



STATUTORY INSTRUMENTS.

S.I. No. 677 of 2019



EUROPEAN UNION (REGISTRATION OF PERSONS SAILING ON
BOARD PASSENGER SHIPS) REGULATIONS 2019

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EUROPEAN UNION (REGISTRATION OF PERSONS SAILING ON
BOARD PASSENGER SHIPS) REGULATIONS 2019

I, SHANE ROSS, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), for the purpose of giving effect to Council Directive 98/41/EC of 18 June 1998¹, as amended by Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002², paragraph 9(4) of the Annex to Regulation (EC) No. 1137/2008 of the European Parliament and of the Council of 22 October 2008³ and Directive (EU) 2017/2109 of the European Parliament and of the Council of 15 November 2017⁴ hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Registration of Persons Sailing on board Passenger Ships) Regulations 2019.

(2) These Regulations come into operation on 21 December 2019.

Interpretation

2. (1) In these Regulations—

“Article 5 of Directive 2010/65/EU” means Article 5 of Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010⁵ regarding the electronic transmission of data;

“authorised officer” means a person appointed as an authorised officer under Regulation 13;

“company” means the owner of a passenger ship or any other organisation or person (such as the manager or the boat charterer) who has assumed responsibility for operating the passenger ship for the owner;

“Council Directive” means Council Directive 98/41/EC of 18 June 1998¹, as amended by Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002², paragraph 9(4) of the Annex to Regulation (EC) No. 1137/2008 of the European Parliament and of the Council of 22 October 2008³ and Directive (EU) 2017/2109 of the European Parliament and of the Council of 15 November 2017⁴;

¹ O.J. No. 188, 02.07.1998, p.35.

² O.J. No. 324, 29.11.2002, p.53.

³ O.J. No. 311, 21.11.2008, p.1.

⁴ O.J. No. 315, 30.11.2017, p.52.

⁵ O.J. No. 283, 29.10.2010, p.1.

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016⁶;

“Irish ship” means a ship registered under the Mercantile Marine Act 1955 (No. 29 of 1955);

“Marine Notice” means a notice described as such, issued by the Minister and includes a subsequent Marine Notice amending or replacing a Marine Notice;

“mile” means nautical mile or 1,852 metres;

“Minister” means Minister for Transport, Tourism and Sport;

“passenger registrar” means the responsible person designated by a company to fulfil the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organisation (IMO) through Assembly Resolution A. 741(18) of 4 November 1993 (ISM Code) obligations, where applicable, or a person designated by a company as responsible for the transmission of information on persons who have embarked on a company passenger ship;

“passenger ship” means a ship or a high-speed craft which carries more than 12 passengers;

“pleasure yacht or pleasure craft” means a vessel which is not engaged in trade, regardless of its means of propulsion;

“port area” means an area other than a sea area, mentioned in Schedule 2 to the European Union (Passenger Ships) Regulations 2019 (S.I. 676 of 2019), extending to the outermost permanent harbour works forming an integral part of the harbour system, or to the limits defined by natural geographical features protecting an estuary or similar sheltered area;

“regular service” means a series of ship crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either—

- (a) according to a published timetable, or
- (b) with crossings so regular or frequent that they constitute a recognisable systematic series;

“Safe Seas Ireland” means the maritime information exchange system, as provided for in paragraph (1) of Regulation 2 of the European

⁶ O.J. No. 119, 04.05.2016, p.1.

Communities (Vessel Traffic Monitoring and Information System) Regulations 2010 (S.I. No. 573 of 2010);

“sea area D” has the meaning assigned to it by the European Union (Passenger Ships) Regulations 2019 (S.I. No. 676 of 2019);

“third country” means any country which is not a Member State.

(2) A word or expression that is used in these Regulations, and is also used in the Council Directive, has, unless the contrary otherwise requires, the same meaning in these Regulations as it has in the Council Directive.

Application

3. These Regulations apply to passenger ships, other than—

- (a) ships of war or troop ships,
- (b) pleasure yachts and pleasure craft, or
- (c) ships exclusively engaged in port areas or inland waterways.

Competent authority

4. The Minister is designated as the competent authority, for the purposes of these Regulations and the Council Directive, responsible for search and rescue or concerned with the aftermath of an accident.

Counting of passengers

5. (1) The master of a passenger ship which departs from a port in the State or a passenger ship which is an Irish ship and departs from a port in another Member State shall, before the ship departs from the port, ensure that all persons on board the ship are counted.

(2) With effect from 20 December 2023, before a passenger ship departs from a port in the State, the number of persons on board shall be communicated to the master of the ship and reported by one of the following methods:

- (a) via SafeSeasIreland;
- (b) via the Automatic Identification System.

(3) Prior to 20 December 2023, before a passenger ship departs from a port in the State the person responsible for counting passengers shall communicate

to the master of the passenger ship and to the company's passenger registrar the number of persons on board the ship.

(4) A company that chooses to avail of the methods specified in paragraph (2) prior to 20 December 2023 may do so once it is confirmed by Marine Notice that the methods referred to in paragraph (2) are available to use.

Passenger data to be recorded

6. (1) With effect from 20 December 2023, the master of a passenger ship that departs from a port located in the State or a passenger ship which is an Irish ship that departs from a port located in a Member State to undertake a voyage of which the distance sailed from the point of departure to the next port of call exceeds 20 miles, the following shall be recorded:

- (a) the family names of the persons on board;
- (b) their forenames;
- (c) their gender;
- (d) their nationality;
- (e) their dates of birth;
- (f) when volunteered by a passenger, information concerning special care or assistance that might be needed in an emergency;
- (g) when volunteered by a passenger, a contact number in case of emergency.

(2) In respect of a passenger ship that departs from a port located in the State, the information listed in paragraph (1) shall be collected and reported using SafeSeasIreland or, where SafeSeasIreland is unavailable for technical reasons, by email or other electronic means as specified in a Marine Notice, before the passenger ship's departure, or no later than 15 minutes after its departure.

(3) Personal data collected for the purposes of these Regulations shall not be processed and used for any other purpose. Such personal data shall always be handled in accordance with European Union law on data protection and privacy and in accordance with the Data Protection Act 2018 (No. 7 of 2018), and shall be deleted automatically and without undue delay once it is no longer needed.

(4) Prior to 20 December 2023, the master of a passenger ship that departs from a port located in the State and undertakes a voyage of more than 20 miles from the point of departure shall ensure that the information listed in paragraph (1) is recorded in respect of every person on board the ship and communicated to the passenger registrar.

(5) Notwithstanding paragraph (4), a company that, prior to 20 December 2023, chooses to follow paragraphs (1), (2) and (3) may do so once it is confirmed by Marine Notice that SafeSeasIreland is operating sufficiently to do so.

(6) In respect of an Irish passenger ship that departs from a port located in another Member State, the information listed in paragraph (1) shall be collected before the passenger ship's departure, or no later than 15 minutes after its departure, and reported to the single window established pursuant to Article 5 of Directive 2010/65/EU⁵ via the system designated by that Member State.

Passenger ships departing from a third country

7. (1) A passenger ship which is an Irish ship that departs from a port located outside the European Union and is bound for a port located within the European Union, shall report the information specified in Regulations 5 and 6 using the single window, established pursuant to Article 5 of Directive 2010/65/EU⁵, via the system designated by the Member State of the port concerned, within the timeframes specified in Regulation 6.

(2) A passenger ship which is an Irish ship that departs from a port located outside the European Union and is bound for a port in the State shall report the information specified in Regulations 5 and 6 using SafeSeasIreland within the timeframes specified in Regulation 6.

(3) The company of each passenger ship that flies the flag of a third country or a Member State that departs from a port located outside the European Union and is bound for a port located within the State shall ensure that the information specified in Regulations 5 and 6 is complied with.

(4) Notwithstanding Regulation 5(2)(b), the company of each passenger ship that flies the flag of a third country or Member State that departs from a port located outside the European Union and is bound for a port located within the State shall ensure that the information requirements specified in Regulations 5 and 6 is reported using SafeSeasIreland within the timeframes specified in Regulation 6.

Passenger registrar

8. (1) Each company assuming responsibility for operating a passenger ship shall, where required under Regulations 5 and 6, appoint a passenger registrar responsible for reporting the information referred to in those Regulations using SafeSeasIreland or, where SafeSeasIreland is unavailable for technical reasons, by email or other electronic means as specified in a Marine Notice, or to the Minister by means of the Automatic Identification System.

(2) Personal data collected in accordance with Regulation 6 shall be kept by the company no longer than is necessary for the purposes of these Regulations, and in any event only until the moment the ship's voyage in question has been safely completed and the data has been reported using SafeSeasIreland, and without prejudice to any European Union or Irish law,

once the information is no longer needed for this purpose it shall be deleted automatically and without undue delay.

(3) Each company shall ensure that information concerning passengers who have declared a need for special care or assistance in emergency situations is properly recorded and communicated to the master before the ship departs.

Exemptions

9. (1) The Minister may grant an exemption to a passenger ship which departs from an Irish port from the obligation to report the number of persons on board using SafeSeasIreland, provided that the ship concerned is not a high-speed craft, it operates regular services of less than one hour between port calls exclusively in sea area D and the proximity of search and rescue facilities is ensured in that sea area.

(2) The Minister may grant an exemption to a passenger ship sailing between two Irish ports, or from and to the same Irish port without intermediate calls, from the obligations laid down in Regulation 6, provided that the ship concerned operates exclusively in sea area D and the proximity of search and rescue facilities is ensured in that sea area.

Passenger data system procedure

10. (1) A company shall have a procedure for data registration in place, which guarantees that information required by these Regulations is reported in an accurate and timely manner and shall—

- (a) submit details of the procedure to the Minister, and
- (b) immediately notify the Minister if for any reason the procedure cannot be implemented or when any changes are made to the procedure.

(2) The Minister shall have immediate access to the information required in these Regulations for the following purposes—

- (a) in the event of an emergency, or
- (b) in the aftermath of an accident.

(3) Personal data collected in accordance with Regulation 6 shall be kept no longer than is necessary for the purposes of these Regulations, and in any event—

- (a) until the moment the ship's voyage in question has been safely completed, but in any case no longer than 60 days after the ship's departure, or

- (b) in the event of an emergency or the aftermath of an accident, until any investigation or judiciary proceedings have been completed.

(4) Without prejudice to other specific legal obligations under European Union or Irish law, including obligations for statistical purposes, once the information is no longer needed for the purposes of these Regulations, it shall be deleted automatically and without undue delay.

Data protection

11. (1) For the purposes of these Regulations, the required data shall be collected and recorded in such a way that no undue delay is caused for passengers embarking or disembarking the vessel.

(2) A multiplicity of data collection on the same or similar routes shall be avoided.

(3) The processing of personal data shall be carried out in accordance with the Data Protection Regulation and with the Data Protection Act 2018.

Passenger ship capacity

12. Before a passenger ship departs from a port located in the State or a passenger ship which is an Irish ship departs from a port outside the State, its master shall ensure that the number of persons on board the ship does not exceed the number the passenger ship is permitted to carry.

Authorised officers

13. (1) The Minister may appoint such and so many of his or her officers as he or she thinks fit to be authorised officers for the purposes of ensuring compliance with these Regulations.

(2) An authorised officer shall be furnished with a warrant of the officer's appointment and, when exercising any power conferred on an authorised officer under these Regulations, shall, if requested by any person affected, produce the warrant to that person.

(3) An authorised officer may for the purpose of ensuring that these Regulations are being complied with—

- (a) at all reasonable times board a ship to which these Regulations apply or enter any premises (other than a dwelling) in which there are reasonable grounds to believe that information under these Regulations is kept and search and inspect the ship or premises and any records found there,
- (b) inspect and take copies of, or extracts from, the ship's log (if any) and the ship's manifest (if any) and any other records or

documents pertaining to the ship or its company and information under these Regulations found on the ship or premises,

- (c) secure for later inspection any part of the ship or premises where any information under these Regulations is kept,
- (d) require the master or other person in charge of the ship or person in charge of the premises to produce to the officer any records in relation to information held under these Regulations,
- (e) require the master or other person in charge of the ship or person in charge of the premises to afford the officer such facilities and assistance within his or her control or responsibilities as are reasonably necessary to enable the officer to exercise any of the powers conferred on an authorised officer under this Regulation.

(4) A person appointed as an authorised officer under the Regulations revoked by Regulation 17 continues to be an authorised officer for the purposes of ensuring compliance with these Regulations.

(5) A person who—

- (a) obstructs or interferes with an authorised officer in the exercise of the officer's powers under this Regulation, or
- (b) fails to comply with a requirement of an authorised officer under this Regulation,

commits an offence and is liable on summary conviction to a class A fine.

Fixed payment notice

14. (1) If an authorised officer has reasonable grounds for suspecting that a person is committing or has committed an offence under these Regulations, other than in Regulation 13(5), he or she may serve a notice in writing on that person stating that—

- (a) the person is alleged to have committed the offence,
- (b) the person may during the period of 28 days from the date of the notice make a payment of €300 to the Minister accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) If notice is given under paragraph (1)—

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the Minister may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable by the person who made it, and
- (c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under these Regulations, the onus of proving that a payment pursuant to a notice under this Regulation has been made lies on the defendant.

Penalties and prosecutions

15. (1) A person who contravenes Regulation 5, 6, 7, 8, 10 or 12 commits an offence and is liable on summary conviction to a class A fine.

(2) An offence under these Regulations may be prosecuted by the Minister.

Offences by body corporate

16. (1) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of, or to be attributable to any wilful neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Revocation

17. The European Communities (Registration of Persons Sailing on board Passenger Ships) Regulations (S.I. No. 558 of 1998) are revoked.



GIVEN under my Official Seal,
19 December, 2019.

SHANE ROSS,
Minister for Transport, Tourism
and Sport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations are a restatement of the European Communities (Registration of Persons Sailing on board Passenger Ships) Regulations, 1998 (S.I. No. 558 of 1998) and incorporate relevant amendments, including amendments made by Directive (EU) 2017/2109.

These Regulations provide for enhancements to passenger safety by accurately recording the number and/or the identity of persons on board a passenger ship in a timely manner. This information is essential for the preparation and effectiveness of search and rescue operations.

These Regulations also provide, inter alia, for:

- A requirement for passenger ships travelling less than 20 miles, to report the number of persons on board using SafeSeasIreland (<https://safeseas.ie/ssi/login.jsp>), or alternatively reported using the Automatic Identification System (AIS).
- A requirement for passenger ships travelling more than 20 miles to record specific information on persons on board, and for this information to be reported using SafeSeasIreland (<https://safeseas.ie/ssi/login.jsp>). This allows those responsible for search and rescue operations to immediately access passenger data in the event of an emergency or in the aftermath of an accident at sea.
- A requirement to process personal data in accordance with relevant legislation on data protection.

These Regulations are subject to a transitional period which will apply until 20 December 2023 whereby passenger ships may continue to allow information to be communicated to an operator's passenger registrar or shore-based company system that performs the same function.

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