



MGN Annex 4 (X)

+Safety Rules and Standards for Seagoing Domestic Passenger Ships: Directive (EU) 2016/844 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 Directives 2010/36/EU and (EU) 2016/844. It replaces MGN 459.

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 Directives 2010/36/EU and (EU) 2016/844.
- They cover construction, equipment and some operational aspects.

1. Introduction/ Background

1.1 Directive 2009/45/EC as amended by 2010/36/EU and (EU) 2016/844 (“the Directive”) lays down “safety rules and standards for passenger ships” operating in domestic sea areas of the European Union. The 2016 amendments are in force with effect from 1 July 2017. The Directive is implemented in UK law by The Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000 (as amended), which originally entered into force on 23 October 2000. The amendments made by Directive (EU) 2016/844 are given effect by “The Merchant Shipping (Passenger Ships on Domestic Voyages) (Amendment) Regulations 2017”. 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 (EU) 2016/844 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. It was amended by Commission Directive 2010/36/EU in June 2010, and by Directive (EU) 2016/844 in May 2016. In this note therefore “the Directive” means Directive 2009/45/EC as amended by both of the later Directives; 2010/36/EU and (EU) 2016/844.

1.4 Directives 2010/36/EU and 2009/45/EC, 2010/36/EU and (EU) 2016/844 can be viewed and downloaded through the following links to the European Union legislation “EUR-Lex” website.

Directive 2009/45/EC:

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

Directive 2010/36/EU:

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

Directive (EU) 2016/844

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L0844&rid=1>

Directive (EU) 2016/844 Corrigendum (minor changes to life saving appliances table)

[http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L0844R\(01\)&rid=2](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L0844R(01)&rid=2)

2. Definitions

“The Directive” means Directive 2009/45/EC, as amended by Directives 2010/36/EU and (EU) 2016/844.

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 1837 (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. They are derived from the EU sea areas in which the ships operate.

“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 (as amended). 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.

For other definitions, please see Article 2 of the Directive.

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.

3.4 The EU sea areas C and D around the United Kingdom are listed in Merchant Shipping Notice MSN 1747(M) as amended or superseded. These sea areas are outward of UK Categorised Waters (A, B, C and D), and should not be confused with them.

3.5 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 Craft (HSC)	HSC do <u>not</u> come within the passenger ship classes A to D. 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 dependent 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 Categorized 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) as amended;
- 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;
- The Code on Intact Stability 2008; and,
- The Code on Noise Levels onboard Ships (2014).

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;
- electrical and automatic systems; and,
- ventilation 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 applicable ships' certificates issued prior to the amendments under Directive (EU) 2016/844 coming 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:-

<https://www.gov.uk/government/organisations/maritime-and-coastguard-agency/about/access-and-opening#marine-and-fishing-survey-offices>

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 agreed an equivalence arrangement under which "existing" UK Class III, VI and VI(A) ships (those constructed before 1 July 1998) could 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 was recently subject to a regulatory fitness for purpose (REFIT) study which was published in October 2016 and can be downloaded here:

http://ec.europa.eu/transport/modes/maritime/news/refit-passenger-ship-safety-legislation_en.htm

10.2 As a result of this the EU Commission has published a draft set of simplification measures to the Directive which are now under negotiation with Member States. It is expected that these simplification measures will come into force during 2018. It is further expected that the Directive will be restructured and RECAST in the next round of technical updates.



10.3 The Directive contains a mechanism to update Annex 1 in line with updates to international requirements for passenger ships and HSC. Consequently, further, periodic amendments are expected; at approximately two to three-year intervals.

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

11. Directive (EU) 2016/844 Changes

11.1 A summary of the main changes introduced by this latest amending Directive is provided in the Annex to this MGN.

More Information

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ANNEX

List of Changes introduced by Directive (EU) 2016/844

Directive 2016/844 is the latest amending directive which introduces updated technical standards to Directive 2009/45/EC on safety rules and standards for passenger ships. These changes reflect recent amendments to SOLAS, and scale them such that they are proportionate for the different classes of domestic seagoing passenger ships. The majority of the changes are limited to ships constructed after 1 July 2018. However, some safety equipment and drill requirements are applicable to existing vessels.

Please Note: In the context of the Directive, “New” continues to mean a ship constructed on or after 1 July 1998, except where a later construction date is shown.

Protection against Noise
Regulation II-1/A-1/4 - Introduction of the IMO Noise Code
Applies to: New Ships over 1600gt constructed on or after 1 January 2018
Summary: The IMO Noise Code prescribes limits for noise in various working compartments on board the ship. It is applicable only to Crew areas, and does not provide limits for passenger areas on board the ship. The new requirement is applicable only to new vessels, over 1600gt constructed.
It should be noted that UK ships already need to comply the Merchant Shipping (Control of Noise at Work) Regulations 2007. These do however approach the measurement and exposure limits of noise in a slightly different way.
Regulation II-1/C/15 – ships not covered by Regulation II-1/A-1/4
Applies to: New Class B, C and D ships
Summary: Prior to Directive 2016/844, the existing Directive already required provisions to be made in order to minimise exposure to noise in machinery spaces, and to provide refuge from noise in II-1/Part C/15. This requirement is now applicable only to vessels not under the scope of the IMO Noise Code.
Steering Gear
Regulation II-1/C/6.2.2.2 – Main Steering Gear
Applies to: New Class B, C and D ships
Regulation II-1/C/6.3.2 – Auxiliary Steering Gear
Applies to: New Class B, C and D ships; existing Class B ships
Summary: These two requirements are aimed at vessels where a large difference in draught occurs between the ballast and fully loaded seagoing condition. It is not expected that any domestic passenger ships will have the difference in draught required to trigger the provisions of this requirement to be applied. Few, if any, practical effects are therefore anticipated from this amendment.
Firefighting
Regulation II-2/A/6.8.2.1 - Fixed Fire Fighting systems on internal combustion engines
Applies to: Ships constructed on or after 1 January 2018
Summary: This amendment introduces a requirement for the fire hazard portion of all internal combustion engines to be protected by fixed firefighting systems. This was previously required only for propulsion and power generation engines. However, since it applies only in machinery spaces over 500m ³ , and the majority of engines in machinery spaces are for main propulsion and power generation, limited impact is anticipated from this change.



Fire fighters outfits and breathing apparatus (including bottle recharge)
Regulations A/11.1, 11.1.1.3, 11.1a, 11.4a, 15.2.6
Applies to: See summary below
This suite of amendments introduces the requirements of the Fire Systems Safety (FSS) Code. For ships constructed on or after 1 July 2019, firefighter's outfits and breathing apparatus will need to comply with the FSS Code. For ships constructed before that date, the breathing apparatus set will need to be FSS compliant by 1 July 2019.
Fire Protection
Regulation B/5.1 - Heat Bridges
Applies to: New Class B, C and D ships
Summary: This introduces a requirement to consider the intersection points between bulkheads and insulation and the potential for gaps in insulation to create or allow the passage of heat from one compartment to another, known as a "heat bridge". This will not create any compliance issues if insulation has been applied in the correct manner.
Fire integrity of bulkheads and deck heads
Regulation II-2/B/5.1 - Tables 5.1(a) and 5.2(a)
Applies to: Class B, C and D ships constructed on or after 1 January 2018
Table 5.1(a) uplifts bulkhead fire rating requirements on the above ships. Table 5.2(a) uplifts fire ratings for decks separating adjacent spaces on these ships, in particular between special category spaces, defined as those enclosed vehicle spaces above or below the bulkhead deck into and from which such vehicles can be driven and to which passengers have access.
Machinery Space Escape routes
Regulation II-2/B/6.3.4
Applies to: Class B, C and D ships constructed on or after 1 January 2018
Summary: This amendment introduces a new requirement for two means of escape to be provided from workshops within the engine room. The rationale behind this is that a fire outside the entrance to an engine room workshop with a single entrance could trap anyone inside this space, and therefore a second means of escape is deemed necessary. This would need to be taken account of during the vessel design stage.
Uplift To Fire Detection Systems
Regulations II-2/B/13.4, II-2/B/13.5, II-2/B/13.6
Summary: These regulations introduce the requirement to fit fire detection systems in machinery spaces where:- <ul style="list-style-type: none"> • automatic or remotely controlled equipment is fitted, instead of the space being manned; • or the main propulsion and electrical generating equipment is monitored continually from a control room. Approved systems are now also required in incinerator rooms. There are also requirements added on the positioning of detectors and the need to have a secondary alarm panel where the bridge is unmanned in port.
Ventilation Systems:
Regulation II-2/B/9a
Applies to: Class B, C and D ships constructed on or after 1 January 2018
Summary: This introduces detailed requirements for ventilation ducting and closures. Definitions for fire dampers and smoke dampers are also included in the amendment. It also limits application of existing ventilation requirements to ships constructed before 1 January



2018. Although it appears prescriptive, it is considered that this amendment largely clarifies existing best practice with regard to ventilation systems.

Lifesaving appliances

Regulation III/2.6 table – Line Throwing Apparatus

Applies to: New and existing Class B, C and D ships

Summary: The changes are limited to footnote 14 of the table, which removes the need for vessels under 24m to carry line throwing appliances. This equipment is often bulky to carry on small ships and is rarely used. Its removal is therefore seen as a cost saving for small vessel operators.

Regulation III/9/2a – Lifeboat On-load release Mechanisms

Applies to: New and existing Class B, C and D ships

Summary: This amendment introduces the requirement to have LSA code-compliant on-load lifeboat release hooks fitted no later than the first dry-docking after 1 January 2018 and in any case no later than 1 January 2019.

Regulation III/10a - Recovery of person from the water

Applies to: Class B, C and D ships constructed on or after 1 January 2018 but see summary

Summary: This introduces the requirement to have a plan identifying the procedure and equipment required to recover a person from the water. This requirement is applicable to all ships:-

- ships constructed on or after 1 January 2018 must comply in order to operate;
- ships constructed before 1 July 2018 need to comply before their first periodical or renewal safety equipment survey after that date.

Regulation III/13.9 - Enclosed space rescue drills

Applies to: New and existing Class B, C and D ships

This introduces the requirement to conduct enclosed space entry drills at intervals not exceeding one year. The requirement is applicable to all ships which have enclosed spaces which are entered by the crew. It would not be applicable where no enclosed spaces exist on the vessel or where the enclosed space is only entered by shipyard staff during a refit where the ship is in the hands of the yard.

Regulation III/14 - Record keeping

Applies to: New and existing Class B, C and D ships

This regulation introduces the requirement to keep records in a training log book of muster, drills, training sessions etc. Records also need to be maintained where planned drills have not taken place, and show the reason why.

