
Safety Rules and Standards for Seagoing Domestic Passenger Ships: Directive 2010/36/EU Amendments

Notice to all Shipowners, ship operators, designers, builders, Masters of seagoing domestic passenger ships and high speed craft

This notice should be read with The Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2012, together with Directive 2009/45/EC as amended by Directive 2010/36/EU

PLEASE NOTE:-

Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

Summary

- This notice draws attention to, and provides guidance on, the latest European Union (EU) safety rules and standards for seagoing domestic passenger ships and High Speed Craft (HSC) operating within the EU, and on their implementation by UK Regulations.
- These requirements are set out in Directive 2009/45/EC as amended by Directive 2010/36/EU.
- They cover construction, equipment and some operational aspects.

1. Introduction

1.1 Directive 2009/45/EC as amended by 2010/36/EU (“the Directive”) lays down “safety rules and standards for passenger ships” operating in domestic sea areas of the European Union. The 2010 amendments entered into force on 29 June 2009. The Directive is implemented in UK law by The Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2012, which enters into force with effect from 16 November 2012. Details of statutory offences for non-compliance with applicable safety requirements remain as set out in Regulation 9 of The Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000, and for High Speed Craft, Regulations 9 and 10 of The Merchant Shipping (High Speed Craft) Regulations 2004.

1.2 EU-wide safety rules and standards for domestic passenger ships were first introduced by Directive 1998/18/EC. This established consistent “harmonised” safety standards across

the EU, for passenger ships and high speed craft (HSC) operating seagoing domestic services (non-international voyages). The purpose of these standards is to maintain a high level of safety, and remove barriers to trade, facilitating the EU “Single Market” in the provision of ships and services. Directive 2010/36/EU is the latest amendment to the requirements, and its aims are to improve and update the safety standards, across all EU Member States

1.3 Directive 1998/18/EC was amended by three subsequent directives: 2002/25/EC, 2003/24/EC and 2003/75/EC.

Directive 2009/45/EC consolidated and replaced all four previous directives. In June 2010, it was amended by Commission Directive 2010/36/EU. In this note therefore “the Directive” means Directive 2009/45/EC as amended by 2010/36/EU.

1.4 Directives 2010/36/EU and 2009/45/EC, can be viewed and downloaded through the following links to the European Union legislation “EUR-Lex” website.

Directive 2010/36/EU:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:162:0001:0135:EN:PDF>

Directive 2009/45/EC:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:163:0001:0140:EN:PDF>

2. Definitions

“The Directive” means Directive 2009/45/EC, as amended by Directive 2010/36/EU.

In the context of the Directive:-

- a “new” ship is one constructed on or after 1 July 1998;
- an “existing” ship is one constructed before 1 July 1998.

“Categorised waters” means UK inland waters of categories A, B, C and D, as defined and listed in MSN 1827 (as amended). These categories are not to be confused with EU Sea Areas A, B, C and D which are defined in the table at paragraph 4.1 below.

EU “Classes” of ship are as defined in the table at paragraph 4.1 below.

“Domestic” has the same meaning as “non-international” which means a ship that operates on voyages from a port within an EU Member State; either back to that port, or another port, within the same Member State. A UK passenger ship undertaking a voyage (including for delivery or dry-docking purposes) between the UK and France, the UK and the Isle of Man, or the UK and the Channel Islands, is not covered by the Directive because such voyages are international, not domestic.

“Equivalence” refers to an arrangement, in accordance with Article 9 of the Directive, whereby ships of a certain class or type are permitted to operate with one or more UK safety standards that are alternative to those laid down in Annex I of the Directive, provided such alternatives achieve an equivalent level of safety.

“The Regulations” means The Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2012. These regulations transpose the Directive into UK law, and amend The Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (as previously amended).

“Sea” or “seagoing” refers to EU sea areas as defined at paragraph 4.1 of this MGN, and at Article 4 of the Directive. UK sea areas C and D are defined and listed in MSN 1747 (as

amended or replaced). These sea areas are outward of UK Categorised Waters, and should not be confused with the (non-sea) area categories applied in those waters.

For other definitions, please see Article 2 of Directive 2009/45/EC.

3. Ships to which the Directive applies

3.1 The Directive applies to:-

- a. “new” domestic passenger ships of any length;
- b. “existing” passenger ships of 24 metres or more in length; and
- c. High Speed Craft (HSC) that carry more than 12 passengers.

3.2 The Directive applies only to ships built of steel or equivalent, and to HSC, regardless of whether they are registered in any State or country, or are unregistered. It does not apply to ships built of other materials (including timber or “GRP”), and these come under the relevant national requirements (if any) of the EU member State concerned.

3.3 The Directive applies to all seagoing Passenger ships operating on domestic voyages from EU ports. When UK ships are in waters of another EU member State, there may be additional requirements imposed by the Member State concerned, in accordance with Article 9(1) of the Directive. Details of Member States’ domestic sea areas should be published and made available by them, in accordance with Article 4(2) of the Directive. The sea areas C and D around the United Kingdom are listed in Merchant Shipping Notice MSN 1747(M) as amended or superseded).

3.4 The scope and application of the Directive are covered fully in its Articles 3 and 5

4. Classes of passenger ships

4.1 There are four EU classes of “domestic” seagoing passenger ship. They are listed and defined in Article 4 of the Directive, and in the table below. These classes are based upon the sea areas in which the ships operate. Please note that High Speed Craft (HSC) are not covered by these four classes.

EU Class A	means a passenger ship engaged on domestic voyages other than voyages covered by Classes B, C and D
EU Class B	means a passenger ship engaged on domestic voyages in the course of which it is at no time more than 20 miles from the line of the coast, where shipwrecked persons can land, corresponding to the medium tide height.
EU Class C	means a passenger ship engaged on domestic voyages in sea areas where the probability of exceeding 2.5m significant wave height is smaller 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 (e.g. summer period operation), in the course of which it is 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.
EU Class D	means a passenger ship engaged on domestic voyages in sea areas where the probability of exceeding 1.5m significant wave height is smaller 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 (e.g. summer period operation), in the course of which it is 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.
High Speed	HSC do <u>not</u> come within the passenger ship classes A to D.

Craft (HSC)	HSC are defined internationally in terms of speed and displacement, not simply because they are capable of travelling fast. The definition can be found as indicated in Article 2(g) of the Directive; in Chapter X, Regulation 1 of SOLAS. It is also shown in Regulation 2 of The Merchant Shipping (High Speed Craft) Regulations 2004: http://www.legislation.gov.uk/ukxi/2004/302/pdfs/ukxi_20040302_en.pdf
--------------------	---

5. Application of the safety rules and standards

5.1 The applicable technical safety rules and standards for domestic passenger ships and HSC are those specified or referred to in the Directive, according to their:-

- EU class;
- length and/or gross tonnage;
- date of construction;
- passenger capacity; and,
- whether or not they are Roll-on-Roll-off (“ro-ro”) ferries.

5.2 Note that “major repairs, alterations or modifications” to a ship may also affect which rules and standards apply to it. They are defined in Annex I, Chapter I, paragraph 9 of the Directive.

5.3 The following points should be noted.

a. Ships or HSC meeting the technical standards of the Directive, and carrying valid certification, are considered to meet or exceed those required by the previous directive: 98/18/EC as amended by 2002/25/EC, 2003/24/EC and 2003/75/EC. These ships may carry out domestic voyages in waters, of the appropriate class, of the UK or other EU member States.

b. Ships or HSC which do not meet these latest safety rules and standards, or which make use of UK equivalence arrangement described in Section 9 of this MGN, may be excluded from operating in the waters of other EU Member States.

6. IMO measures applied by the Directive

6.1 The updated safety rules and standards which the Directive applies to seagoing domestic passenger ships and HSC are based on those adopted by the International Maritime Organization (IMO) for passenger ships and HSC on international voyages. These international standards are contained within the IMO international Conventions and Codes listed at paragraph 6.4.

6.2 The level of safety requirements that apply to a domestic passenger ship is largely dependant on its Class, as explained in the table at paragraph 4.1 of this MGN. Class A passenger ships are subject to full international safety standards, and Classes B, C and D ships to progressively less onerous adaptations of those standards. This progressive lessening and adaptation of the international standards reflects the reducing safety risks normally encountered in Class B, C and D areas, respectively.

6.3 A ship certificated as a given Class may also operate in waters of a lower class, as follows.

Ship classed and certificated to operate in sea areas	May also operate in sea areas
A	B, C and D
B	C and D
C	D
D	-

6.4 A seagoing domestic passenger ship certificated under the Directive may also operate in UK Categorised Waters (inland waterways).

6.5 The safety rules and standards in the Directive are derived from the following IMO International Conventions and Codes:-

- The International Convention for the Safety of Life at Sea 1974 (SOLAS);
- The International Convention on Load Lines 1966;
- The International Code for Safety of High Speed Craft 1994;
- The International Code for the Safety of High Speed Craft 2000; and,
- The Code on Intact Stability 2008.

6.6 All of the above are published by IMO, and available from the IMO website, through the following link:- <http://www.imo.org/Publications/Pages/Home.aspx>

7. Hull, machinery and electrical systems

7.1 Article 6(1)(a) of the Directive requires ships to comply with the standards specified by a recognised ship inspection and standards organisation, for:-

- construction or/and maintenance of the hull;
- main and auxiliary machinery; and,
- electrical and automatic systems.

7.2 Merchant Shipping Notice 1672 (as amended) lists these organisations, and gives information about how they are recognised under Directive 2009/15/EC (as amended) "...on common rules and standards for ship inspection and survey organisations...".

8. Survey and Certification

8.1 Survey requirements, including periodicity, are covered in Article 12 of the Directive.

8.2 Domestic passenger ships or HSC must not operate without:-

- a Passenger Certificate and a Record of Equipment (for passenger ships); or,
- a High Speed Craft Safety Certificate and a Permit to Operate (for HSC)

8.3 Owners or operators need to apply to the relevant local MCA Marine Office in order to have their ship or HSC surveyed and certificated in accordance with the Directive. If the ship or HSC meets the applicable safety rules and standards laid down in the Directive, the appropriate certificates will be issued. They must be retained and displayed on the ship or HSC.

8.4 The MCA will continue to recognise certificates issued under Directive 1998/18/EC as amended by Directives 2002/25/EC, 2003/24/EC and 2003/75/EC, before the 2012 Regulations entered into force, until their renewals fall due.

8.5 Where an "existing" ship is operating under the UK equivalence arrangement covered in Section 9 below, a UK Passenger Certificate will also be issued. It will show the UK ship class and associated operating restrictions.

8.6 Certification requirements, including the duration of certificates, are covered in Article 13 of the Directive.

8.7 A list of MCA's Marine Offices can be found on the Department for Transport (DfT) website, via the following link:-

9. Equivalence provisions

9.1 Article 9(2) of the Directive provides for EU member States to adopt alternative, equivalent safety rules and standards, provided:-

- the requisite level of safety is still achieved;
- the arrangement is agreed by the European Commission; and,
- such equivalences apply to a whole class or type of ships.

9.2 The European Commission has agreed an equivalence arrangement under which “existing” UK Class III, VI and VI(A) ships (those constructed before 1 July 1998) may continue to operate under the UK regulations applicable to those classes, subject to certain conditions and restrictions. Details of this equivalence arrangement are set out in MSN 1811 (as amended or superseded).

9.3 As mentioned in paragraph 9.2, ships that already operate under this arrangement will retain their UK class/es, and be subject to appropriate operating restrictions. Owners and operators of such ships, that do not wish to operate beyond UK waters, do not need to take any action.

9.4 Other EU member States are not obliged to allow ships that operate under the UK equivalence arrangement to operate in their domestic sea areas, and may not do so.

10. Future updates to the technical safety standards

10.1 The Directive has a built-in facility for technical safety standards (chiefly those in Annex I) to be updated, in line with those for international passenger ships and HSC. Consequently, further, periodic amendments are expected; at approximately two to three-year intervals.

10.2 When future amendments to the Directive are adopted, an amendment or replacement to this MGN will be issued.

More Information

Vessel Standards Branch
Maritime and Coastguard Agency
Bay 2/29
Spring Place
105 Commercial Road
Southampton
SO15 1EG

Tel : +44 (0) 23 8032 9139
Fax : +44 (0) 23 8032 9104
e-mail: Shipping.Safety@mcga.gov.uk

General Inquiries: infoline@mcga.gov.uk

MCA Website Address: www.dft.gov.uk/mca

File Ref: MS 84/01/96

Published: November 2012
Please note that all addresses and
telephone numbers are correct at time of publishing

© Crown Copyright 2012

Safer Lives, Safer Ships, Cleaner Seas

An executive agency of the
Department for
Transport