



STATUTORY INSTRUMENTS.

**S.I. No. 679 of 2019**



EUROPEAN UNION (SYSTEM OF INSPECTIONS FOR THE SAFE  
OPERATION OF RO-RO PASSENGER SHIPS AND HIGH-SPEED  
PASSENGER CRAFT IN REGULAR SERVICE) REGULATIONS 2019

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EUROPEAN UNION (SYSTEM OF INSPECTIONS FOR THE SAFE OPERATION OF RO-RO PASSENGER SHIPS AND HIGH-SPEED PASSENGER CRAFT IN REGULAR SERVICE) REGULATIONS 2019

I, SHANE ROSS, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017<sup>1</sup>, hereby make the following regulations:

*Citation and commencement*

1. (1) These Regulations may be cited as the European Union (System of Inspections for the Safe Operation of Ro-Ro Passenger Ships and High-Speed Passenger Craft in Regular Service) Regulations 2019.

(2) These Regulations come into operation on 21 December 2019.

*Interpretation*

2. (1) In these Regulations—

“company” means the organisation or person who has agreed to take over all the duties and responsibilities imposed by the International Management Code for Safe Operation of Ships and for Pollution Prevention (the ISM Code) in its up-to-date version or, in cases where Chapter IX of SOLAS 74 does not apply, the owner of the ro-ro passenger ship or the high-speed passenger craft or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ro-ro passenger ship or the high-speed passenger craft from its owner;

“competent authority” shall be construed in accordance with Regulation 4;

“Directive” means Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017<sup>1</sup>;

“domestic voyage” means a voyage in sea areas from a port in the State to the same or another port within the State;

“HSSC” means the IMO Survey Guidelines under the Harmonized System of Survey and Certification, in its up-to-date version;

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<sup>1</sup> OJ No. L 315, 30.11.2017, p. 61

“high-speed passenger craft” means a craft within the meaning of Regulation 1 of Chapter X of SOLAS 74, and carrying more than 12 passengers;

“inspection database” means the inspection database provided for in Article 10 of the Directive, which is to be developed, maintained and updated by the European Commission;

“inspector” means a person authorised under Regulation 5 by the Minister to carry out inspections for the purposes of these Regulations and the Directive;

“master” in relation to a ship, means the person (excluding, where appropriate, a pilot) having, for the time being, the command or charge of the ship;

“Minister” means Minister for Transport, Tourism and Sport;

“port authority” shall be construed in accordance with the interpretation in the Port State Control Regulations;

“Port State Control Regulations” means the European Communities (Port State Control) Regulations 2010 (S.I. No. 656 of 2010), as amended by the European Union (Port State Control) (Amendment) Regulations 2014 (S.I. No. 519 of 2014), the European Union (Carbon Dioxide Emissions from Maritime Transport) Regulations 2017 (S.I. No. 476 of 2017), and Regulation 17;

“regular service” means a series of ro-ro passenger ship or high-speed passenger craft crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:

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

“ro-ro passenger ship” means a ship with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers;

“SOLAS 74” means the 1974 International Convention for the Safety of Life at Sea, including amendments and Protocols thereto, in its up-to-date version;

“ship” means a ro-ro passenger ship, or a high-speed passenger craft.

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(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

(3) In these Regulations a reference to an Annex is a reference to an Annex to the Directive, unless it is indicated that reference to some other directive is intended.

#### *Application*

3. (1) These Regulations apply to ro-ro passenger ships and high-speed passenger craft operating—

- (a) on a regular service between a port in the State and a port of a third country where the vessel flies the flag of the State, or
- (b) on a regular service on domestic voyages in sea areas in which ships of Class A may operate in accordance with the list established under Regulation 4(2) of the European Union (Passenger Ships) Regulations 2019 (S.I. No. 676 of 2019).

(2) These Regulations do not apply to ro-ro passenger ships and high-speed passenger craft subject to control under the Port State Control Regulations.

#### *Competent authority*

4. (1) The Marine Survey Office of the Department of Transport, Tourism and Sport is designated as the competent authority in the State for the purposes of these Regulations and the Directive.

(2) A function conferred on the competent authority by these Regulations may be performed by an inspector or an officer of the Minister duly authorised by the competent authority in that behalf.

#### *Inspectors*

5. (1) The Minister may appoint such and so many persons as he or she thinks fit to be inspectors for the purposes of these Regulations and the Directive.

(2) An inspector shall be furnished with a warrant of appointment and, when exercising any power conferred under these Regulations, shall, if requested by any person affected, produce the warrant to the person.

(3) An inspector may for the purpose of these Regulations and the Directive and carrying out inspections under these Regulations and the Directive:

- (a) at all reasonable times board any ship or enter any premises or place where a company operates a ro-ro passenger ship or high-speed passenger craft service for the purpose of carrying out an inspection under these Regulations and in accordance with the Directive;
- (b) search and inspect the ship, premises or place and any documents or records found on board or therein;
- (c) require any person on board or at the premises or in the place to produce to the inspector any report, document or record (including in the case of information in a non-legible form a copy of an extract from such information in permanent legible form) kept or used for a purpose connected with a ship;
- (d) inspect, examine and take copies of or extracts from or take away, if necessary, for the purposes of inspection or examination, any report, document or record (including in the case of information in a non-legible form a copy of an extract from such information in permanent legible form) kept or used in connection with a ship and require the person by whom such document or record is kept or who produced the document or record to certify a copy thereof as a true copy;
- (e) request the production of, examine and take copies of any certificate;
- (f) question the master or person in charge of the ship or the director, manager, secretary or another officer of the company which operates the ship;
- (g) undertake, or arrange for the undertaking of, the examination, testing, processing or dismantling of any equipment on board the ship, as may be necessary.

(4) For the purpose of exercising his or her powers under paragraph (3), an inspector may detain any ship during such time as is required for the exercise of those powers.

(5) Where a competent authority is satisfied that an inspector appointed by it has, in a *bona fide* manner, exercised a power conferred on the inspector by or under these Regulations, the competent authority shall indemnify the inspector against all actions or claims however arising in respect of the exercise by the inspector of that power.

(6) A person who obstructs or interferes with an inspector when the inspector is exercising a power under this Regulation, or who fails or refuses to comply with a request or requirement of an inspector under this section, commits an offence.

(7) A person who wilfully gives to an inspector information which he or she knows to be false or misleading in a material respect, or makes any such false or misleading statement reckless as to its truth or otherwise, commits an offence.

*Pre-commencement inspections*

6. (1) Before a ship starts to operate on a regular service covered by these Regulations, the competent authority shall carry out a pre-commencement inspection, consisting of–

- (a) verification of the compliance with the requirements laid down in Annex I, and
- (b) an inspection, in accordance with Annex II, to satisfy itself that the ship fulfils the necessary requirements for safe operation of a regular service.

(2) A pre-commencement inspection shall be carried out by an inspector.

(3) When requested by the competent authority, companies shall provide evidence of compliance with the requirements of Annex I in advance of, but not earlier than 1 month before, the pre-commencement inspection.

(4) A company which fails to comply with paragraph (3) commits an offence.

*Exceptions to pre-commencement inspection obligation*

7. (1) In the case of pre-commencement inspections, the competent authority may decide not to apply certain requirements or procedures in Annexes I and II relevant to any annual flag State survey or inspection carried out within the previous 6 months, provided that relevant procedures and guidelines for surveys specified in HSSC, or procedures designed to achieve the same goal, have been followed. The competent authority shall transfer the relevant information to the inspection database in accordance with Regulation 13.

(2) When a ship is to be engaged on a regular service, the competent authority may take into account inspections and surveys previously carried out in respect of that ship for operation on another regular service covered by these Regulations. Provided that the competent authority is satisfied with those previous inspections and surveys and that they are relevant to the new

operational conditions, the inspections provided for in Regulation 6(1) do not need to be applied before the ship starts operating on the new regular service.

(3) At the request of a company, the competent authority may confirm in advance that it agrees that the previous inspections and surveys are relevant to the new operational conditions.

(4) Where, due to unforeseen circumstances, there is an urgent need for the rapid introduction of a replacement ship to ensure continuity of service, and paragraph (2) does not apply, the competent authority may allow the ship to start operating provided that the following conditions are met—

- (a) a visual inspection and document check raises no concerns that the ship does not fulfil the necessary requirements for safe operation, and
- (b) the competent authority completes the pre-commencement inspection provided for in Regulation 6(1) within 1 month.

#### *Regular inspections*

8. (1) In the period between 1 January and 31 December in any year, the competent authority shall carry out—

- (a) an inspection, in accordance with Annex II, and
- (b) an inspection during a regular service, taking place not before 4 months, but not later than 8 months, after the inspection referred to in subparagraph (a) and covering the items listed in Annex III and what, in the professional judgment of the inspector, constitutes a sufficient number of the items listed in Annexes I and II to ensure that the ship continues to fulfil all the necessary requirements for safe operation.

(2) A pre-commencement inspection in accordance with Regulation 6 shall be considered to be an inspection for the purposes of paragraph (1)(a).

(3) The inspection referred to in paragraph (1)(a) may, at the discretion of the competent authority, be carried out at the same time as, or in conjunction with, the annual flag State survey, provided that the relevant procedures and guidelines for surveys as specified in HSSC, or procedures designed to achieve the same goal, are followed.

(4) The competent authority shall carry out an inspection in accordance with Annex II each time the ship undergoes repairs, alterations and

modifications of a major character, or when there is a change of management, or a transfer of class.

(5) Notwithstanding paragraph (4), the competent authority may, in the case of a change of management, or transfer of class, after taking account of inspections previously carried out in respect of the ship, and provided that the safe operation of the ship is not affected by this change or transfer, exempt the ship from the inspection required in paragraph (4).

(6) A company which operates a ship shall permit the ship, or submit it, to be inspected by the competent authority in accordance with these Regulations.

(7) A company which fails, without reasonable excuse, to comply with paragraph (6) commits an offence.

#### *Inspection report*

9. (1) On completion of any inspection carried out in accordance with these Regulations, the inspector shall draw up a report in accordance with Regulation 14 of the Port State Control Regulations.

(2) The information contained in the report shall be communicated to the inspection database. The master shall also be provided with a copy of the inspection report.

#### *Rectification of deficiencies, prohibition of departure and suspension of inspection*

10. (1) The competent authority shall ensure that any deficiencies confirmed or revealed by an inspection carried out in accordance with these Regulations are rectified.

(2) Where the deficiencies are clearly hazardous to health or safety, or pose an immediate danger to health or life, or to the ship, or its crew and passengers, the competent authority shall ensure that the ship is subject to an order prohibiting its departure (a “prohibition of departure order”). The master shall be provided with a copy of that order.

(3) A prohibition of departure order shall not be lifted until the deficiency has been rectified and the hazard has been removed to the satisfaction of the competent authority, or until the competent authority has established that the ship can, subject to any necessary conditions, proceed to sea or resume operation without risk to the safety and health of passengers or crew, or risk to the ship, or to other ships or vessels.

(4) If a deficiency referred to in paragraph (2) cannot be readily rectified in the port in which the deficiency has been confirmed or revealed, the competent authority may agree to allow the ship to proceed to an appropriate repair yard where the deficiency can be readily rectified.

(5) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the competent authority may suspend the inspection of that ship until the company takes the steps necessary to ensure that the ship is no longer clearly hazardous to safety or health, or no longer poses an



immediate danger to the life of its crew and passengers, or to ensure that it complies with the relevant requirements of applicable international conventions.

(6) Where the competent authority suspends the inspection in accordance with paragraph (5), the ship shall be automatically placed under a prohibition of departure order. The prohibition of departure order shall be lifted where the inspection has been resumed and successfully completed, and where the conditions set out in paragraph (3) and in Regulation 12(2) have been complied with.

(7) In order to alleviate port congestion, the competent authority may allow a ship, which is subject to a prohibition of departure order, to be moved to another part of the port, if it is safe to do so. However, the risk of port congestion shall not be a consideration when deciding whether to impose or to lift a prohibition of departure order. Port authorities or bodies shall facilitate the accommodation of such ships.

(8) For the purposes of paragraph (2) the competent authority may cause a direction to be given to a company or master of a ship, or to the port authority or harbour master concerned, to either stop an operation on the ship, which is the subject of a prohibition of departure order, or to move the ship to another part of the port, and the company or master or port authority or harbour master, as the case may be, shall comply with the direction.

(9) A company or a master of a ship, or a port authority or harbour master, who fails to comply with a direction under paragraph (8), commits an offence.

#### *Right of appeal*

11. (1) A company shall have a right of appeal against a prohibition of departure order issued to it by the competent authority, but such an appeal shall not suspend the prohibition of departure order.

(2) The competent authority shall inform the master of the ship, which is subject to a prohibition of departure order, of the right of appeal and the applicable procedures for lodging an appeal.

(3) An appeal under this Regulation shall be made to a judge of the Circuit Court in whose Circuit the port in which a ship is, or has been, subject to a prohibition of departure order, is located and shall be made within 7 working days of the commencement of the prohibition of departure order, unless the Court considers that there is good and sufficient reason for extending that period.

(4) On hearing an appeal under paragraph (1), the Court may confirm or vary the prohibition of departure order, or allow the appeal.

(5) A decision of the Circuit Court on an appeal under paragraph (1) shall be final, save that, by leave of the Court, an appeal from its decision shall lie to the High Court on a specified question of law.

(6) When, as a result of an appeal, a prohibition of departure order is revoked or amended, the competent authority shall ensure that the inspection database is updated accordingly without delay.

*Costs*

12. (1) Where the inspections referred to in Regulations 6 and 8 confirm or reveal deficiencies warranting a prohibition of departure order, all costs relating to the inspections shall be covered by the company.

(2) The prohibition of departure order shall not be lifted until full payment is made or a sufficient guarantee is given for reimbursement of the costs.

*Inspection database*

13. The competent authority shall ensure that the information related to inspections carried out in accordance with these Regulations, including information concerning deficiencies and prohibition of departure orders, is transferred without delay to the inspection database as soon as the inspection report is completed or the prohibition of departure order lifted.

*Fixed payment notice*

14. (1) If an inspector has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, he or she may serve a notice in writing on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days from the date of the notice make a payment of €300 to the Minister accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) If notice is given under paragraph (1)—

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable by the person who made it, and

- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

#### *Penalties and prosecution*

15. (1) A person who commits an offence under Regulation 5(6) or (7), 6(4), 8(7) or 10(9) is liable on summary conviction to a class A fine.

(2) Proceedings for an offence under these Regulations may be brought and prosecuted by the Minister.

#### *Offence by body corporate*

16. Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been attributable to the neglect on the part of, any person being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

#### *Amendment of Port State Control Regulations*

17. The Port State Control Regulations are amended—

(a) in Regulation 2(1)—

- (i) by deleting the definition of “Mandatory Surveys Directive”,
- (ii) by substituting for the definitions of “marine notice” and “Marine Survey Office” the following:

“ ‘marine notice’ means a notice described as such and issued by the Department of Transport, Tourism and Sport;

‘Marine Survey Office’ means that part of the Department of Transport, Tourism and Sport which is known by that name;”

- (iii) by substituting for the definition of “Port State Control Directive” the following:

“ ‘Port State Control Directive’ means Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009<sup>2</sup>, as amended by Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013<sup>3</sup>, Regulation (EU) 1257/2013 of the European Parliament and of the Council of 20 November 2013<sup>4</sup>, Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015<sup>5</sup>, and Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017<sup>1</sup>;”

and

- (iv) by inserting after the definition of “risk profile” the following:

“ ‘ro-ro passenger ship’, ‘high-speed passenger craft’ and ‘regular service’ have the meanings assigned to them in the European Union (System of Inspections for the Safe Operation of Ro-Ro Passenger Ships and High-Speed Passenger Craft in Regular Service) Regulations 2019 (S.I. No. 679 of 2019);”

- (b) by substituting for Regulation 3 the following:

“3. These Regulations apply to—

- (a) any ship and its crew calling at a port or anchorage in the State in order to engage in a ship/port interface other than fishing vessels, warships, navy auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade, and
- (b) inspections of ro-ro passenger ships and high-speed passenger craft, and their crew, carried out outside a port in the State or away from an anchorage in the

<sup>2</sup> OJ No. L 131, 28.5.2009, p. 57

<sup>3</sup> OJ No. L 218, 14.8.2013, p. 1

<sup>4</sup> OJ No. L 330, 10.12.2013, p. 1

<sup>5</sup> OJ No. L 123, 19.05.2015, p. 55

State during a regular service, in accordance with Regulation 11A.”,

- (c) in Regulation 5(3), by substituting for subparagraph (b) the following:

“(b) board and inspect any ship, including the inspection of ro-ro passenger ships and high-speed passenger craft during a regular service to or from the State.”,

- (d) in Regulation 10, by substituting for paragraph 10(1) the following:

“10. (1) An inspector shall carry out an initial inspection or a more detailed inspection on any ship selected under Regulation 9 or Regulation 11A and shall, in the case of an initial inspection, as a minimum –

- (a) check the certificates and documents listed in Annex IV required to be kept on board in accordance with European Union maritime legislation and Conventions relating to safety and security,
- (b) verify, where appropriate, whether outstanding deficiencies found during the previous inspection carried out by a Member State or by a state signatory to the Paris MOU have been rectified, and
- (c) satisfy himself or herself of the overall condition (including the hygiene) of the ship, including the engine room and accommodation.”,

- (e) by inserting after Regulation 11 the following:

*“Inspection of ro-ro passenger ships and high-speed passenger craft in regular service*

11A. (1) Ro-ro passenger ships and high-speed passenger craft operating on a regular service are eligible for inspections in accordance with the time frame and other requirements set out in Annex XVII. Such inspections may be carried out by the competent authority of another Member State in accordance with the Port State Control Directive and, in this case, the inspections by the competent authority of another Member State

shall be taken into account by the competent authority when reckoning the time frame and other requirements set out in Annex XVII.

(2) The competent authority shall, when planning inspections of a ro-ro passenger ship or high-speed passenger craft, take due account of the operational and maintenance schedule of the ro-ro passenger ship or high-speed passenger craft.

(3) Regulations 8(1), 9(1) and 11 shall not apply to ro-ro passenger ships and high-speed passenger craft on a regular service inspected under this Regulation.

(4) The competent authority shall ensure that the ro-ro passenger ships or high-speed passenger craft that are subject to an additional inspection in accordance with Regulation 9(2)(a) and (3)(a) are selected for inspection in accordance with Annex I, Part II 3A(c) and 3B(c). Inspections carried out under this paragraph shall not affect the inspection interval provided for in paragraph 2 of Annex XVII.

(5) The inspector of the competent authority may agree to be accompanied, during an inspection of a ro-ro passenger ship or high-speed passenger craft, by a port State inspector of another Member State acting as an observer. Where the flag of the vessel is that of a Member State, the competent authority shall, upon request, invite a representative of the flag State to accompany the inspection as an observer.”,

(f) by deleting paragraph (8) of Regulation 11 and paragraph (3) of Regulation 12,

(g) in Regulation 13, by substituting for paragraphs (1) and (2) the following:

“13. (1) In circumstances other than those set out in Regulation 18(8), the competent authority shall issue a refusal of access order to any ship which—

(a) flies the flag of a state whose detention rate falls into the black list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 36 months in a port or anchorage of a Member State or of a state signatory of the Paris MOU, or

- (b) flies the flag of a state whose detention rate falls into the grey list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 24 months in a port or anchorage of a Member State or of a state signatory of the Paris MOU,

and shall notify port authorities that such ship is to be refused access to ports and anchorages in the State.

- (2) The refusal of access shall be applicable as soon as—
  - (a) the ship leaves the port or anchorage where it has been the subject of a third detention, and
  - (b) where a refusal of access order has been issued.”,

and

- (h) by inserting after Regulation 16(1B), the following:

“(1C) In the case of detainable deficiencies identified on a ro-ro passenger ship or high-speed passenger craft while being inspected during a regular service outside of a port in the State, the competent authority shall notify such deficiencies to the port State control authority of the port where the ship is bound, or to the flag State of the ship if the ship is bound for a port in its own flag State.”.

### *Revocations*

18. The following are revoked:

- (a) the European Communities (A System of Mandatory Surveys For The Safe Operation of Regular Ro-Ro Ferries and High-Speed Passenger Craft Services) Regulations 2001 (S.I. No. 405 of 2001);

- (b) the European Communities (A System of Mandatory Surveys For The Safe Operation of Regular Ro-Ro Ferries and High-Speed Passenger Craft Services) (Amendment) Regulations 2003 (S.I. No. 635 of 2003).



GIVEN under my Official Seal,  
19 December, 2019.

SHANE ROSS,  
Minister for Transport, Tourism  
and Sport.



EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations, which come into operation on 21 December 2019, give effect to Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC.

The scope of these Regulations is confined to Irish-flagged ro-ro passenger ships and high-speed passenger craft operating regular services between a port in the State and a port in a third country; and also to ro-ro passenger ships and high-speed passenger craft, regardless of flag, operating regular services between ports within the State. The Regulations also update the inspection arrangements for foreign-flagged ro-ro passenger ships and high-speed passenger craft that are subject to port State control inspections, so that these vessels will henceforth be inspected under the Port State Control Regulations.

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