

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,318, 20 ta' Diċembru, 2019

Taqsimha B

L.N. 346 of 2019

**MERCHANT SHIPPING ACT
(CAP. 234)**

**Merchant Shipping (Counting and Registration of Persons on
Board Passenger Ships) Regulations, 2019**

IN EXERCISE of the powers conferred by article 374 of the Merchant Shipping Act, the Minister for Transport, Infrastructure and Capital Projects 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, 2019. Citation, scope and commencement.

(2) These regulations transpose the measures contained in Directive (EU) 2017/2109 of the European Parliament and of the Council of 15 November 2017 amending Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community and Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States.

(3) These regulations shall come into force on 21 December 2019.

2. In these regulations, unless the context otherwise requires: Definitions.

"the Act" means the Merchant Shipping Act; Cap. 234

"company" means the owner of a passenger ship or any other organisation or person such as the manager or the bareboat charterer, who has assumed responsibility for operating the passenger ship from the owner;

"Directive 98/41/EC" means Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community, in its up-to-date version;

"Directive 2009/45/E" means Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships, in its up-to-date version;

"Directive 2010/65/EU" means Directive 2010/65/EU of

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the European Parliament of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC, in its up-to-date version;

"EU Member State" means a Member State of the European Union (including, for the avoidance of doubt, Malta) or of the European Economic Area;

"Maltese passenger ship" means a passenger ship which is a Maltese ship registered in terms of Article 3(1) of the Act;

"passenger ship" means a ship or a high-speed craft which carries more than 12 passengers;

"Registrar-General" means the Registrar-General of Shipping and Seamen appointed in terms of article 363 of the Act.

(2) Unless otherwise defined in the Act or in these regulations, or unless the context otherwise requires, words and expressions used in these regulations shall have the same meaning assigned to them in Directive 98/41/EC.

Application. **3.** These regulations shall apply to Maltese passenger ships, with the exception of:

- (a) ships of war and troop ships;
- (b) pleasure yachts and pleasure craft;
- (c) ships exclusively engaged in port areas.

Passenger counting. **4.** (1) The company shall ensure that all persons on board a Maltese passenger ship which departs from a port located in an EU Member State are counted before that passenger ship departs.

(2) Before the passenger ship departs, the number of persons on board shall be communicated to the master of the ship and, either reported by appropriate technical means in the single window established pursuant to Article 5 of Directive 2010/65/EU, or communicated to the Registrar-General by means of the Automatic Identification System:

Provided that, by derogation from the aforementioned paragraph, such information may continue to be communicated to the company's passenger registrar or to the shore-based company system that performs the same function, until 20 December 2023.

5. (1) Where a Maltese passenger ship departs from a port located in an EU Member State in order to undertake a voyage of which the distance sailed from the point of departure to the next port of call exceeds twenty miles, the following information shall be recorded:

Additional requirements for voyages of more than twenty miles.

(a) the family names of the persons on board, their forenames, their gender, their nationality, their dates of birth;

(b) when volunteered by a passenger, information concerning special care or assistance that might be needed in an emergency;

(c) when volunteered by the passenger, a contact number in case of an emergency.

(2) The information listed in sub-regulation 1 shall be collected before the passenger ship's departure and reported in the single window established pursuant to Article 5 of Directive 2010/65/EU upon the passenger ship's departure but in no case later than fifteen minutes after its departure:

Provided that, by derogation from the aforementioned paragraph, such information may continue to be communicated to the company's passenger registrar or to the shore-based company system that performs the same function, until 20 December 2023.

(3) Without prejudice to other legal obligations on data protection, personal data collected for the purposes of these regulations shall not be processed and used for any other purpose. Such personal data shall always be handled in accordance with the applicable data protection and privacy legislation and shall be erased automatically and without undue delay once it is no longer needed.

6. (1) In respect of every Maltese passenger ship, which departs from a port located outside an EU Member State which is bound for a port located within an EU Member State, the company shall ensure that the information specified in regulations 4(1) and 5(1) is provided in accordance with regulations 4(2) and 5(2).

Reporting of information.

7. Before a Maltese passenger ship departs from a port located in an EU Member State, its master shall ensure that the number of persons on board does not exceed the number the passenger ship is permitted to carry.

Maximum number of passengers.

8. (1) Each company assuming responsibility for operating a Maltese passenger ship shall, where required under regulations 4 and 5 of these regulations, appoint a passenger registrar responsible for reporting the information referred to in those provisions in the single

Passenger registrar.

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window established pursuant to Article 5 of Directive 2010/65/EU or to the Registrar-General by means of the Automatic Identification System.

(2) Personal data collected in accordance with regulation 5 of these regulations shall be kept by the company no longer than is necessary for the purposes of these regulations, and in any event only until the moment the ship's voyage in question has been safely completed and the data has been reported in the single window established pursuant to Article 5 of Directive 2010/65/EU. Without prejudice to other specific legal obligations, including for statistical purposes, once the information is no longer needed for this purpose, it shall be erased automatically and without undue delay.

(3) Each company shall ensure that information concerning passengers who have declared a need for special care or assistance in emergency situations is properly recorded and communicated to the master before the passenger ship departs.

Data
registration.

9. (1) Companies shall establish and keep in place a procedure for data registration which guarantees that information required by these regulations is reported in an accurate and timely manner.

(2) The Registrar-General, shall have access to the information required under these regulations, when so required.

(3) Personal data collected in accordance with regulation 5 shall be retained no longer than is necessary for the purposes of these regulations, and in any event, no longer than:

(a) until the moment the ship's voyage in question has been safely completed, but in any case not longer than 60 days after the ship's departure; or

(b) in the event of emergency or in the aftermath of an accident, until any investigation or judiciary proceedings have been completed.

(4) Without prejudice to other specific legal obligations, including obligations for statistical purposes, once the information is no longer needed for the purposes of these regulations, it shall be erased automatically and without undue delay.

Data to be
collected
without undue
delay.

10. (1) For the purposes of these regulations, the required data shall be collected and recorded in such a way that no undue delay is caused for passengers embarking or disembarking the vessel.

(2) A multiplicity of data collection on the same or similar routes shall be avoided.

11. The processing of personal data pursuant to these regulations shall be carried out in accordance with Regulation (EU) 2016/679, as implemented by the Data Protection Act. Data protection.
Cap. 586.

12. Any person, who contravenes any of the provisions of these regulations shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) not exceeding two thousand units. Offences and
penalties.

13. The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations are hereby repealed. Repeal.
S.L. 234.25.
