



MERCHANT SHIPPING (SOLAS CHAPTER II-2)(SHIPS CONSTRUCTED ON OR AFTER 1 JULY 2002) REGULATIONS 2016

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Statutory Document No. 2016/0086



Merchant Shipping Act 1985

MERCHANT SHIPPING (SOLAS CHAPTER II-2)(SHIPS CONSTRUCTED ON OR AFTER 1 JULY 2002) REGULATIONS 2016

<i>Laid before Tynwald:</i>	<i>15 March 2016</i>
<i>Coming into Operation:</i>	<i>21 March 2016</i>

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-2)(Ships constructed on or after 1 July 2002) Regulations 2016.

2 Commencement

These Regulations come into operation on 21 March 2016.

3 Application

- (1) Subject to paragraph (3), Parts 1 and 2 of these Regulations apply to a Manx ship which engages on international voyages, constructed on or after 1 July 2002, wherever it may be.
- (2) Subject to paragraph (3), Parts 1 and 3 of these Regulations apply to a foreign ship which engages on international voyages, constructed on or after 1 July 2002, 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) ship of war or troopship;
- (f) ship not propelled by mechanical means; and
- (g) wooden ship of primitive build.

4 Interpretation

In these Regulations —

“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;

“IBC Code” *has the meaning given by regulation 4 of the Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022¹;*

“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 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

¹ SD2022/0294

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-2” means Chapter II-2 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 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.

² SD 396/03

- (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 £5,000.

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.
- (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-2

A ship constructed on or after 1 July 2002, must comply with such of the requirements of SOLAS Chapter II-2, as apply in relation to a ship of its description.

8 Interpretation

- (1) Unless the context clearly indicates otherwise, references to ‘Administration’ in SOLAS Chapter II-2 are to be read as reference to the

Department or RO, subject to any more specific provision in these Regulations or MSN 057 or 058.

- (2) If there is a footnote in SOLAS Chapter II-2, 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 requirement then such content must be treated as part of the requirement.

9 Type approval

If SOLAS Chapter II-2 or any part of a code applied by SOLAS Chapter II-2 requires anything to be type approved, it must be type approved in accordance with MSN 057.

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-2.
- (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-2, 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 that the ship 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-2 regulation 1.4.1, 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-2 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-2 regulation 1.4.2, 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-2, 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.
- (9) In accordance with SOLAS Chapter II-2 regulation 10.7.1.4, the Department may exempt the cargo spaces of any cargo ship from the requirements of SOLAS Chapter II-2 regulation 10, paragraphs 7.1.3 and 7.2.
- (10) An exemption under paragraph (9) may only be granted if the ship is —
 - (a) constructed and solely intended, for the carriage of ore, coal, grain, unseasoned timber, non-combustible cargoes, or cargoes which the Department is satisfied constitute a low fire risk; and
 - (b) fitted with steel hatch covers and effective means of closing all ventilators and other openings leading to cargo spaces.

11 Equivalent arrangements

- (1) In accordance with SOLAS Chapter 1 regulation 5, if SOLAS Chapter II-2 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-2.

12 Waivers

- (1) In accordance with SOLAS Chapter II-2, regulation 1.6.2.2, the Department may waive requirements for refrigeration systems for ships carrying cargoes with a vapour pressure greater than 1.013 bar absolute at 37.8°C.
- (2) A waiver may only be permitted under paragraph (1) —
 - (a) for ships operating in restricted areas and at restricted times of the year; and
 - (b) in accordance with paragraph 15.14.3 of the IBC Code.
- (3) In accordance with SOLAS Chapter II-2 regulation 10.2.1.2.2.2, the Department may waive the requirements for cargo ships of less than 1,600 gross tonnage to comply with SOLAS Chapter II-2 regulation 10.2.1.2.2.2.
- (4) A waiver may only be permitted under paragraph (3) if the fire pump starting arrangement in the machinery space is in an easily accessible position.

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

- (1) An approval or type approval required by SOLAS Chapter II-2, or an exemption, equivalent arrangement or waiver permitted by SOLAS Chapter II-2 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-2

A foreign ship in the territorial waters of the Island, constructed on or after 1 July 2002, must comply with such of the requirements of SOLAS Chapter II-2, as apply in relation to a ship of its description.

15 Inspection of a foreign ship

A foreign ship in a port of the Island 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, section 74 of the Merchant Shipping Registration Act 1991 (which relates to the detention of a ship) has effect, subject to the modifications —
 - (a) in sub-sections (1) and (2), after “officer of the Department” insert **or any inspector**;
 - (b) in sub-section (3), for “this Act” (wherever occurring) substitute **the SOLAS Chapter II-2 Regulations**; and
 - (c) after sub-section (3) add —
 - (4) In this section —**
 - “inspector”** has the meaning given by regulation 4 of the SOLAS Chapter II-2 Regulations; and
 - “SOLAS Chapter II-2 Regulations”** means the Merchant Shipping (SOLAS Chapter II-2)(Ships constructed on or after 1 July 2002) Regulations 2016

PART 4 – CONSEQUENTIAL AMENDMENTS

17 Consequential amendments

The schedule (consequential amendments) has effect.

MADE 23 FEBRUARY 2016

LAURENCE SKELLY

Minister for Economic Development

SCHEDULE

CONSEQUENTIAL AMENDMENTS

- 1 The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2014³ are amended as follows.

- (a) In Schedule 1 (in the table entitled ‘Regulations Disapplied’) —

- (i) omit —

Merchant Shipping (Fire Protection) Regulations 1984	SI 1984 No.1218	SI 1985 No.1193 SI 1986 No.1070 SI 1993 No.1072 SI 1993 No.3163 SD 260/98 SD 396/03 SD 2015/0230
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and

- (ii) after the final entry, insert —

22 Merchant Shipping (SOLAS Chapter II-2)(Ships constructed on or after 1 July 2002) Regulations 2016	SD 2016/0086 22	
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- 2 The Merchant Shipping (Survey and Certification) Regulations 1999⁴ are amended as follows.

- (a) In regulation 1(2), after the definition “cargo ship” insert —

22 “**Contracting Government**” means the government of a country which has consented to be bound by the 1974 SOLAS Convention; **22**

- (b) In regulation 8(1)(c), after “Department” insert —

22, the appropriate authorities of the port State if the ship is in a port of another Contracting Government **22**.

³ SD 2014/0415

⁴ SD 352/99

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect to Chapter II-2 of the SOLAS Convention (SOLAS II-2) ‘Construction - fire protection, detection and extinction’.

The Regulations implement SOLAS II-2 including all amendments up to and including those adopted by IMO Resolution MSC.365(93) on 22 May 2014, which came in to force internationally on 1 January 2016.

Subject to regulation 3(3), Parts 1 and 2 of these Regulations apply to all Manx ships constructed on or after 1 July 2002, 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 constructed on or after 1 July 2002, whilst they are in the territorial waters of the Island.

These Regulations come into operation on **21 March 2016**.

Further information on compliance with these Regulations can be found in MSN 057 and MSN 058.

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>

These Regulations are marked (*in bold italic*) with amendments made to them by:

SD2022/0294 Merchant Shipping (SOLAS VII – Carriage of Dangerous Goods) Regulations 2022.