of the body corporate, or their immediate family or friends; and
  - (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
- (b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate family; and for the use of which any charges levied are paid into club funds and applied for the general use of the club; and
- (c) in the case of any vessel referred to in paragraph (a) or (b) above no other payments are made by or on behalf of the users of the vessel, other than by the owner;

and in this definition “immediate family” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of

the individual or the relative's spouse or civil partner, and "relative" means brother, sister, ancestor or lineal descendant;

"proper officer" means a consular officer appointed by Her Majesty's Government in the United Kingdom and, in relation to a port in a country outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

"radio installations" means any radio equipment other than radio navigational equipment on board a ship or provided in relation to the ship's life-saving appliances;

"radio-navigational equipment" means the equipment required under regulation 5(2) of the Merchant Shipping (Safety of Navigation) Regulations 2002 and paragraphs 2.3.2, 2.3.3, 2.5.5, 2.7 and 2.8.1 of regulation 19 of Chapter V of the Annex to the 1974 SOLAS Convention;

\* \* \* \* \*

"ro-ro passenger ship" means a passenger ship provided with cargo or vehicle spaces not normally subdivided in any way and extending to either a substantial length or the entire length of the ship in which vehicles or cargo can be loaded or unloaded in a horizontal direction;

"short international voyage" means an international voyage in the course of which a ship is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety. Neither the distance between the last port of call in which the voyage begins and the final port of destination nor the return voyage shall exceed 600 miles. The final port of destination is the last port of call in the scheduled voyage at which the ship commences its return voyage to the country in which the voyage began;

"tanker" means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature and its age shall be determined from the year of build as indicated on its certificate of registry;

"tons" means gross tons and a reference to tons:

- (a) in relation to a ship having alternative gross tonnages under paragraph 13 of Schedule 5 of the Merchant Shipping (Tonnage) Regulations 1982 is a reference to the larger of those two tonnages,
  - (b) in relation to a ship having its tonnage determined both under Part II and regulation 16 of those Regulations is a reference to its gross tonnage as determined under regulation 16 of those Regulations.
- (3) For the purpose of these Regulations, the Classes for passenger ships not engaged on international voyages are as defined in the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984.
- (3A) references in the Directive to Conventions or Codes in their up to date versions which:
- (a) relate to all or any of the purposes set out in section 85(1) of the Merchant Shipping Act 1995;

(b) are considered by [the Minister] to be relevant from time to time; and

(c) are specified in a Merchant Shipping Notice; have effect in so far as they are so specified.

(4)–(10) \* \* \* \* \*

**2 Application and exemption**

(1) Subject to paragraph (1A), these Regulations apply to [Jersey ships] wherever they may be and to other ships whilst they are in [Jersey] waters.

(1A) These Regulations do not apply to –

- (a) fishing vessels,
- [(b) pleasure vessels and ships in commercial use to which the Shipping (Safety Code – Yachts and Small Ships) (Jersey) Regulations 2013 apply.]

(2) [The Minister] may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

**2A** \* \* \* \* \*

**3 Responsibility for carrying out surveys**

(1) Except as provided in sub-paragraph (2) below, and subject also to regulation 16, surveys of ships shall be carried out by a surveyor appointed by an appropriate Certificate Authority.

(2)

- (a) In respect of surveys of radio installations:
  - (i) surveys in a port in [Jersey] in respect of passenger ships shall be carried out by a surveyor appointed by an appropriate Certifying Authority in relation to radio installations for cargo ships.
  - (ii) where a survey is to be carried out at a port outside [Jersey] it shall be carried out, at the option of the shipowner, by:
    - (a) a surveyor appointed by an appropriate Certifying Authority in relation to radio installations for cargo ships, or
    - (b) if the port is in a country or area in respect of which [the Minister] has appointed a local surveyor, by that local surveyor, or
    - (c) in accordance with regulation 16 below.

(b) Subject to sub-paragraph (d) below, surveys:

- (i) in a port in [Jersey], or in the territorial waters thereof, of safety equipment of cargo ships; and
    - (ii) of ro-ro passenger ships, shall be carried out by a [surveyor appointed by the Minister];
  - (c) Surveys of passenger ships, other than ro-ro passenger ships, may be carried out in part by a surveyor appointed by another Certifying Authority authorised for that purpose by [the Minister].
  - (d) Surveys of radio-navigational equipment may at the option of the owner be carried out by an appropriate Certifying Authority in relation to radio installations for cargo ships.
- (3) Where in accordance with this regulation a survey has been carried out by a surveyor appointed by a particular appropriate Certifying Authority, the subsequent references to a Certifying Authority in relation to that survey or to any certificate issued as a result of it, are to that Certifying Authority.

#### **4 Surveys of passenger ships**

Subject to regulation 4A a [Jersey passenger ship] shall be subject to the following surveys:

- (a) before the ship is put in service, a passenger ship initial survey as set out in Merchant Shipping Notice M 1751,
- (b) before the end of every period of 12 months following the issue of the ship's Passenger Ship Safety Certificate, a passenger ship renewal survey as set out in Merchant Shipping Notice M 1751,
- (c) two inspections of the ship's bottom, out of the water, to take place:
  - (i) within any five year period, and
  - (ii) at intervals not exceeding 36 months, and
- (d) after a repair resulting from investigations prescribed in regulation 8(2) below, or whenever any important repairs or renewals are made, an additional survey as set out in Merchant Shipping Notice M 1751.

#### **[4A Surveys of Jersey passenger ships to which the Directive applies**

- (1) A Jersey passenger ship to which the Directive applies shall, before it is put into service, be subject to a passenger ship initial survey as set out in the Directive.
- (2) A Jersey passenger ship to which the Directive applies shall also be subject to –
  - (a) a periodical survey; and
  - (b) additional surveys,as set out in the Directive.
- (3) In this Regulation, “a Jersey passenger ship to which the Directive applies” means –
  - (a) a Jersey ship that is a new passenger ship;



- (b) an existing Jersey passenger ship of 24 metres or more in length; and
- (c) a high speed passenger craft used only in Jersey waters.]

5 \* \* \* \* \*

**6 Surveys of cargo ship radio installations**

A [Jersey cargo ship] of 300 tons gross tonnage or more engaged on international voyages shall be subject to the following surveys of its radio installations:

- (a) before the ship is put in service, a cargo ship radio installations initial survey as set out in Merchant Shipping Notice M 1751,
- (b) at the intervals specified in Merchant Shipping Notice M 1751 which, subject to the provisions of regulation 14(b), (e) and (f) of the Protocol of 1988 to the 1974 SOLAS Convention, shall be no more than five years, a cargo ship radio installations renewal survey as set out in Merchant Shipping Notice M 1751,
- (c) within three months before or after each anniversary date of the issue of the ship's Cargo Ship Safety Radio Certificate, a cargo ship radio installations periodical survey as set out in Merchant Shipping Notice M 1751, and
- (d) after a repair resulting from investigations prescribed in regulation 8(2) below, or whenever any important repairs or renewals are made, an additional survey as set out in Merchant Shipping Notice M 1751.

**7 Surveys of cargo ship structure, machinery and equipment**

- (1) A [Jersey cargo ship] shall be subject to the following surveys of its structure, machinery and equipment, other than equipment to which regulations 5 and 6 above apply:
  - (a) before the ship is put in service, a cargo ship structure etc. initial survey, including an inspection of the outside of the ship's bottom, as set out in Merchant Shipping Notice M 1751,
  - (b) at the intervals specified in Merchant Shipping Notice M 1751 (which subject to regulation 14 of the Protocol of 1988 to the 1974 SOLAS Convention shall be no more than five years), a cargo ship structure etc. renewal survey as set out in Merchant Shipping Notice M 1751,
  - (c) within three months before or after the second or third anniversary date of a Cargo Ship Safety Construction Certificate being issued, a cargo ship structure etc. intermediate survey as set out in Merchant Shipping Notice M 1751,
  - (d) within three months before or after each anniversary date of the issue of the ship's Cargo Ship Safety Construction Certificate, other than where a cargo ship structure etc. renewal or intermediate

- survey is required to be carried out within that period, a cargo ship structure etc. annual survey as set out in Merchant Shipping Notice M 1751,
- (e) two inspections of the ship's bottom, as set out in Merchant Shipping Notice M 1751, to take place:
    - (i) subject to paragraph (2) below, within any five year period, and
    - (ii) at intervals not exceeding 36 months, and
  - (f) after a repair resulting from investigations prescribed in regulation 8(2) below, or whenever any important repairs or renewals are made, an additional survey as set out in Merchant Shipping Notice M 1751.
- (2) For the purpose of paragraph 1(e) above, where a cargo ship structure etc. renewal survey takes place within three months after the end of the five year period of validity of a Convention Certificate, and that certificate has been extended in accordance with regulation 15(3) or (4) below, the period of extension of the certificate shall be deemed to be within the five year period.

## **8 Responsibilities of owner and master**

- (1) The owner and master of every ship to which this regulation applies shall ensure that:
  - (a) the condition of the ship and its equipment shall be maintained to conform with the provisions of [Regulations 4, 4A, 6 and 7] to ensure that the ship in all respects will remain fit to proceed to sea without danger to the ship or persons on board,
  - (b) after any survey of the ship required by these Regulations has been completed, no change shall be made in the structural arrangements, machinery, equipment and other items covered by the survey, without the approval of the appropriate Certifying Authority, except by direct replacement, and
  - (c) whenever an accident occurs to a ship or a defect is discovered, either or which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment:
    - (i) it is reported at the earliest opportunity to the appropriate Certifying Authority, or a proper officer, and
    - (ii) if a [Jersey ship] is in such a case in a port outside [Jersey] it is also reported to the appropriate authorities of the country in which the port is situated.
- (2) Whenever an accident or defect is reported to the Certifying Authority or to a proper officer under paragraph (1)(c)(i) above, the Certifying Authority or proper officer shall cause investigations to be initiated to determine whether or not a survey by a surveyor is necessary and shall, if it is found necessary, require such a survey to be carried out.
- (3) This regulation applies to:
  - (a) [Jersey ships], and

- (b) except as regards paragraph (1)(a) above, other ships which have been surveyed pursuant to these Regulations.

**9 Procedure to be adopted when the ship, including its structure, machinery and equipment, is deficient**

- (1) In any case where a surveyor determines that the condition of a ship to which this regulation applies, including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in these Regulations or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master of the corrective action which in his opinion is required, and shall notify the Certifying Authority.
- (2) If such corrective action is not taken within such a period (being a reasonable period) as a [surveyor appointed by the Minister] or the Certifying Authority may specify, the surveyor, or Certifying Authority, shall, at the end of that time, immediately notify [the Minister] who may, on receipt of such notification, suspend the validity of the particular certificate issued to the ship. [The Minister] shall give notice of any such suspension to the owner, to the surveyor, and to the Certifying Authority who in turn shall notify the master.
- (3) This regulation applies only to [Jersey ships] and other ships which have been surveyed pursuant to these Regulations.

**10 Issue of certificates to [Jersey ships] engaged on international or short international voyages**

When a survey or surveys, to meet the requirements set out in these Regulations, are satisfactorily completed:

- (a) [the Minister] shall issue:
  - (i) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, unless the ship is only engaged on short international voyages when a short international voyage Passenger Ship Safety Certificate shall be issued;
- (b) the Certifying Authority shall issue:
  - (i) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
  - (ii) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate;
  - (iii) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate
  - (iv) in the case of a cargo ship of 500 tons gross tonnage or more engaged on international voyages, after an initial or renewal survey in accordance with [Regulations 6 and 7] above and as an alternative to the certificates prescribed in sub-paragraphs (i) to (iii) above, a Cargo Ship Safety Certificate.

**11 Issue of certificates to [Jersey ships] not engaged on international voyages**

When a survey, or surveys, to meet the requirements set out in these Regulations are satisfactorily completed:

- (a) [the Minister] shall issue, in the case of a [Jersey passenger ship] not engaged on international voyages, a Passenger Certificate appropriate to its Class;
- (b) \* \* \* \* \*

**12 Form of Certificates**

- (1) A Passenger Certificate shall indicate compliance with the provisions of [all relevant maritime legislation in force at the time in Jersey] and state:
  - (a) the limits (if any) beyond which the ship is not fit to ply;
  - (b) the number of passengers which the ship is fit to carry;
  - (c) any condition with which the ship has to comply.
- (1A) If the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 apply to the ship to which the Passenger Certificate relates, the Passenger Certificate shall be in the form laid down in Annex II of the Directive.
- (2) \* \* \* \* \*

**13 Duration and validity of certificates**

- (1) Subject to paragraphs (2) to (6) below, a Convention Certificate shall be issued from the date of the completion of the relevant survey and shall be issued for a period of validity as follows:
  - (a) a Passenger Ship Safety Certificate and a short international voyage Passenger Ship Safety Certificate shall be issued for a period of validity not exceeding 12 months, and
  - (b) a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Radio Certificate or Cargo Ship Safety Certificate shall be issued for a period of validity not exceeding five years.
- (2) Where a renewal survey has been completed within a period of three months before the expiry of the relevant Convention Certificate, the new certificate may be issued:
  - (a) in the case of a Passenger Ship Safety Certificate, for a period of validity not exceeding 12 months from the date of expiry of the existing certificate, and
  - (b) in the case of any other certificate, for a period of validity not exceeding five years from the date of expiry of the existing certificate.
- (3) Except in special circumstances as determined by [the Minister], where a renewal survey has been completed after the expiry of the relevant Convention Certificate, the new certificate shall be issued:

- (a) in the case of a Passenger Ship Safety Certificate, for a period of validity not exceeding 12 months from the date of expiry of the existing certificate, and
  - (b) in the case of any other certificate, for a period of validity not exceeding five years from the date of expiry of the existing certificate.
- (4) Where an annual, intermediate or periodical survey is completed before the period prescribed as respects such a survey in [Regulations 4, 4A, 6 and 7] above:
- (a) the anniversary date shown on the relevant certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed,
  - (b) subsequent annual, intermediate or periodical surveys required under [Regulations 4, 4A, 6 and 7] above shall be completed at the intervals prescribed by those regulations using the new anniversary date, and
  - (c) the expiry date may remain unchanged provided one or more annual, intermediate or periodical surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by [Regulations 4, 4A, 6 and 7] are not exceeded.
- (5) The duration of certificates issued under regulation 11 above shall be as follows:
- (a) a Passenger Certificate shall be issued for a period of validity not exceeding 12 months, and
  - (b) a [Jersey] Cargo Ship Safety Construction Certificate shall be issued for a period of validity not exceeding five years.
- (6) A Convention Certificate and a certificate issued under regulation 11 above shall cease to be valid:
- (a) if its period of validity has been exceeded and the certificate has not been extended by the appropriate Certifying Authority in accordance with regulation 15 below or otherwise in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies,
  - (b) if the relevant surveys and inspections have not been completed within the periods specified under [Regulations 4, 4A, 6 and 7] above or otherwise in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies, and the certificate has either not been extended in accordance with regulation 15 below or otherwise in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies, or the period of any such extension has expired, or
  - (c) upon transfer of the ship to the flag of another State.

#### **14 Issue and duration of Exemption Certificates**

- (1) When an exemption is granted to a ship in accordance with the relevant regulations applicable to the ship, a certificate called an Exemption Certificate shall be issued in addition to any Certificate issued under regulation 10.
- (2) An Exemption Certificate shall be issued for a period of validity that is not longer than the period of validity of the certificate to which it refers.
- (3) An Exemption Certificate shall be subject to the same extension and other provisions as the certificate to which it refers.
- (4) Where an Exemption Certificate has been issued, a statement to this effect shall be included on the certificate to which it refers.

#### **15 Extension and other provisions**

- (1) Where a Convention Certificate other than a Passenger Ship Safety Certificate has been issued for a period of validity of less than five years and the surveys required under [Regulations 6 and 7] above have been satisfactorily completed, the appropriate Certifying Authority may extend the validity of that Certificate so that the certificate is valid for a maximum period of five years.
- (2) Where a renewal survey required under [Regulations 6 and 7] has been satisfactorily completed before the expiry of the relevant Convention Certificate but the new certificate cannot be issued or placed on board the ship before the expiry of the existing certificate, the appropriate Certifying Authority may endorse the existing certificate as valid for a period not exceeding 5 months from the expiry date.
- (3) Where a renewal survey required under [Regulations 6 and 7] has not been satisfactorily completed before the expiry of the relevant Convention Certificate and at the time of expiry the ship is not in a port in which it is to be surveyed, the appropriate Certifying Authority may, where it appears to it proper and reasonable to do so, extend the validity of the certificate solely for the purpose of allowing the ship to complete its voyage to its port of survey.
- (4) Where no other extension has been granted, the appropriate Certifying Authority may extend the validity of a Convention Certificate of ships used solely on short international voyages for a period of no more than one month.
- (5) An extension of validity under paragraph (1) or (2) above, and, except in special circumstances as determined by [the Minister], an extension of validity under paragraph (3) or (4) above, shall be disregarded for the purposes of determining the date of expiry of an existing Convention Certificate under regulation 13(2) or (3) above.

#### **16 Issue and endorsement of Certificates by another Government**

[The Minister] may request through a proper officer or otherwise the Government of a country to which the 1974 SOLAS Convention applies to

survey a [Jersey ship] other than a ro-ro passenger ship and, if satisfied that the requirements of the Convention are complied with, to issue or authorise the issue to the ship the certificates referred to in regulation 10. A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by [the Minister].

**17 Ships not registered in [Jersey] and to which the 1974 SOLAS Convention applies**

- (1) [The Minister] may, at the request of a government of a country to which the 1974 SOLAS Convention applies, survey a ship registered in that country and, if satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with these Regulations, issue to the ship one or more of the certificates referred to in regulation 10, and, where appropriate, endorse such certificates in accordance with the requirements of the Convention. A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by [the Minister].
- (2) Where a memorandum, issued by or under the authority of the Government concerned, is attached to a valid Passenger Ship Safety Certificate or a valid short international voyage Passenger Ship Safety Certificate, in respect of a ship to which the 1974 SOLAS Convention applies, which modifies the certificate in respect of the persons that may be carried for a particular voyage, the certificate shall have effect for the purpose of the voyage as if it was modified in accordance with the memorandum.
- (3) A surveyor may go on board a ship to which the 1974 SOLAS Convention applies for the purpose of verifying that there is in force a certificate or certificates required by these Regulations, that the hull, machinery and equipment correspond substantially with the particulars shown on the certificate or certificates and that the provisions of regulation 8 are being complied with.

**18 Other ships which are not [Jersey ships]**

- (1) When a survey or surveys of ships which are not [Jersey ships], to meet the requirements set out in these Regulations, are completed in accordance with these Regulations:
  - (a) [the Minister] shall issue in the case of a passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class;
  - (b) the Certifying Authority shall issue in the case of a cargo ship of 500 tons or over not engaged on international voyages, a [Jersey] Cargo Ship Safety Construction Certificate;
- (2) Such certificates shall be subject to the requirements of these Regulations as though they were issued under regulation 11.

**19 Cancellation of a certificate**

- (1) [The Minister] may cancel a certificate issued to a [Jersey ship] where he has reason to believe that:
  - (a) the certificate was issued on false or erroneous information;
  - (b) since any survey required by these Regulations, the structure, equipment or machinery has sustained damage or is otherwise deficient.
- (2) [The Minister] may require that a certificate issued to a [Jersey ship] which has expired or has been cancelled be surrendered, as directed.
- (3) No person shall:
  - (a) intentionally alter a certificate referred to in these Regulations;
  - (b) intentionally make a false certificate referred to in these Regulations;
  - (c) in connection with any survey required by these Regulations, knowingly or recklessly furnish false information;
  - (d) with intent to deceive, use, lend, or allow to be used by another, a certificate referred to in these Regulations;
  - (e) fail to surrender a certificate required to be surrendered under paragraph (2) above; or
  - (f) \* \* \* \* \*

**20 Availability of certificates**

The owner and master of every ship issued with a Convention Certificate shall ensure that it is readily available on board for examination at all times.

**[21 Prohibition on proceeding to sea without the appropriate documentation**

- (1) A ship registered in a country to which the 1974 SOLAS Convention applies shall not proceed to sea from a port in Jersey unless there are in force such Convention certificates as would be required if the ship were a Jersey ship. The extension provisions in Regulation 15 shall apply to such certificates as if the ship were a Jersey ship and the Government of the country in which the ship is registered is substituted for the Minister.
- (2) A ship registered in a country to which the 1974 SOLAS Convention does not apply shall not proceed to sea from a port in Jersey unless the ship is in the possession of documentation which shows that the ship has been surveyed for compliance with the appropriate Jersey Regulations.
- (3) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with or, as the case may be, that the ship operates only in the specified sea areas.
- (4) The master of every ship shall produce to a customs officer from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this Regulation.



- (5) Whenever reasonably requested to do so, the master of every ship shall produce the certificates or documentation referred to in this Regulation to a person appointed for that purpose by the Minister under Article 156(1)(d) of the Shipping (Jersey) Law 2002.
- (6) In this Regulation, reference to a Convention certificate in respect of a high speed passenger craft includes reference to the requirement laid down in Regulation 3 of Chapter X of the 1974 SOLAS Convention.]

**22 Prohibition on proceeding on a voyage or excursion without the appropriate certificate**

- (1) A passenger ship of Class II(A), III, IV, V, VI or VI(A) or A, B, C or D shall not proceed on a voyage or excursion unless it has been surveyed and there is in force a Passenger Certificate appropriate to the ship's Class and applicable to that voyage or excursion.
- (1A) For the purposes of paragraph (1) above, [the Minister] shall recognise a certificate issued in respect of a ship of Class A, B, C or D or equivalent by another Member State or an EEA State pursuant to article 11 of the Directive.
- (2) Where a certificate is issued subject to conditions, the ship shall not proceed on a voyage or excursion unless all the conditions are complied with.

**23 Limit on the number of passengers on passenger ships**

The owner and master of a passenger ship shall ensure that there is not on board a greater number of passengers than that stated on the ship's Passenger Ship Safety Certificate or Passenger Certificate.

**[24 Penalties**

- (1) If a ship to which these Regulations apply proceeds or attempts to proceed to sea or on a voyage or excursion without complying with a requirement of Regulations 4, 4A, 6 or 7, the owner and master of the ship shall each be guilty of an offence and liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
- (2) Any contravention of Regulations 8(1), 21(1) to (4) or 22 shall be an offence by both the owner and master each of whom shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
- (3) Any contravention of Regulation 19(3) shall be an offence punishable on conviction by imprisonment for a term not exceeding 6 months or a fine, or both.
- (4) If a ship proceeds to sea without complying with the requirement in Regulation 20, the owner and master of the ship shall each be guilty of an offence and liable on conviction to a fine not exceeding level 3 on the standard scale.

- (5) Any contravention of Regulation 21(5) shall be an offence by the master of the ship who shall be liable on conviction to a fine not exceeding level 3 on the standard scale.
- (6) Any contravention of Regulation 23, being an offence corresponding to the offence under section 283 of the Merchant Shipping Act 1894 of the United Kingdom, shall be an offence by both the owner and master of the ship each of whom shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
- (7) It shall be a defence for a person charged with an offence under these Regulations to show that the person took all reasonable steps to ensure compliance with the relevant requirement of these Regulations.]

## **[25 Powers to detain**

In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the Shipping (Jersey) Law 2002 (which relate to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as though for the words “this Law” wherever they appear in those provisions, there were substituted the words “the Shipping (Survey and Certification) (Jersey) Order 2013”.]

## **26 Arbitration**

- (1) Should an owner, or any other person making an application for a survey required by these Regulations, be dissatisfied with the outcome of the survey because the issue of a certificate has been refused or for any other reason, that person may serve notice, within twenty-one days of the completion of the survey, on the person responsible for issuing the particular certificate under regulation 10 or 11, that their dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by him.
- (2) A person shall not be qualified for appointment as an arbitrator under this regulation unless he is:
  - (a) a person holding a certificate of competency as a Class 1 Deck Officer or as a Class 1 Marine Engineer Officer, or a person holding a certificate equivalent to any such certificate; or
  - (b) a naval architect; or
  - (c) a person falling within paragraph (3); or
  - (d) a person with special experience of the shipping industry; or
  - (e) a Member of the Chartered Institute of Arbitrators.
- (3) For the purposes of paragraph (2)(c) a person falls within this paragraph if:
  - (a) he has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990
  - (b) he is an advocate or solicitor [in Jersey, Guernsey or Scotland] of at least 10 years’ standing; or

- (c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.
- (4) In connection with his functions under this regulation, an arbitrator shall have the powers of an inspector conferred by section 27 of the Merchant Shipping Act 1979.
- (5) In the application of this regulation to Scotland, any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in paragraph (1) to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of an agreement, appointed by a sheriff.
- (6) The Arbitration Act (Northern Ireland) 1937 shall apply in relation to an arbitrator in pursuance of this regulation as if this regulation related to a matter in respect of which the Parliament of Northern Ireland had powers to make laws.
- (7) The rules for arbitration are set out in Merchant Shipping Notice No. M 1613. These rules shall apply unless alternative procedures are agreed between the parties before the commencement of the arbitration proceedings.

27 \* \* \* \* \*

Signed by authority of the Secretary of State for Transport

*Goschen*

Parliamentary Under-Secretary of State,

Department of Transport

28th April 1995

**THE MERCHANT SHIPPING (PASSENGER SHIPS ON DOMESTIC VOYAGES) REGULATIONS 2000, AS IN FORCE IN THE UNITED KINGDOM AND AS MODIFIED BY THIS ORDER**

**(THE OPERATIVE PROVISIONS OF THE UK 2000 REGULATIONS ARE SET OUT HERE FOR INFORMATION ONLY. THEY DO NOT FORM PART OF THE ORDER)**

**1 Citation and commencement**

These Regulations may be cited as the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 and shall come into force on 23rd October 2000.

**2 Interpretation**

(1) In these Regulations –

“the Directive” means Directive 2009/45/EC of 6th May 2009 on safety rules and standards for passenger ships;

“Directive 2003/25/EC” 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;

[“domestic voyage” means a voyage in sea areas from a port in Jersey to the same or another port in Jersey;]

“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;

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

[“high speed passenger craft” means a passenger craft capable of a maximum speed in metres per second equal to or exceeding  $3.7\sqrt{0.1667}$  where  $\nabla$  = the volume of displacement corresponding to the design waterline ( $m^3$ ), excluding craft the hull of which is supported clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect;]

\* \* \* \* \*

“Merchant Shipping Notice” means a Notice described as such, issued by the Maritime and Coastguard Agency [of the United Kingdom Department for Transport], 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;

[“Minister” means the Minister for Economic Development;]

“[non-Jersey] passenger ship” means a passenger ship which is not a [Jersey ship];

“port waters” means waters categorised in Merchant Shipping Notice No M 1719(M) on the Categorisation of Waters.

- [(2) With the exception of the expression “domestic voyage” (which is defined in paragraph (1)), words and expressions used in these Regulations which also occur in the Directive shall have the same meaning in these Regulations as they are given by article 2 of the Directive.]
- [(2A) References in the Directive to Conventions or Codes in their up to date versions shall have effect so far as they are –
- (a) considered by the Minister to be relevant from time to time; and
  - (b) specified in a Merchant Shipping Notice.]
- (3) Where a ship is managed by a person other than the 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.
- (4) Any approval, exemption or suspension from operation made by [the Minister] pursuant to these Regulations shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

### **3 Classification of ships**

- (1) For the purposes of these Regulations passenger ships engaged on domestic voyages shall be arranged in Classes as follows:
- Class A ships engaged solely on domestic voyages other than ships of Class B, Class C and Class D;
- Class B ships engaged solely on domestic voyages in the course of which they are at no time more than 20 miles from the line of the coast where shipwrecked persons can land, corresponding to the medium tide height;
- Class C ships engaged solely on domestic voyages in sea areas where the probability of significant wave heights exceeding 2.5 metres is less than 10% over a one year period for all year round operation, or over a specific restricted period of the year for operation exclusively in such period, in the course of which they are at no time more than 15 miles from a place of refuge, nor more than 5 miles from the line of the coast, where shipwrecked persons can land, corresponding to the medium tide height;
- Class D ships engaged solely on domestic voyages in sea areas where the probability of significant wave heights exceeding 1.5 metres is less than 10% over a one year period for all year round operation, or over a specific restricted period of the year for operation exclusively in such period, in the course of which they are at no time more than 6 miles from a place of refuge, nor more than 3 miles from the line of the

coast, where shipwrecked persons can land, corresponding to the medium tide height.

(2) \* \* \* \* \*

**4 Application**

- (1) These Regulations shall apply to –
  - (a) a new [Jersey passenger ship] of Class A or B engaged on domestic voyages;
  - (b) a new non-[Jersey passenger ship] of Class A or B engaged on domestic voyages \* \* \*;
  - (c) an existing [Jersey passenger ship] of Class A or B of 24 metres or over in length which is described in column 1 of the table below, engaged on domestic voyages, from the date specified in relation to that description of ship in column 2 of that table; and
  - (d) an existing [non-Jersey passenger ship] of Class A or B of 24 metres or over in length which is described in column 1 of the table below, engaged on domestic voyages \* \* \*, from the date specified in relation to that description of ship in column 2 of that table.

<i>column 1</i> <i>Date on which the keel of the ship was laid, or at a similar stage of construction</i>	<i>column 2</i> <i>Date from which these Regulations apply</i>
A ship the keel of which was laid, or at a similar stage of construction, before 1st January 1940	1st July 2006
A ship the keel of which was laid, or at a similar stage of construction, on or after 1st January 1940 but before 31st December 1962	1st July 2007
A ship the keel of which was laid, or at a similar stage of construction, on or after 31st December 1962 but before 31st December 1974	1st July 2008
A ship the keel of which was laid, or at a similar stage of construction, on or after 31st December 1974 but before 31st December 1984	1st July 2009
A ship the keel of which was laid, or at a similar stage of construction, on or after 31st December 1984 but before 1st July 1998	1st July 2010

- (2) These Regulations shall not apply to –
  - (a) a ship of war or a troopship;
  - (b) a ship not propelled by mechanical means;
  - (c) a vessel which is not constructed in steel or equivalent material, and

- (i) to which the [the Merchant Shipping (High Speed Craft) Regulations 2004] do not apply, or
- (ii) which is not a dynamically supported craft for the purposes of the Code of Safety for Dynamically Supported Craft adopted by the International Maritime Organisation by means of Resolution A.373(X) on 14th November 1977;
- (d) a wooden ship of primitive build;
- (e) an original historical passenger ship designed before 1965, or an individual replica of such a ship built predominately with the original materials;
- (f) a pleasure yacht unless it is or will be crewed and carrying more than 12 passengers for commercial purposes;
- (g) \* \* \* a high-speed passenger craft \* \* \*
- (h)–(j) \* \* \* \* \*
- (3) \* \* \* \* \*
- (4) For the purposes of the application of these Regulations no account shall be taken of any deviation by a ship from her intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled.
- (5) Subject to paragraph (6) below, paragraph (7) below shall apply to repairs, alterations and modifications of a major character, and related outfitting, carried out to an existing passenger ship.
- (6) Alterations made to an existing passenger ship which are intended solely to achieve a higher survivability standard shall not be regarded as modifications of a major character.
- (7) Repairs, alterations and modifications referred to in paragraph (5) above shall comply with the safety requirements of the Directive which apply to a new passenger ship of the same Class and which are relevant to the repair, alteration or modification.

5 \* \* \* \* \*

**6 Safety requirements**

- (1) Subject to paragraph (1B) below, a ship to which these Regulations apply shall comply with the safety requirements specified in the Directive in relation to a ship of its class.
- (1A) A ship which is less than 24 metres in length shall, in probable loading conditions and after correcting for the effect of free surface of liquids in tanks, satisfy the stability criteria set out in Schedule 1 of Merchant Shipping Notice 1699.
- (1B) A ship of Class A or B the keel of which is laid or which is at a similar stage of construction before 1st October 2004:

- (a) need not comply with the safety requirements contained in Articles 6, 8 and 9 of Directive 2003/25/EC, and
  - (b) if it does not meet those requirements by 1st October 2010, must cease to operate as a passenger ship on 1st October 2015 or, if earlier, on the date on or after 1st October 2010 on which it reaches the age of 30 years.
- (2) In complying with paragraph (1) or (1A) above, as respects construction or maintenance of hull, main and auxiliary machinery and electrical and automatic plant, a ship shall comply with the standards specified in Merchant Shipping Notice No M 1672 which are relevant to it.
- (2A) In complying with paragraph (1) above a ship used for public transport:
- (a) the keel of which was laid or which was at a similar stage of construction on or after 1st October 2004 shall, where practicable, be constructed and equipped, and display signs, based on the guidelines in Annex III to the Directive,
  - (b) the keel of which was laid or which was at a similar stage of construction before 1st October 2004 shall, if undergoing modification, be constructed and equipped as respects that modification, and display signs as respects that modification, based on the guidelines in Annex III to the directive as far as is reasonable and practicable in economic terms.
- (3) Where [the Minister] considers that the operation on a domestic voyage of a ship to which these Regulations apply creates a risk of serious danger to safety of life or property or to the environment, notwithstanding the fact that the ship complies with the requirements of the Directive specified in relation to a ship of its Class, [the Minister] may, subject to the procedure laid down in paragraph 5 of Article 9 of the Directive –
- (a) suspend the ship from operating on domestic voyages in [Jersey waters]; or
  - (b) impose additional safety conditions upon the continued operation of the ship in [Jersey] waters,
- until such time as [the Minister] considers that the danger is removed.
- (4) It shall be a contravention of these Regulations for a ship to operate in [Jersey waters] –
- (a) otherwise than in compliance with any of the requirements of the Directive specified in relation to a ship of its Class; or
  - (b) in breach of a suspension of the operation of the ship or any conditions on the continued operation of the ship imposed under paragraph (3) above.
- (5) \* \* \* \* \*

## **7 Alternative construction, equipment and machinery**

- (1) Where these Regulations require that the hull or machinery of a ship shall be constructed in a particular manner, or that particular equipment shall be provided, or particular provision made, the Minister may approve the construction of the hull or machinery in any other manner, or the



provision of other equipment or the making of other provision, if the Minister is satisfied by trial thereof or otherwise that such other construction or provision is at least as effective as is required by these Regulations.]

- (2) For the purpose of these Regulations, the results of verifications and tests carried out by the bodies and laboratories of other EEA States offering suitable and satisfactory guarantees of technical and provisional competence and independence shall be accepted.

**7A** \* \* \* \* \*

**7B** \* \* \* \* \*

**7C** \* \* \* \* \*

**8 Exemptions**

[The Minister] may, subject to such conditions [as may be specified], exempt classes of ships or individual ships from specified provisions of these Regulations, and may alter or cancel any such exemption.

**[9 Penalties**

- (1) A contravention of these Regulations in respect of a ship shall be an offence by both the owner and the master of the ship for which each shall be liable on conviction to imprisonment for a term not exceeding 2 years or a fine, or both.
- (2) It shall be a defence for a person charged with an offence under these Regulations to show that the person took all reasonable steps to avoid committing the offence.]

**[10 Powers to detain**

In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and Articles 57 to 61 of the Shipping (Jersey) Law 2002 (which relate to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as though for the words “this Law”, wherever they appear in those provisions, there were substituted the words “the Shipping (Survey and Certification) (Jersey) Order 2013”.]

11 \* \* \* \* \*

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

*Keith Hill*

Parliamentary Under-Secretary of State, Department of the Environment, Transport and the Regions

29th September 2000

SCHEDULE

\* \* \* \* \*

- 
- 1 *chapter 19.885*
  - 2 *chapter 19.885.75*
  - 3 *R&O.143/2013*
  - 4 *chapter 19.885*
  - 5 *chapter 19.885*
  - 6 *R&O.146/2013*
  - 7 *chapter 19.885*
  - 8 *R&O.146/2013*
  - 9 *R&O.125/2005 (chapter 19.885.77)*
  - 10 *R&O.143/2013*