L.N. 149 of 2002

MERCHANT SHIPPING ACT
(CAP. 234)

Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations, 2002

IN exercise of the powers conferred by articles 103 and 374 of the Merchant Shipping Act, the Minister for Transport and Communications has made the following regulations:–

1. (1) The title of these regulations is the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations, 2002. Citation and commencement.

(2) These regulations shall come into force on the 1st November 2002.

2. In these regulations, unless the context otherwise requires – Interpretation.

"the Act" means the Merchant Shipping Act;

"appropriate search and rescue services" means, in relation to a ship involved in an emergency, the search and rescue services for the area in which the ship is located;

"approved" means:

(a) in respect of any Maltese passenger ship when it leaves any landing place, approved by the Registrar-General; and

(b) in respect of any passenger ship when it leaves any landing place in Malta, approved by the Director,

sohowever that in respect of any Maltese passenger ship when it leaves any landing place in Malta, approved means approved both by the Director and the Registrar-General;

"Community ship" means a ship which is registered in, or which is entitled to fly the flag of, a Member State;

Cap. 352.

"Director" means the Executive Director responsible for ports appointed under article 8 of the Malta Maritime Authority Act, or any other person or officer authorised by him to act on his behalf;

"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: ∇ = displacement corresponding to the design waterline (m^3);

"international voyage" means a voyage from a country to which the Safety Convention applies to a port outside that country, or conversely;

"landing place" means any berth, excursion place, floating pier, pier, port, stop or anchorage place from or to where passengers are embarked or disembarked;

"mile" means a nautical mile of 1852 metres;

"passenger registrar" means the person appointed by the owner of a ship pursuant to regulation 7(1)(b);

"passenger ship" means a sea-going ship or a sea-going high-speed craft carrying more than twelve passengers;

"person" means any person on board a ship irrespective of their age;

"protected sea area" means a sea area sheltered from open sea effects where a ship is at no time more than six miles from a place of refuge where shipwrecked persons can land and in which the proximity of search and rescue facilities is ensured;

"regular community service" means a regular service in a sea area where the annual probability of the significant wave height exceeding two metres is less than 10% and –

(a) the voyage does not exceed thirty miles or thereabouts from the point of departure; or

(b) the primary purpose of the service is to provide regular links to outlaying communities for customary purposes;

"regular service" means a series of ship crossings operated so as to serve traffic between the same two or more ports either:

(a) according to a published timetable; or

(b) with crossings so regular or frequent that they constitute a recognisable systematic series;

"search and rescue services" means the search and rescue services responsible for the initiation and co-ordination of all maritime search and rescue activity required to provide assistance in the event of an emergency involving a ship or its aftermath;

"territorial waters of Malta" shall have the same meaning as is assigned to it in the Territorial Waters and Contiguous Zone Act; Cap. 226.

"the Safety Convention" shall have the same meaning as is assigned to it in article 213 of the Act;

"Maltese passenger ship" means a passenger ship which is a Maltese ship;

"voyage" includes an excursion.

(2) Where a ship is managed or operated 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 other person.

(3) Any approval or exemption given 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. (1) These regulations shall apply to any – Application.

(a) Maltese passenger ship wherever it may be; and

(b) other passenger ship while it is within the territorial waters of Malta.

(2) These regulations shall not apply to any:

(a) ship of war;

(b) troop ship; or

(c) pleasure yacht unless it is or will be crewed and carry more than 12 passengers for commercial purposes.

Passenger Counting.

4. (1) The owner of any passenger ship shall ensure that, in respect of any Maltese passenger ship when it leaves any landing place and in respect of any passenger ship when it leaves any landing place in Malta, there is an approved system capable of counting all persons on board which conforms to the requirements of subregulations (2) to (5) of this regulation. .

(2) The system of counting established pursuant to subregulation (1) of this regulation shall be such that:

(a) all persons boarding such a ship at a landing place at the beginning of a voyage are counted individually on, or just prior to, boarding and, as the case may be:

(i) all persons disembarking at subsequent landing places, during the course of a voyage, are counted individually as they disembark;

(ii) all persons boarding at subsequent landing places, during the course of a voyage, are counted individually on, or just prior to, boarding; and

(iii) the number of persons remaining on board at each landing place is determined; or

(b) the number of persons is determined and recorded according to an approved alternative method, which shall be of equivalent effectiveness to the system set out in paragraph (2)(a) of this regulation.

(3) Immediately before a passenger ship leaves any landing place the total number of persons on board at that time as determined by means of the counting system shall be communicated to the master of the ship and the passenger registrar.

(4) If, in respect of any person on board a ship, any person has declared a need for special care or assistance in emergency situations, the owner shall ensure that such information is properly recorded and communicated to the master of the ship.

(5) No passenger ship shall leave any landing place if:

(a) the requirements of subregulations (3) or (4) of this regulation have not been complied with; or

(b) the total number of persons on board the ship exceeds the number of persons the ship is permitted to carry.

(6) The arrangements made in pursuance of the requirements in subregulation (1) of this regulation shall be described in written instructions which shall be kept on board the ship at all times in the custody of the master.

Additional requirements for voyages of more than 20 miles.

5. (1) This regulation shall apply to:

(a) any Maltese passenger ship leaving any landing place:

(i) inside the territory of the European Community on a voyage of more than 20 miles from that landing place; or

(ii) outside the territory of the European Community on an international voyage; and

(b) any passenger ship leaving any landing place in Malta on a voyage of more than 20 miles from that landing place.

(2) The owner of any passenger ship to which this regulation applies shall ensure that:

(a) the following information is collected, in relation to each person on board, before the ship departs from the landing place:

(i) family name;

(ii) forenames or initials;

(iii) gender;

(iv) an indication of the category of age (such category being either adult, child or infant) to which the person belongs or the age or the year of birth of the person; and

(v) if volunteered by a person, any information concerning the need for special care or assistance in emergency situations.

(b) the information specified in paragraph 2(a) of this regulation is:

(i) communicated to the passenger registrar within 30 minutes of the ship's departure from the landing place; and

(ii) in respect of any such information as is specified in sub-paragraph (2)(a)(v) of this regulation, communicated to the master of the ship before the ship leaves the landing place.

Non-Community ships on voyages from outside the European Community to Malta.

6. In respect of any passenger ship which is not a Community ship on any voyage from any landing place outside the territory of the European Community to Malta the owner shall make:

(a) information as to the total number of persons on board the ship; and

(b) the information specified in paragraph 5(2)(a);

readily available to the appropriate search and rescue services for the purposes of search and rescue in the event of an emergency or in the aftermath of an accident involving the ship.

Registration System.

7. (1) The owner of a passenger ship to which regulation 4 or 5 above applies shall -

(a) establish an approved system for the registration of the information collected pursuant to these regulations which shall meet the following functional criteria:

readability – the required data must be in a format that is easy to read;

availability – the required data must be easily available to the designated authorities;

facilitation – the system must be designated in such a way that no undue delay is caused for passengers embarking and/or disembarking the ship;

security – the data must be appropriately protected against accidental or unlawful destruction or loss and unauthorised alteration, disclosure or access;

(b) appoint a shore-based passenger registrar who shall be responsible for holding the information collected pursuant to these regulations and for its transmission to appropriate search and rescue

services in the event of an emergency or in the aftermath of an accident involving the ship; and

(c) ensure that the information collected pursuant to these regulations is at all times readily available for transmission to the appropriate search and rescue services for use in an emergency or in the aftermath of an accident involving the ship.

(2) Any personal data which is collected solely pursuant to these regulations by an owner shall be kept only for as long as is necessary for the purposes of these regulations.

(3) The Director and the Registrar-General may carry out checks on the proper functioning of registration systems approved under this regulation.

(4) In performing the checks referred to in subregulation (3) above, the Director and the Registrar-General shall,

(i) be entitled to board any ship to which the registration system relates and enter any premises of the passenger registrar; and

(ii) have access to any records and documents, including electronic and computer records, which comprise the owner's registration system.

Exemptions.

8. (1) The Director may exempt any passenger ship leaving any landing place within Malta:

(a) from the requirements of subregulation 4(3) in so far as they apply to communicate the number of persons on board to the passenger registrar if the ship is engaged, exclusively in a protected sea area, on a regular service of less than one hour between calls at landing places; or

(b) from the requirements of subregulation 5(2) if the ship sails exclusively in a protected area between two landing places or from and to the same landing place without calling at any intermediate landing place or the ship is engaged on a regular community service.

(2) The Registrar-General may exempt any Maltese passenger ship leaving any landing place outside the territory of the European Community on an international voyage from the requirements of subregulation 5(2), if the scheduled voyages of the ship make it impracticable for such records to be prepared.

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