

2017 No. 0000

MERCHANT SHIPPING

SAFETY

The Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2017

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| <i>Made</i> - - - - | 2017 |
| <i>Laid before Parliament</i> | 2017 |
| <i>Coming into force</i> - - | 2017 |

The Secretary of State for Transport, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995(a), in exercise of the powers conferred by sections 85(1)(a) and (b), (3) and (5) to (7), and section 86(1) of the Merchant Shipping Act 1995, makes the following Regulations:

Citation, commencement and expiry

1.—(1) These Regulations may be cited as the Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2017 and shall come into force on [xxx].

(2) They cease to have effect at the end of the period of seven years beginning with the day on which these Regulations come into force.

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—

- (i) is fitted with a canopy, and
- (ii) 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). Section 85(2) defines “United Kingdom ship” for the purposes of section 85(1).
(b) S.I. 2005/2286, to which there are amendments not relevant to these Regulations.

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

“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; and “fixed permanent structure” 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. It 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,

“Merchant Shipping Notice” means a Merchant Shipping Notice issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport), and any reference to a particular Merchant Shipping Notice includes a reference to any such document amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time,

“new ship” means either—

- (i) a ship the keel of which is laid, or which is at a similar stage of construction, on or after 31st October 1992, or
- (ii) 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 limb (ii) of this definition, the 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—

- (i) 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,
- (ii) a child under one year of age, and
- (iii) 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—

- (i) from the 1st April to 31st October, both dates inclusive, and
- (ii) 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—

- (i) construction identifiable with a particular ship begins, and
- (ii) 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 United Kingdom waters which are—

- (i) any part of the sea, and
- (ii) any part of a river within the ebb and flow of the tide at ordinary spring tides,

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

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

“voyage” includes an excursion.

Application

4.—(1) Subject to paragraphs (3) to (5), 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 3 miles from land,

“Class VI (A)” means a ship carrying not more than 50 passengers for a distance of not more than 6 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 3 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 categorized in Merchant Shipping Notice 1837 (M) Amendment 1(a).

(3) These Regulations do not apply to a ship to which regulation 22 of Chapter V of the annex to the International Convention for the Safety of Life at Sea, 1974(b) as amended in accordance with its Protocol of 1988(c) and the resolution of the Maritime Safety Committee of the International Maritime Organisation published by the IMO as Resolution MSC99 (73) of December 2000 is applied by regulation 5 of the Merchant Shipping (Safety of Navigation) Regulations 2002(d).

(4) These Regulations do not apply to passenger ships to which the Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010(e) apply.

(5) These Regulations do not apply to vessels to which the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010(f) apply.

Visibility from the Bridge

5.—(1) The steering position of a new ship shall 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 shall be so sited and any wheelhouse shall be so constructed—

- (a) as to provide the helmsman at the steering position with all round visibility, and
- (b) 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 2 ship’s lengths from the ship, over the arc from abeam on either side through right ahead, and
 - (ii) see an object situated 4 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.

(a) Merchant Shipping Notice 1837 (M) Amendment 1 was issued on 4 September 2015.

(b) Cmnd. 7874

(c) Cm. 4420.

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

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

(f) S.I. 2010/1075.

- (3) For the purposes of paragraph (2)—
- (a) the presence of a blind arc of visibility abaft the beam from the steering position shall 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 1 metre either side of the steering position, or
 - (ii) for a ship with two steering positions within the wheelhouse (or wings), between these two positions, or
 - (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.

Sight lines

6.—(1) In determining whether the requirements of regulation 5 are met, the helmsman shall be assumed to have a height of eye of 1675 mm above the deck at the steering position.

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

(3) No sight line shall—

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

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

(5) Should 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—

- (a) does not comply fully with the requirements of regulation 5(2)(a), or
- (b) does not comply fully with the requirements of regulation 5(2)(b)(ii) and it is not practicable for the ship so to comply,

those requirements shall not apply to the ship if a dedicated lookout is provided at all times when the ship is under way.

(2) The dedicated lookout shall—

- (a) have the sole duty, while the ship is underway, 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 shall be provided with a wired telephone communication link to the helmsman.

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 ship's 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.

Windows

9.—(1) Vertical framing between all windows in the wheelhouse of a ship shall be kept to a minimum and shall not be installed immediately forward of the steering position or positions.

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

(3) The upper edge of the forward facing windows of the wheelhouse shall 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) On a new ship the wheelhouse windows shall 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.

(5) Neither polarised nor tinted glass shall be used in any wheelhouse window.

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

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 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, and an alteration or cancellation of an exemption, shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

Equivalent provisions

11.—(1) Any requirement applicable to ships by virtue of these Regulations shall be satisfied by compliance with:

- (a) a relevant standard or code of practice of a national standards body or equivalent body of any EEA State; or
- (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.

Penalties

12.—(1) If a ship to which these Regulations apply proceeds, or attempts to proceed, on any voyage without complying with the requirements of these Regulations, the owner and master shall each be guilty of an offence and liable:

- (a) on summary conviction in England and Wales, to a fine of any amount; or
- (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.

(2) 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 shall be construed as including a reference to that person.

Detention

13. In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained, and section 284(1) to (6) and (8) of the Merchant Shipping Act 1995(a) (which relates to detention of a ship) shall have effect in relation to that ship as if for “this Act”, wherever it appears, there were substituted “the Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2017”.

Review

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

- (a) carry out a review of regulations 3 to 13,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) The first report under this regulation must be published before the end of the period of five years beginning with the day on which regulations 3 to 13 come into force.

Signed by authority of the Secretary of State for Transport

Date

John Hayes
Minister of State
Department for Transport

(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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to passenger ships under 55 metres in length which are engaged in voyages as described in Regulation 4(1). The Regulations implement the recommendations of the Marine Accident Investigation Branch in relation to bridge visibility on passenger ships, set out in their Report into the loss of “the Marchioness”. The provisions contained in these Regulations were previously contained in The Merchant Shipping (Bridge Visibility) (Small Passenger Ships) Regulations 2005 (S.I. 2005/2286), which are revoked and replaced by these Regulations. The 2005 Regulations made provision for bridge visibility on passenger ships of under 45 metres in length; these Regulations extend that scope and apply to passenger ships of under 55 metres in length. Ships of 55 metres or more in length are regulated by the Merchant Shipping (Safety of Navigation) Regulations 2002 (S.I. 2002/1473) in accordance with the requirements of the Safety of Life at Sea Convention. These Regulations define the length of a ship to mean its “length overall”, which is the concept used in the Safety of Life at Sea Convention.

These Regulations require ships to be constructed so that the helmsman has all round visibility. These Regulations amend the definition of “enclosed passenger deck” to clarify that the 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. They also make clear that no sight line shall 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.

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

Regulation 1(2) provides that these Regulations are to cease to have effect seven years after they come into force.

An impact assessment has not been produced as no impact, or no significant impact, on the private, voluntary or public sectors is foreseen.

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

Merchant Shipping Notices can be read or downloaded here: <https://www.gov.uk/government/collections/merchant-shipping-notices-msns>. Printed copies can be obtained from Mail Marketing (Scotland) Ltd, Unit 6 Blooms Grove Industrial Estate, Norton Street, Nottingham, NG7 3JG.

Copies of the Safety of Life at Sea Convention, and its Protocols and amendments, and of IMO resolutions, may be obtained from the IMO at 4 Albert Embankment, London SE1 7SR.