



MERCHANT SHIPPING (SOLAS CHAPTER II-1)(SHIPS CONSTRUCTED FROM 1 JULY 1986) REGULATIONS 2016

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Statutory Document No. 2016/0202

*Merchant Shipping Act 1985*

MERCHANT SHIPPING (SOLAS CHAPTER II-1)(SHIPS CONSTRUCTED FROM 1 JULY 1986) REGULATIONS 2016

*Laid before Tynwald:**19 July 2016**Coming into Operation:**1 August 2016*

The Department of Economic Development, having carried out the consultation required by section 1(1) and section 2(2) of the Merchant Shipping Act 1985, makes the following Regulations under sections 1 and 2 of that Act.

PART 1 — INTRODUCTORY

1 Title

These Regulations are the Merchant Shipping (SOLAS Chapter II-1)(Ships constructed from 1 July 1986) Regulations 2016 .

2 Commencement

These Regulations come into operation on 1 August 2016.

3 Application

- (1) Subject to paragraph (3), Parts 1 and 2 of these Regulations apply to a Manx ship constructed on or after 1 July 1986, which engages on international voyages, wherever it may be.
- (2) Subject to paragraph (3), Parts 1 and 3 of these Regulations apply to a foreign ship constructed on or after 1 July 1986, which engages on international voyages, whilst it is within the territorial waters of the Island.
- (3) These Regulations do not apply to a —
 - (a) high-speed craft;
 - (b) MODU;

- (c) pleasure vessel;
- (d) fishing vessel;
- (e) cargo ship of less than 500 gross tonnage;
- (f) ship of war or troopship;
- (g) ship not propelled by mechanical means; or
- (h) wooden ship of primitive build.

4 Interpretation

In these Regulations —

“2008 IS Code” has the meaning given in regulation 3(1) of the Merchant Shipping (Load Lines) Regulations 2020¹;

“cargo ship” means any ship which is not a passenger ship;

“Company” means the owner of a ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed responsibility for operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the Company by the SOLAS Convention;

“fishing vessel” means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

“foreign ship” means any ship that is not a Manx ship;

“high-speed craft” has the meaning given by regulation 1.3 of SOLAS Chapter X;

“IMO” means the International Maritime Organization;

“inspector” means a person appointed as an inspector under section 3 of the Merchant Shipping Act 1985;

“international voyage” means a voyage from a country to a port outside that country;

“MSN” means a Manx Shipping Notice issued by the Department and includes any document amending the same;

“Manx ship” has the meaning given by section 1 of the Merchant Shipping Registration Act 1991 and includes a ship registered under Part IV of that Act (the Demise Charter Register);

“MODU” means a ship which complies with the MODU Code;

“MODU Code” means —

- (a) for a ship constructed on or after 1 January 2012, the Code for the Construction and Equipment of Mobile Offshore Drilling Units 2009 (2009 MODU Code) and includes all amendments made to

¹ SD2020/0552

that Code up to and including those adopted by IMO resolution MSC.359(92) on 21 June 2013;

- (b) for a ship constructed on or after 1 May 1991 up to and including 31 December 2001, the Code for the Construction and Equipment of Mobile Offshore Drilling Units 1989 (1989 MODU Code) and includes all amendments made to that Code up to and including those adopted by IMO resolution MSC.358(92) on 21 June 2013; and
- (c) for a ship constructed on or before 30 April 1991, the Code for the Construction and Equipment of Mobile Offshore Drilling Units 1979 (1979 MODU Code) and includes all amendments made to that Code up to and including those adopted by IMO resolution MSC.357(92) on 21 June 2013;

“passenger ship” means a ship which carries more than 12 passengers;

“pleasure vessel” has the meaning given by regulation 6 of the Merchant Shipping (Pleasure Vessel) Regulations 2003²;

“RO” means any recognised organisation specified in MSN 020 which is authorised by the Department to undertake the specified function;

“ship constructed” means a ship the keel of which is laid or which is at a similar stage of construction;

“SOLAS Chapter 1” means Chapter 1 of the SOLAS Convention including all amendments made to that Chapter up to and including those adopted by IMO Resolution MSC.204(81) on 18 May 2006;

“SOLAS Chapter II-1” means —

- (a) for a ship constructed on or after 1 July 1986 up to and including 31 December 2008 —
 - (i) Chapter II-1 of the SOLAS Convention including all amendments made to that Chapter up to and including those adopted by IMO Resolution MSC.170(79) on 9 December 2004 which came in to force on 1 July 2006; and
 - (ii) Regulations 3-2³, 3-5⁴, 3-7⁵, 3-8⁶, 3-9.3⁷, 25⁸, 31⁹ and 45¹⁰ of the updated edition of SOLAS Chapter II-1 as defined in paragraph (b) below.

² SD396/03

³ Regulation 3-2 Protective coatings of dedicated seawater ballast tanks in all types of ships and double-side skin spaces of bulk carriers

⁴ Regulation 3-5 New installation of materials containing asbestos

⁵ Regulation 3-7 Construction drawings maintained on board and ashore

⁶ Regulation 3-8 Towing and mooring equipment

⁷ Regulation 3-9.3 Means of embarkation on and disembarkation from ships

⁸ Regulation 25 Water level detectors on single hold cargo ships other than bulk carriers

⁹ Regulation 31 Machinery controls

- (b) for a ship constructed on or after 1 January 2009, Chapter II-1 of the SOLAS Convention including all amendments made to that Chapter up to and including those adopted by IMO Resolution MSC.365(93) on 22 May 2014 which came in to force on 1 January 2016;

“SOLAS Chapter V” means Chapter V of the SOLAS Convention including all amendments made to that Chapter up to and including those adopted by IMO Resolution MSC.350(92) on 21 June 2013 which came in to force on 1 January 2015;

“SOLAS Chapter X” means Chapter X of the SOLAS Convention including all amendments made to that Chapter up to and including those adopted by IMO Resolution MSC.352(92) on 21 June 2013 which came in to force on 1 January 2015;

“SOLAS Convention” means the International Convention for the Safety of Life at Sea 1974, as amended by the 1988 Protocol; and

“territorial waters of the Island” means —

- (a) the territorial sea adjacent to the Island; and
- (b) any waters within the area that extend landward from the baselines from which the breadth of the territorial sea is measured as far as the mean high water mark of ordinary spring tides.

5 Company’s responsibility

- (1) A Company must ensure a ship complies with such of the requirements of these Regulations as apply in relation to a ship of its description.
- (2) Paragraph (1) applies whether or not these Regulations impose an obligation on another person.
- (3) A Company who fails to comply with paragraph (1) commits an offence and is liable —
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding **£10,000¹¹**.

6 Provisions relating to offences

- (1) It is a defence for a person charged under these Regulations to show that he or she took all reasonable steps to avoid the commission of the offence.

¹⁰ Regulation 45 Precautions against shock, fire and other hazards of electrical origin

¹¹ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

- (2) If the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person is 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.
- (3) If a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.
- (5) For the purposes of this regulation, “**body corporate**” includes a limited liability company constituted under the Limited Liability Companies Act 1996 and, in relation to that 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.

PART 2 – MANX SHIPS

7 Requirement to comply with SOLAS Chapter II-1

- (1) A ship must comply with such of the requirements of SOLAS Chapter II-1 as apply in relation to a ship of its description.
- (2) *In accordance with SOLAS Chapter II-1, Part B-1, regulation 5(1), a ship constructed on or after 1 July 2010 must comply with the requirements of Part A of the 2008 IS Code as required by regulation 8(2) of the Merchant Shipping (Load Lines) Regulations 2020¹².*

8 Interpretation

- (1) Unless the context clearly indicates otherwise, references to ‘Administration’ in SOLAS Chapter II-1 are to be read as reference to the Department or RO, subject to any more specific provision in these Regulations or MSN 059.
- (2) If there is a footnote in SOLAS Chapter II-1, and it is clear from the wording and the context that the content of the footnote or of a document referred to in the footnote is intended to form part of the

¹² SD 2020/0552

requirement then such content must be treated as part of the requirement.

9 Type approval

If SOLAS Chapter II-1 or any part of a code applied by SOLAS Chapter II-1 requires anything to be type approved, it must be type approved in accordance with MSN 059.

10 Exemptions

- (1) In accordance with SOLAS Chapter 1, regulation 4(a), a ship which is not normally engaged on international voyages but which, in exceptional circumstances, is required to undertake a single international voyage may be exempted by the Department from any of the requirements of SOLAS Chapter II-1.
- (2) An exemption under paragraph (1) may only be granted to a ship if the Department is satisfied that the ship complies with safety requirements which are adequate for the voyage to be undertaken.
- (3) In accordance with SOLAS Chapter 1, regulation 4(b), the Department may exempt a ship which embodies features of a novel kind from any of the provisions of SOLAS Chapter II-1, the application of which might seriously impede research into the development of such features and their incorporation in ships engaged on international voyages.
- (4) An exemption under paragraph (3) may only be granted to a ship if the Department is satisfied it complies with safety requirements which —
 - (a) are adequate for the service for which it is intended;
 - (b) ensure the overall safety of the ship; and
 - (c) are acceptable to the Governments of the States to be visited by the ship.
- (5) In accordance with SOLAS Chapter II-1 regulation 1.4, the Department may, if it considers that the sheltered nature and conditions of the voyage render the application of any specific requirements of SOLAS Chapter II-1 unreasonable or unnecessary, exempt individual ships or classes of ships from those requirements.
- (6) An exemption under paragraph (5) may only be granted to individual ships or classes of ships if they do not sail at distances of more than 20 miles from the nearest land.
- (7) In accordance with SOLAS Chapter II-1 regulation 1.5, in the case of passenger ships which are employed in special trades for the carriage of large numbers of special trade passengers, such as the pilgrim trade, the Department may, if it is satisfied that it is impracticable to enforce

compliance with the requirements of SOLAS Chapter II-1, exempt such ships from those requirements.

- (8) An exemption under paragraph (7) may only be granted to a ship provided that it complies fully with the provisions of —
- (a) the rules annexed to the Special Trade Passenger Ships Agreement, 1971 as adopted by the IMO on 6 October 1971, which came in to force on 2 January 1974; and
 - (b) the rules annexed to the Protocol on Space Requirements for Special Trade Passenger Ships, 1973 as adopted by the IMO on 13 July 1973, which came in to force on 2 June 1977.

11 Equivalent arrangements

- (1) In accordance with SOLAS Chapter 1 regulation 5, if SOLAS Chapter II-1 requires that —
- (a) a particular fitting, material, appliance or apparatus, or type thereof, must be fitted or carried in a ship, or
 - (b) any particular provision must be made,
- the Department may allow any other fitting, material, appliance or apparatus, or type thereof, to be fitted or carried or any other provision to be made in that ship.
- (2) An equivalent arrangement may only be permitted under paragraph (1) if the Department is satisfied by trial thereof or otherwise that the fitting, material, appliance or apparatus, or type thereof, or provision is at least as effective as that required by SOLAS Chapter II-1.

12 Waivers

- (1) In accordance with SOLAS Chapter II-1 regulation 30.4, in the case of a ship of less than 1,600 gross tonnage, the Department may waive the requirements of Chapter II-1 regulation 30.3, if an electric motor primarily intended for other services is arranged to power an auxiliary steering gear.
- (2) A waiver issued under paragraph (1) may only be granted where the Department is satisfied with the protection arrangement, together with the requirements of SOLAS Chapter II-1 regulations 29.5.1, 29.5.2 and 29.7.3 applicable to auxiliary steering gear.
- (3) In accordance with SOLAS Chapter II-1 regulation 42.2.3.2, in the case of a ship of less than 5,000 gross tonnage, the Department may waive the requirement to have an emergency source of power capable, for a period of 36 hours, of supplying the shipborne navigational equipment required by SOLAS Chapter V regulation 19.

- (4) A waiver issued under paragraph (3) may only be granted where the Department is satisfied such provision is unreasonable or impracticable.
- (5) In accordance with SOLAS Chapter II-1 regulation 43.2.4.2, in the case of a ship of less than 5,000 gross tonnage, the Department may waive the requirement to have an emergency source of power capable, for a period of 18 hours, of supplying the shipborne navigational equipment required by SOLAS Chapter V regulation 19.
- (6) A waiver issued under paragraph (5) may only be granted where the Department is satisfied such provision is unreasonable or impracticable.

13 Validity of approvals, type approvals, exemptions, equivalent arrangements and waivers

An approval or type approval required by SOLAS Chapter II-1, or an exemption, equivalent arrangement or waiver permitted by SOLAS Chapter II-1 is only valid if —

- (a) it is in writing;
- (b) it specifies the date on which it takes effect; and
- (c) any conditions stated in it are complied with.

PART 3 – FOREIGN SHIPS

14 Requirement to comply with SOLAS Chapter II-1

Whenever a foreign ship that was constructed on or after 1 July 1986 is in the territorial waters of the Island, it must comply with such of the requirements of SOLAS Chapter II-1 as apply in relation to a ship of its description.

15 Inspection of a foreign ship

Whenever a foreign ship that was constructed on or after 1 July 1986 is in a port of the Island, it may be subject to inspection by an inspector to verify that certificates issued under SOLAS Chapter 1, regulations 12 or 13, are valid.

16 Provisions relating to detention

- (1) If an inspector carries out an inspection in accordance with regulation 15 and finds that —
 - (a) the certificates are not produced, have expired or ceased to be valid; or
 - (b) there are clear grounds for believing —

- (i) the condition of the foreign ship or its equipment does not correspond substantially with the particulars of the certificate; or
- (ii) the foreign ship or its equipment are not in compliance with the requirements of SOLAS Chapter 1 regulation 11(a) or (b),

the foreign ship may be detained.

- (2) A foreign ship detained in accordance with paragraph (1) is not permitted to sail until it can proceed to sea or leave the port for the purpose of proceeding to the nearest appropriate repair yard available without danger to the foreign ship or persons on board.
- (3) If an inspection is conducted or when measures are taken in accordance with paragraph (1), all reasonable efforts must be made to avoid a foreign ship being unreasonably delayed or detained.
- (4) If a foreign ship is detained in accordance with this regulation, the following provisions have effect in accordance with section 74 of the *Merchant Shipping Registration Act 1991* —

(a) any —

- (i) commissioned officer on full pay in the naval or military service of Her Majesty;
- (ii) officer of the Department;
- (iii) inspector; or
- (iv) officer of customs and excise,

may detain the ship, and if the ship after detention or after service on the master of any notice of or order for detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, shall be liable on conviction on information to a fine or on summary conviction to a fine not exceeding **10 times level 5 on the standard scale**¹³;

(b) where a ship proceeding to sea under paragraph (a) takes to sea when on board thereof in the execution of his duty —

- (i) any officer authorised to detain the ship;
- (ii) any marine surveyor or other officer of the Department;
- (iii) any inspector; or
- (iv) any officer of customs and excise;

¹³ Fine increased to 10 times level 5 on the standard scale (£100,000) by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

the owner and master of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also on conviction on information to a fine or on summary conviction to a fine not exceeding **£10,000¹⁴**;

(c) where under these Regulations —

(i) a ship is to be detained, an officer of customs and excise shall; or

(ii) a ship may be detained, an officer of customs and excise may,

refuse to clear that ship outwards or to grant a transire to that ship.

PART 4 – REVOCATIONS AND CONSEQUENTIAL AMENDMENTS

17 Revocations




The following regulations are revoked —

- (a) the Merchant Shipping (SOLAS Chapter II-1 Construction)(Ships constructed on or after 1 January 2009) Regulations 2016¹⁵; and
- (b) the Merchant Shipping (SOLAS Chapter II-1 Construction) Regulations 2007¹⁶.

18 Consequential amendments

The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2014¹⁷ are amended in Schedule 1, (in the table entitled ‘Regulations Disapplied’) —

- (a) by omitting the following references —


 Merchant Shipping (SOLAS Chapter II-1 Construction) Regulations 2007	SD 502/07 	
 Merchant Shipping	SD	

¹⁴ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

¹⁵ SD 2016/0084



¹⁶ SD 502/07

¹⁷ SD 2014/0415

(SOLAS Chapter II-1 Construction)(Ships constructed on or after 1 January 2009) Regulations 2016	2016/0084 	
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and

- (b) by inserting after the entry for Merchant Shipping (SOLAS Chapter II-2)(Ships constructed from 1 September 1984 to 30 June 2002) Regulations 2016, the following —

 Merchant Shipping (SOLAS Chapter II- 1)(Ships constructed from 1 July 1986) Regulations 2016	SD 2016/0202 	
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MADE 17 JUNE 2016

LAURENCE SKELLY

Minister for Economic Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to Chapter II-1 of the SOLAS Convention (SOLAS II-1) ‘Construction — structure, subdivision and stability, machinery and electrical installations’ for ships constructed on or after 1 July 1986.

Subject to regulation 3(3), Parts 1 and 2 of these Regulations apply to all Manx ships which engage on international voyages, wherever they may be.

Subject to regulation 3(3), Parts 1 and 3 of these Regulations apply to foreign ships which engage on international voyages, whilst they are within the territorial waters of the Island.

These Regulations come into operation on **1 August 2016**.

A ship constructed on or after 1 July 1986 up to and including 31 December 2008, must comply with Chapter II-1 of the SOLAS Convention including all amendments made to that Chapter up to and including those adopted by IMO Resolution MSC.170(79) on 9 December 2004 which came in to force on 1 July 2006. In addition, these ships must comply with certain regulations from the later version of SOLAS Chapter II-1 as set out in regulation 4 as appropriate for a ship of its type and age.

A ship constructed on or after 1 January 2009 must comply with Chapter II-1 of the SOLAS Convention including all amendments made to that Chapter up to and including those adopted by IMO Resolution MSC.365(93) on 22 May 2014 which came in to force on 1 January 2016.

These Regulations revoke and replace the Merchant Shipping (SOLAS Chapter II-1 Construction)(Ships constructed on or after 1 January 2009) Regulations 2016 (2016/0084), and the Merchant Shipping (SOLAS Chapter II-1 Construction) Regulations 2007 (SD502/07).

Further information on compliance with these Regulations can be found in MSN 059.

Copies of this document and Manx Shipping Notices are obtainable from the Isle of Man Ship Registry, Department of Economic Development, St Georges Court, Upper Church Street, Douglas, Isle of Man, IM1 1EX and can be accessed via the website: <http://www.iomshipregistry.com>

The International Convention for the Safety of Life at Sea 1974, its Protocol, IMO resolutions and circulars can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR and can be accessed via their website: <http://www.imo.org>

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Amendments:

These Regulations are marked with amendments (*in bold italics*) made to these Regulations by section 55 of the Interpretation Act 2015 which increase the fines with effect from 1 January 2018.

The functions in these Regulations have been transferred from the Department of Economic Development to the Department for Enterprise by the Transfer of Functions (Economic Development and Education) Order 2017 (SD2017/0325) with effect from 24 November 2017.

These Regulations are amended by **SD2020/0552** Merchant Shipping (Load Lines) Regulations 2020. The amendment inserts the requirement to comply with the 2008 IS Code. Ship stability requirements are regulated by the 1966 Loadlines Convention and in Chapter II-1 of the SOLAS Convention. Both Conventions require all ships having a length of 24m and upwards, constructed on or after 1st July 2010 to comply with the requirements of Part A of the 2008 IS Code. The 2008 IS Code sets out the international standards for ship design and construction, precautions against capsizing; weather criterion; effect of free surfaces, icing and watertight integrity amongst others. The requirement to comply with the 2008 IS Code given effect by regulation 8 of the Merchant Shipping (Load Lines) Regulations 2020 (SD2020/0552).