

2019 No. 1025

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2019

<i>Made</i> - - - -	<i>13th June 2019</i>
<i>Laid before Parliament</i>	<i>18th June 2019</i>
<i>Coming into force</i> - -	<i>10th July 2019</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 85(1)(a) and (b), (3) and (5) to (7) and 86(1) of the Merchant Shipping Act 1995(a).

The Secretary of State has consulted the persons referred to in section 86(4) of the Merchant Shipping Act 1995.

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2019 and come into force on 10th July 2019.

Revocation

2. The Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2005(b) are revoked.

Interpretation

3. In these Regulations—

“enclosed passenger deck” means any passenger deck which is, or may be, enclosed by fixed or moveable screens, but does not include a passenger deck which—

- (a) is fitted with a canopy, and
- (b) has no means, either temporary or permanent, for side or end screens to be fitted to the deck or any other part of the ship;

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

(a) 1995 c.21; sections 85(1) and (3) were amended by section 8 of the Merchant Shipping and Maritime Security Act 1997 (c.28).

(b) S.I. 2005/2286.

“favourable weather” means fine, clear and settled weather with a sea state such as to cause only moderate rolling and/or pitching;

“fixed permanent structure”—

- (a) includes any portion of the hull which is capable of being detached, but which is fixed in place during the normal operation of the vessel; and
- (b) does not include functional arrangements such as safety rails, bowsprits, pulpits, stemhead fittings, rudders, steering gear, outdrives, outboard motors, propulsion machinery, diving platforms, boarding platforms, rubbing strips and fenders, other than where such functional arrangements are designed to replace any part of the hull that has been removed;

“IMO” means the International Maritime Organization;

“length” means length overall;

“length overall” means the distance between the foreside of the foremost fixed permanent structure and the afterside of the aftermost fixed permanent structure;

“Merchant Shipping Notice” means a notice described as such, issued by the Maritime and Coastguard Agency (an executive agency of the 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;

“new ship” means either—

- (a) a ship the keel of which is laid, or which is at a similar stage of construction, on or after 31st October 1992, or
- (b) a ship the keel of which was laid, or which was at a similar stage of construction, before 31st October 1992, but which was not a passenger ship, which is converted to a passenger ship after 31st October 1992,

and, for the purposes of sub-paragraph (b), a ship is to be treated as constructed on the date on which such conversion commences;

“open passenger deck” means a passenger deck which is not an enclosed passenger deck;

“passenger” means every person other than—

- (a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship,
- (b) a child under one year of age, and
- (c) persons who are on board the ship by reason of force majeure or in consequence of the obligation laid upon the master to carry shipwrecked or other persons;

“passenger deck” means any deck space to which passengers have access;

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

“restricted period” means a period falling wholly within the following limits—

- (a) from 1st April to 31st October, both dates inclusive, and
- (b) between one hour before sunrise and one hour after sunset in the case of ships fitted with navigation lights conforming to the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996(a) and between sunrise and sunset in the case of any other ship;

“similar stage of construction” means, for the purposes of the definition of “new ship”, the stage at which—

- (a) construction identifiable with a particular ship begins, and

(a) S.I. 1996/75, to which there are amendments not relevant to these Regulations.

- (b) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is the less;

“tidal waters” means any United Kingdom waters which are within the ebb and flow of the tide at ordinary spring tides;

“visibility” means visibility over a horizontal arc, and “all-round visibility” means visibility over an arc of 360 degrees; and

“voyage” includes an excursion.

Application

4.—(1) Subject to paragraph (3), these Regulations apply in tidal waters to passenger ships of Classes IV, V, VI and VI (A) of less than 55 metres in length.

(2) For the purposes of paragraph (1)—

“Class IV” means a ship engaged only on voyages in Category A, B, C or D waters;

“Class V” means a ship engaged only on voyages in Category A, B or C waters;

“Class VI” means a ship engaged only on voyages with not more than 250 passengers on board, to sea, or in Category A, B, C or D waters, in all cases in favourable weather and during restricted periods, in the course of which the ships are at no time more than 15 miles, exclusive of any Category A, B, C or D waters, from their point of departure nor more than three miles from land; and

“Class VI(A)” means a ship carrying not more than 50 passengers for a distance of not more than six miles on voyages to or from isolated communities on the islands or coast of the United Kingdom and which do not proceed for a distance of more than three miles from land, subject to any conditions which the Secretary of State may impose;

and in these definitions a reference to waters of a particular category means those waters as categorised in Merchant Shipping Notice 1837 (M) Amendment 2(a).

(3) These Regulations do not apply to—

- (a) a ship to which the SOLAS Navigation Bridge Visibility requirement is applied by regulation 5 (safety of navigation requirements) of the Merchant Shipping (Safety of Navigation) Regulations 2002(b);
- (b) passenger ships to which the Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010(c) apply; or
- (c) vessels to which the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010(d) apply.

(a) Merchant Shipping Notice 1837 (M) Amendment 2 was issued on 9 October 2017. Merchant Shipping Notices are published by the Maritime and Coastguard Agency and copies may be obtained from M-Notices Subscriptions, PO Box 362, Europa Park, Grays, Essex RM17 9AY (telephone number 01375 484 548; fax 01375 484 556; email orders mnotices@ecgroup.co.uk). A copy may also be downloaded from <https://www.gov.uk/government/collections/merchant-shipping-notices-msns>. That website also has details of any amendments or replacements.

(b) S.I. 2002/1473, to which there are amendments not relevant to these Regulations.

(c) S.I. 2010/680, to which there are amendments not relevant to these Regulations.

(d) S.I. 2010/1075.

(4) For the purposes of this regulation, the “SOLAS Navigation Bridge Visibility requirement” means regulation 22 of Chapter V to the Annex to the International Convention for the Safety of Life at Sea 1974(a), as amended, and the resolution of the Maritime Safety Committee of the IMO published by the IMO as Resolution MSC.99(73) of December 2000(b).

Visibility from the Bridge

5.—(1) The steering position of a new ship must be situated above all decked superstructures other than the wheelhouse (if any) in which it is situated.

(2) Subject to regulations 7 and 8, the steering position of a ship must be sited and any wheelhouse must be constructed—

- (a) so as to provide the helmsman at the steering position with all round visibility; and
- (b) so that the helmsman at the steering position can, if necessary by moving across a level and unobstructed deck within the permitted limits,—
 - (i) see the surface of the water at a distance of not more than two ships’ lengths from the ship, over the arc from abeam on either side through right ahead, and
 - (ii) see an object situated four metres above the surface of the water at a distance of 200 metres from the stern of the ship, over the arc from abeam on either side through right astern.

(3) For the purposes of paragraph (2)—

- (a) the presence of a blind arc of visibility abaft the beam from the steering position does not prevent visibility from being all round visibility if the helmsman can, by moving horizontally within the permitted limits, obtain visibility over the whole of that blind arc; and
- (b) “the permitted limits” are—
 - (i) for a ship with a single steering position, up to one metre either side of the steering position,
 - (ii) for a ship with two steering positions within the wheelhouse (or wings), between these two positions, and
 - (iii) for a ship with a mobile controller from which an operator is able to steer the ship from any part of the wheelhouse and bridge wings as appropriate (“wandering lead control”), from side to side of the ship, or the maximum reach of the wandering lead if this is a lesser distance.

(4) For the purposes of this regulation, the helmsman must be assumed to have a height of eye of 1675 mm above the deck at the steering position.

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- (a) The Convention (“SOLAS”) was amended by two Protocols; one in 1978 and one in 1988. A consolidated edition of SOLAS and its Protocols (ISBN: 978-92-801-15949) can be obtained from the International Maritime Organization (“IMO”) at IMO Publishing, 4 Albert Embankment, London SE1 7SR, www.imo.org/publications; email: sales@imo.org; telephone: 0207 735 7611. The 1978 Protocol can be found in Cmnd 8277, which was previously published as Miscellaneous No. 26 (1978), Cmnd 7346. It can be viewed online using the following link: <http://foto.archivalware.co.uk/data/Library2/pdf/1981-TS0040.pdf>. The 1988 Protocol can be found in Cm. 5044, which was previously published as Miscellaneous No. 27 (1999), Cm 4420. It can be viewed online using the following link: <http://foto.archivalware.co.uk/data/Library2/pdf/2001-TS0011.pdf>. A hard copy of the Command Paper Cm 4420 is available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London, SW1A 0PW.
 - (b) The text of IMO Resolutions may be obtained in copy from the IMO at IMO Publishing of 4 Albert Embankment, London SE1 7SR., www.imo.org/publications; email: sales@imo.org; telephone: 0207 735 7611. The resolution is also available electronically via the following link: [http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Maritime-Safety-Committee-\(MSC\)/Documents/MS09\(73\).pdf](http://www.imo.org/en/KnowledgeCentre/IndexofIMOResolutions/Maritime-Safety-Committee-(MSC)/Documents/MS09(73).pdf).

Sight lines

6.—(1) Where a sight line, required to be clear to meet the requirements of regulation 5 (visibility from the bridge), passes through an after facing window, that window must be of not less than 450 mm depth (height) centred at 1675 mm above the deck at the steering position.

(2) A sight line is not permitted to—

- (a) pass through any enclosed passenger deck; or
- (b) rely upon any aid, such as a camera or a mirror.

(3) In new ships, and where practicable in existing ships, a sight line which passes over an open passenger deck must be such that it would pass over the heads of any passengers occupying seats on that deck.

(4) If the activities of standing passengers on an open passenger deck cause a serious obstruction to visibility from the steering position, a dedicated lookout must be provided in accordance with regulation 7(2) in such a manner as to overcome the effects of such obstruction.

Dedicated lookout

7.—(1) Where an existing ship does not comply fully with the requirements of—

- (a) regulation 5(2)(a); or
- (b) regulation 5(2)(b)(ii), and it is not practicable for the ship so to comply, those requirements do not apply to the ship if a dedicated lookout is provided at all times when the ship is under way.

(2) The dedicated lookout must—

- (a) while the ship is under way, have the sole duty of maintaining a lookout;
- (b) be positioned outside the passenger spaces; and
- (c) be instructed by the master to keep a continuous lookout astern, and in particular over any or all (as the case may be) of the areas referred to in regulation 5(2)(a), (2)(b)(ii) and (3) which the helmsman cannot see.

(3) The dedicated lookout may be in the wheelhouse, but if positioned outside the wheelhouse and remote from the helmsman he must be provided with a wired telephone communication link to the helmsman.

(4) For the purpose of paragraph (1), a ship is “under way” if it is not at anchor, made fast to the ground or aground.

Other lookout arrangements

8. The requirements of regulations 5 and 7 do not apply to a ship which is operated with bridge manning levels which include a helmsman and an officer of the watch, if—

- (a) the helmsman is able to see the water surface at no more than two ships’ lengths ahead and has an unobstructed view to 60 degrees on either bow, and
- (b) the officer of the watch is able to obtain all round visibility by horizontal movement within the navigation work area.

Wheelhouse Windows

9.—(1) A wheelhouse window must not be constructed from or include polarised or tinted glass.

(2) The height of the lower edge of the forward facing wheelhouse windows must be as low as practicable.

(3) The upper edge of the forward facing wheelhouse windows must be high enough to allow a person at the steering position with height of eye of 1800 mm a clear forward view to at least 10 degrees above the horizontal at height of eye level.

(4) An adequate portion of the forward facing wheelhouse windows serving the helmsman must be able to be maintained in a clear condition during conditions of spray and precipitation.

(5) Vertical framing between wheelhouse windows must—

- (a) be kept to a minimum; and
- (b) not be installed immediately forward of the steering position or positions.

(6) On a new ship, the wheelhouse windows must be inclined from the vertical plane, top out, at an angle of not less than 10 degrees and not more than 25 degrees, except in the way of access doors to the wheelhouse.

(7) In this regulation “wheelhouse window” means any window in the wheelhouse of a ship.

Exemptions

10.—(1) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for individual cases or classes of case on such terms (if any) as he may specify if he is satisfied that—

- (a) compliance with such provision is either impracticable or unreasonable in that case or class of case; and
- (b) the exemption is subject to such conditions and limitations as will provide a level of safety equivalent to that provided by the provision or provisions from which the exemption is being granted.

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

(3) An exemption granted under paragraph (1) and an alteration or cancellation under paragraph (2) must—

- (a) be given in writing;
- (b) specify the date on which it takes effect; and
- (c) confirm the conditions (if any) on which it is given.

Equivalent provisions

11. Any requirement applicable to ships by virtue of these Regulations is satisfied by compliance with—

- (a) a relevant standard or code of practice of a national standards body or equivalent body of any EEA State;
- (b) any relevant international standard recognised for use in any EEA State; or
- (c) any relevant technical regulation applying in any EEA State,

in so far as compliance with the standard, code of practice or technical regulation in question ensures levels of safety, suitability and fitness for purpose which are equivalent to those required by these Regulations.

Offence and Penalties

12.—(1) A ship to which these Regulations apply must not proceed, or attempt to proceed, on any voyage unless it complies with regulations 5 to 9.

(2) Any contravention of paragraph (1) is an offence by each of the master and the owner.

(3) An offence under paragraph (1) is punishable on summary conviction—

- (a) in England and Wales by a fine; or
- (b) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum.

(4) Where a ship is managed by a person other than its owner (whether on behalf of the owner or some other person or on his own behalf) the reference in paragraph (1) to the owner is to be construed as including a reference to that person.

Detention

13.—(1) Any ship which proceeds or attempts to proceed on any voyage without complying with regulations 5 to 9, is liable to be detained until it complies.

(2) Section 284 of the Merchant Shipping Act 1995(a) (enforcing detention of a ship) applies where a ship is liable to be detained under this regulation as if—

- (a) references to detention of a ship under that Act were references to detention of the ship in question under this regulation; and
- (b) subsections 6, 7 and 8 were omitted.

Review

14.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in regulations 3 to 13; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 10th July 2024.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(b) requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

13th June 2019

Nusrat Ghani
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

The purpose of these Regulations is to maintain appropriate safety standards by requiring small passenger ships to be constructed so that the helmsman has good visibility over an arc of 360 degrees. The Regulations revoke and replace the Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2005 (S.I. 2005/2286) (“the 2005 Regulations”) which implemented the recommendations of the Marine Accident Investigation Branch in relation to bridge visibility

(a) Section 284 was amended by paragraph 5 of Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c.28) and section 284(2B) was amended by S.I. 2015/664.

(b) 2015 c. 26.

on passenger ships, set out in their Report into the loss of the *Marchioness*. The Regulations maintain these standards and introduce new provisions to address a legislative gap relating to vessels which are 45 or more but less than 55 metres in length overall.

The 2005 Regulations made provision for bridge visibility on passenger ships of under 45 metres in registered length. These Regulations extend that scope and apply to passenger ships of under 55 metres in length overall. The ships which exceed this threshold are regulated by the Merchant Shipping (Safety of Navigation) Regulations 2002 (S.I. 2002/1473) in accordance with the requirements of the International Convention for the Safety of Life at Sea 1974, as amended (“SOLAS”). The Regulations define the length of a ship to mean its “length overall” in order to increase alignment with the international standard found in SOLAS.

These Regulations require ships to be constructed so that the helmsman has all round visibility. They contain a new definition of “enclosed passenger deck” which confirms that spaces with the means to fit any type of side or end screen to the deck, or any other part of the ship, are considered to be enclosed. Regulation 6 provides that no sight line is permitted to rely upon any aid, such as a camera or a mirror. Where existing ships cannot fully meet the requirements for all round visibility, a dedicated lookout must be posted to cover the area which is obscured from the steering position. Provision is made in the Regulations for exemptions, penalties and detention of a ship.

Regulation 14 requires the Secretary of State to review the operation and effect of these Regulations and to publish a report within five years after they come into force and every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, be amended or be revoked. A further instrument would be needed to amend or revoke the Regulations.

A draft of these Regulations was notified on 11th October 2016 to the European Commission in accordance with the Technical Standards Directive (Directive (EU) 2015/1535).

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A consolidated edition of SOLAS showing amendments to the Convention, may be obtained from the International Maritime Organization at IMO Publishing, 4 Albert Embankment, London SE1 7SR, www.imo.org/publications; email: sales@imo.org; telephone: 0207 735 7611. The Command Papers referred to in this instrument are available electronically by following the links referenced in the footnotes and, if specified in the footnotes, they are also available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London, SW1A 0PW; email: archives@parliament.uk; telephone: 0207 219 3074.

An impact assessment of the effect this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.

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