



MERCHANT SHIPPING ACT 1985

**MERCHANT SHIPPING (WEIGHING OF GOODS
VEHICLES AND OTHER CARGO)
REGULATIONS 2001**

Coming into operation : 1st January 2002

In exercise of the powers conferred on the Department of Trade and Industry by sections 1 and 2 of the Merchant Shipping Act 1985 ^(a), and of all other enabling powers, and after consultation with the Secretary of State and those persons referred to in section 2(2) of that Act, the following Regulations are hereby made :-

Citation, commencement and revocation

1. (1) These Regulations may be cited as the Merchant Shipping (Weighing of Goods Vehicles and Other Cargo) Regulations 2001 and shall come into operation on 1st January 2002.

(2) The Merchant Shipping (Weighing of Goods Vehicles and Other Cargo) Regulations 1990 ^(b) are revoked.

Interpretation

2. (1) In these Regulations -

“bus” means a motor vehicle which is constructed or adapted to carry more than eight seated passengers in addition to the driver;

“Chief Inspector” and “Inspector” have the meaning given in section 51 of the Weights and Measures Act 1989 ^(c);

“Department” means the Department of Trade and Industry;

(a) 1985 C.3. Functions now transferred to the Department of Trade and Industry by the Transfer of

Functions (Marine Administration) Order 1997 (SD 51/97)

(b) GC 233/90

(c) 1989 c.1

Price : £1.60 Price Code : B

“goods vehicle” has the meaning given in section 72(1) of the Road Traffic Act 1985 ^(d);

“harbour” has the meaning given in the Harbours (Isle of Man) Act 1961 ^(e);

“Manx ship” has the same meaning as in section 1 of the Merchant Shipping Registration Act 1991 ^(f) ;

“motor vehicle” has the meaning given by section 65 of the Road Traffic Act 1985;

“operator” means the owner, manager, demise charterer or other person other than the master having immediate control over the day to day employment, and operation of the ship;

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

“permitted weight”, in relation to a vehicle, means the maximum total laden weight, the maximum train weight, the maximum laden wheel weight or the maximum laden axle weight (being in no case a design weight) applicable to that vehicle in Great Britain or (in the case of a vehicle fitted with a Department plate) in the Island, and includes any maximum authorised weight;

“port premises” means, in relation to any harbour, the docks, landing places and all other works and land at any time vested in, belonging to or administered by the Department of Transport (as harbour authority in relation to that harbour) and includes all berths adjoining that harbour from which ships to which these Regulations apply sail from time to time and all premises vested in, belonging to or administered by berth operators or shipowners which are contiguous with those premises or any of those berths;

“road vehicle” means a vehicle intended or adapted for use on roads;

“ro/ro passenger ship” means a passenger ship provided with cargo or vehicle spaces in which cargo or vehicles can be loaded and unloaded in a horizontal direction;

“trailer” means a vehicle drawn by a motor vehicle and includes a semi-trailer within the meaning of section 65(4) of the Road Traffic Act 1985;

“weight unladen” has the meaning given in section 70 of the Road Traffic Act 1985; and

(d) 1985 c. 23 (e) 1961 C.30 (f) 1991 c. 15

“weighing manager” means any authority or person who is for the time being responsible for the management of a weighing machine within port premises.

- (3) The following are “qualifying cargo items”:
- (a) any goods vehicle, together with (in the case of a goods vehicle which is a motor vehicle) any trailer drawn by it, of which
 - (i) the weight, or as the case may be the aggregate weight, including any load, any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, and any loose tools and loose equipment, or
 - (ii) the permitted weight, exceeds 7.5 tonnes;
 - (b) any other individual unit of cargo other than a bus, of which the weight exceeds 7.5 tonnes, unless it forms part of a qualifying cargo item under paragraph (a).

Application

3. These Regulations apply to ro/ro passenger ships while they are in a port in the Island.

Requirement for weight of cargo items, and use of weights for stability calculations

4. (1) Subject to regulations 6(5) and 7(3) and (4), no qualifying cargo item shall be loaded on to a ship to which these Regulations apply when sailing from any port in the Island for a port outside the Island unless -

- (a) its weight has previously been determined in accordance with regulations 6 and 7, by means of a weighing machine complying with and used and operated in accordance with regulation 5 or, in a case where regulation 6 or 7 so provides by an alternative method authorised there for that case;
- (b) arrangements at the port in question to prevent fraud by changing the composition of qualifying cargo items after weighing have been approved by the Department;
- (c) if weighed outside the port premises a certificate has been supplied as evidence of weighing; and

- (d) there are reliable arrangements in place for the retention, within the port premises or on board the ship, of records or documents for a period of not less than two years, demonstrating that the requirements of paragraph (a) have been complied with.

(2) The weights of qualifying cargo items obtained in compliance with paragraph (1) shall be used for the purposes of any calculation of the stability of the ship that are required to be carried out under any statutory provision relating to Merchant Shipping.

(3) A certificate for the purpose of paragraph (1)(c) shall be a statement in writing of the weight of the qualifying cargo item given by a person who both -

- (a) attended to the weighing, and
- (b) held then either such a certificate as is mentioned in section 12 of the Weights and Measures Act 1989 which was issued for the purposes thereof or such a certificate as is mentioned in regulation 5(3).

Accuracy of Weighing Machines, and Persons Qualified to Use Them

5. (1) Any weighing machine used for the purpose of these Regulations within the port premises shall either -

- (a) have been passed by an inspector of weights and measures as fit for use for trade and comply with the requirements of the Weights and Measures Regulations 1972 ^(g); or
- (b) have been the subject, upon application by the weighing manager, of a satisfactory test and report under the Weights and Measures Act 1989 stating that the machine is capable of weighing qualifying cargo items between 7.5 tonnes and the maximum capacity of the weighing machine within an accuracy of plus or minus 2 per cent.

(2) Such a weighing machine shall be used for the purposes of these Regulations in accordance with such conditions of use as the inspector of weights and measures may specify for the purpose of ensuring that it meets the required level of accuracy.

(3) Any person operating a weighing machine, other than a self-operated weighing machine within the meaning of paragraph (4), shall hold a certificate of competence to operate the machine, issued by the Chief Inspector of Weights and Measures or on his authority.

(g) GC 19/72

(4) The conditions of use given under paragraph (2) shall include notification of whether the equipment is for use only by operators certified under paragraph (3) or is able to be used by uncertified operators when the machine will be designated a self operated weighing machine. Such a machine shall -

- (a) incorporate or be used in conjunction with arrangements approved by the Department to ensure that the identity of a qualifying cargo item is not falsified; and
- (b) be provided with instructions approved by an inspector of weights and measures which shall be displayed near the machine indicating the manner in which it is to be used.

(5) Any weighing machine used for the purposes of these Regulations outside the port premises shall comply with the requirements of paragraph (1)(a) or (b) and such use shall comply with the requirements of the Weights and Measures Act 1989 and the Weights and Measures Regulations 1972 relating to use for trade.

Manner of Weighing

6. (1) Subject to the following paragraphs, a qualifying cargo item shall be weighed alone.

(2) A qualifying cargo item which is a motor vehicle or motor vehicle and trailer may be weighed with or without the driver, and it shall be recorded whether the driver is included.

(3) A qualifying cargo item may-

- (a) if it is a trailer, be weighed in combination with the motor vehicle by which it is drawn, and
- (b) if it is an individual unit of cargo which is not a road vehicle and there is no other load (except for any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, loose tools or loose equipment), be weighed in combination with the motor vehicle or trailer on which it is carried or (as the case may be) with the trailer and the motor vehicle by which the trailer is drawn,

the weight of the qualifying cargo item being obtained by subtraction from the total weight so obtained of the weight of the vehicle, or of the motor vehicle and trailer, in accordance with paragraph (4).

(4) The weight of the vehicle or, as the case may be, motor vehicle and trailer required to be subtracted under paragraph (3) shall be -

- (a) obtained by weighing within the port premises after the qualifying cargo item is detached or otherwise removed;
- (b) in the case of a motor vehicle drawing a qualifying cargo item which is a trailer, or a motor vehicle which is carrying a qualifying cargo item and no other load (except for any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, loose tools or loose equipment), either the weight obtained under (a) at the same port on a previous occasion, or the mean operating weight determined previously and recorded on a certificate which is kept with the vehicle or is retained, in original or photocopy, by the weighing manager;
- (c) in the case of a trailer which is carrying a qualifying cargo item and no other load (except for any loose tools or loose equipment), either the weight obtained under (a) at the same port on a previous occasion or the weight unladen determined previously and recorded on a certificate which is presented at the time of weighing of the qualifying cargo item or is retained, in original or photocopy, by the weighing manager;
- (d) in the case of a trailer which is carrying a qualifying cargo item and no other load (except for any loose tools or loose equipment) and is drawn by a motor vehicle, the weights of the motor vehicle and trailer determined as under (b) and (c) respectively; or
- (e) determined according to a method approved by the Department.

(5) The weight of a qualifying cargo item which is a road vehicle or a motor vehicle and trailer may, if it is carrying no load (except for any water, fuel or accumulators used for the purpose of the supply of power for the propulsion of the vehicle, loose tools and loose equipment),

- (a) be taken as the weight obtained by weighing the same vehicle or motor vehicle and trailer without a load at the same port on a previous occasion; or
- (b) in the case of a motor vehicle or a motor vehicle and trailer, be taken as the mean operating weight measured previously; and recorded on a certificate which is kept with the vehicle or is retained, in original or photocopy, by the weighing manager; or
- (c) in the case of a trailer, be taken as the weight unladen measured previously and recorded on a certificate which is presented before loading or is retained, in original or photocopy, by the weighing manager; or

- (d) in the case of a motor vehicle and trailer, be obtained by adding the weights of the motor vehicle and trailer determined as under (b) and (c) respectively; or
- (e) be determined according to a method approved by the Department.

(6) The weight of a qualifying cargo item which is a motor vehicle drawing a trailer, whether or not carrying a load, may be taken, if the trailer (with load, if any) has been weighed within the port premises together with some other motor vehicle drawing it, to be the sum of -

- (a) the combined weight so measured of the trailer and that other motor vehicle with which it was weighed less the mean operating weight of that other motor vehicle, and
- (b) the mean operating weight of the motor vehicle drawing it onto the vessel and intended to remain with it during the voyage;

where the mean operating weight of each motor vehicle has been determined previously and recorded on a certificate which is kept with the vehicle or is retained, in original or photocopy, by the weighing manager.

(7) The mean operating weight -

- (a) of a motor vehicle referred to in paragraphs (4)(b), (5)(b) and (6) shall be the overall weight of the motor vehicle, without any load but with any loose tools and equipment, one-half of the maximum capacity of fuel, and a reasonable allowance for the driver and
- (b) of a motor vehicle and trailer for the purposes of paragraph (5)(b) shall be the overall weight of the vehicle, in the same condition, together with the weight unladen of the trailer,

and it shall be the responsibility of the person presenting a vehicle or, as the case may be, a vehicle and trailer for weighing for the purpose of establishing the mean operating weight to ensure that the vehicle or, as the case may be, a vehicle and trailer, is weighed in a condition which provides such a weight.

(8) A certificate for the purposes of paragraph (4), (5) or (6) shall be a statement in writing of the weight of the vehicle, the trailer or motor vehicle and trailer, as the case may be, issued

- (a) if obtained as a result of weighing within the port premises, by a weighing machine operator certified in accordance with regulation 5(3), or in the case of a self-operated machine within the meaning of regulation 5(4), as a result of operation of the machine; or
- (b) if obtained as a result of weighing outside the port, by a person authorised in accordance with section 12 of the Weights and Measures Act 1989 to attend the weighing;

and any such certificate of mean operating weight shall be endorsed by the person who presented the vehicle (or vehicle and trailer) for weighing with a statement, signed by him, that it was weighed in a condition which provided such a weight.

Place of Weighing

7. (1) Subject to the following paragraphs, the weighing of qualifying cargo items shall be carried out within the port premises of the harbour at which the cargo is to be loaded.

(2) Qualifying cargo items which have been sealed for customs purposes may, if weighed alone, be weighed on a weighing machine outside the port premises.

(3) The weights of the following cargo items may be determined by weighing on a weighing machine outside the port premises, or by any method which the operator of the ship is satisfied is reliable -

- (a) items which are road vehicles, or motor vehicles and trailers, which exceed, and are not prohibited by the Road Traffic Act 1985 from use on a road when exceeding the maximum weight, length, or width permitted by that Act;
- (b) items, other than goods vehicles or motor vehicles and trailers, which because of their physical dimensions, weight or other characteristics or because they are track laying vehicles are not capable of being weighed on any weighing machine within the port premises which is used to weigh goods vehicles, or motor vehicles and trailers, for the purposes of these regulations.

(4) The Department may approve in advance, subject to such conditions as it may specify, arrangements as to the weights to be used for the purpose of the calculations referred to in regulation 2(2) in respect of cargo items referred to in paragraph (3) of this regulation.

(5) Where the weight of a qualifying cargo item which is a motor vehicle, a motor vehicle and trailer, or a trailer is determined in accordance with regulation 6(5)(b), (c) or (d), the weighing of the motor vehicle, motor vehicle and trailer or trailer as the case may be for the purpose of those paragraphs may be carried out outside the port premises if the weighing is carried out by a person authorised in accordance with section 12 of the Weights and Measures Act 1989 to attend the weighing.

(6) In the event of the failure of a weighing machine within the port premises, an alternative method shall be used which complies with the requirements of regulation 5.

Prevention of Fraud

8. Any person submitting arrangements for approval under regulation 4(1)(b) shall comply with those arrangements when approved.

Enforcement in connection with weighing machines

9. (1) Subject to the production if so requested of his credentials, an inspector of weights and measures may at all reasonable times inspect and test any weighing machine which is, or which he has reasonable cause to believe to be, used for the purposes of regulation 5.

(2) Subject to the production if so requested of his credentials, an inspector of weights and measures may seize and detain documents which the inspector has reason to believe may be required as evidence in proceedings for an offence under regulation 10(3), (5), (7) or (8).

(3) No person shall wilfully obstruct an inspector of weights and measures acting in pursuance of these Regulations.

(4) No person without reasonable cause shall fail to give to any inspector of weights and measures acting in pursuance of these Regulations any assistance or information which the inspector may reasonably require of him for the purposes of the performance by the inspector of his functions under these Regulations.

Penalties

10. (1) If a qualifying cargo item is loaded on to a ship to which these Regulations apply in breach of regulation 4(1)(a) and (c) the operator and the master of the ship shall each be guilty of an offence and liable on summary conviction by a fine not exceeding £5,000.

(2) If regulation 4(2) is not complied with, the master shall be guilty of an offence and liable on summary conviction by a fine not exceeding £5,000.

(3) If a weighing machine within the port premises is used for the purposes of these Regulations -

- (a) which does not comply with the requirements of regulation 5(1).
- (b) other than in accordance with the conditions specified under regulation 5(2).
- (c) by a person not holding a certificate of competence required under regulation 5(3).
- (d) in breach of regulation 6; or
- (e) without arrangements at the port in question having previously been

approved in accordance with regulation 4(1)(b).

the weighing manager shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(4) If a self-operated weighing machine is made available for operation and the requirements of regulation 5(4) relating to such machines are not complied with the weighing manager shall be guilty of an offence and liable on summary conviction by a fine not exceeding £5,000.

(5) Any person operating a self-operated weighing machine who does not comply with the instructions required to be displayed under regulation 5(4)(b) shall be guilty of an offence and liable on summary conviction by a fine not exceeding £1,000.

(6) Any person who fails to comply with regulation 8 after having submitted the arrangements shall be guilty of an offence and liable on summary conviction by a fine not exceeding £5,000.

(7) Any person who-

- (a) supplies information for the purposes of these Regulations knowing or having grounds to believe it to be false;
- (b) knowingly or recklessly falsifies information supplied for the purposes of these Regulations.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 and on conviction on information to imprisonment for a term not exceeding two years or a fine or both.

(8) Any person who materially changes the composition of a qualifying cargo item after it has been weighed within the port premises without first making arrangements to have it re-weighed, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(9) Any person who contravenes regulation 9(3) or (4) shall be guilty of an offence and liable on summary conviction by a fine not exceeding £5,000.

(10) Proceedings for any offence under paragraph (3), (5) or (8) shall not be instituted except upon complaint made by the chief inspector or any officer of police.

Offences by Bodies Corporate or due to Act or Default of another Person

11. (1) Where an offence under these Regulations is committed, or would have been committed except for the operation of regulation 12, by a person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

(2) Where an offence under any of these Regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) For the purposes of paragraphs (2) and (3), “body corporate” includes a limited liability company constituted under the Limited Liability Companies Act 1996^(h) and, in relation to such a company, any reference to a director or other officer of a body corporate is a reference to a member and to the company’s manager and registered agent.

Defence

12. It shall be a defence to a charge under these Regulations for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Exemptions

13. The Department may make such exemptions from the provisions of regulations 4, 5, 6, 7, or 8 in relation to such ships, services or qualifying cargo items or classes thereof, and subject to such conditions, as it may specify and may, subject to giving reasonable notice, alter or cancel any exemption so granted.

Made : 6th December, 2001

Alex F. Downie

Minister for Trade and Industry

(h) 1996 c. 19

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations apply to ro/ro passenger ships when they are in a port in the Island. The Regulations require the weighing of all road vehicles (except buses) and all non-vehicular items of cargo exceeding, in each case, 7.5 tonnes gross laden weight for all voyages on which passengers are carried. Subject to certain exceptions, cargo must be weighed within the port at which the ship is to be loaded, and the weighing machine must be certified, and operated in accordance with conditions laid down, by an inspector of weights and measures.

It is an offence under the Regulations by the master and by the operator or manager of a ship if qualifying cargo is loaded in breach of the Regulations and by the weighing machine manager if the machine is not operated in accordance with the conditions it is also an offence for any person to supply information for the purposes of the Regulations knowing or having grounds to believe it to be false, knowingly or recklessly to falsify information supplied for the purposes of the Regulations, or materially to change the composition of an item of cargo after it has been weighed without first making arrangements for re-weighing.