

L.N. 344 of 2019

**MERCHANT SHIPPING ACT
(CAP. 234)**

**Merchant Shipping (Port State Control) (Amendment)
Regulations, 2019**

IN EXERCISE of the powers conferred by articles 154 and 374 of the Merchant Shipping Act, the Minister for Transport, Infrastructure and Capital Projects has made the following regulations:

1. (1) The title of these regulations is the Merchant Shipping (Port State Control) (Amendment) Regulations, 2019, and these regulations shall be read and construed as one with the Merchant Shipping (Port State Control) Regulations, hereinafter referred to as the "principal regulations".

Citation, scope and commencement. S.L. 234.38

(2) These regulations partially transpose the measures contained in Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017 on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/EC.

(3) These regulations shall come into force on 21 December 2019.

2. In regulation 3 of the principal regulations, immediately after sub-regulation (5), there shall be added the following new sub-regulation:

Amends regulation 3 of the principal regulations.

"(6) These regulations shall also apply to inspections of ro-ro passenger ships and high-speed passenger craft carried out outside a port or away from an anchorage during a regular service in accordance with regulation 9A."

3. In regulation 8 of the principal regulations, the words "The competent authority shall ensure that ships which are selected for inspection in accordance with regulation 4(1) and (2) are subject to an initial inspection or a more detailed inspection as follows:" shall be substituted by the following:

Amends regulation 8 of the principal regulations.

"The competent authority shall ensure that ships which are selected for inspection in accordance with regulations 4(1) and (2) or regulation 9A are subject to an initial inspection or a more

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detailed inspection as follows:".

Adds regulation 9A to the principal regulations.

4. Immediately after regulation 9 of the principal regulations, there shall be added the following new regulation:

"Ro-ro passenger ships and high-speed passenger craft.

9A. (1) Ro-ro passenger ships and high-speed passenger craft operating on a regular service are eligible for inspections in accordance with the time-frame and other requirements set out in Annex XVII of the Directive.

(2) The competent authority shall, when planning inspections of a ro-ro passenger ship or high-speed passenger craft, take due account of the operational and maintenance schedule of the ro-ro passenger ship or high-speed passenger craft.

(3) When a ro-ro passenger ship or high-speed passenger craft has been subject to an inspection in accordance with Annex XVII of the Directive, such inspection shall be recorded in the inspection database, and shall be taken into account for the purposes of regulations 4, 6 and 7.

(4) Regulations 5(1), 7(a) and regulation 9 shall not apply to ro-ro passenger ships and high-speed passenger craft on a regular service inspected under this regulation.

(5) The competent authority shall ensure that the ro-ro passenger ships or high-speed passenger craft that are subject to an additional inspection in accordance with regulation 7(b) are selected for inspection in accordance with Annex I, Part II 3A(c) and 3B(c) of the Directive. Inspections carried out under this sub-regulation shall not affect the inspection interval provided for in paragraph 2 of Annex XVII of the Directive.

(6) The competent authority may agree to be accompanied, during an inspection of a ro-ro passenger ship or high-speed passenger craft, by an inspector of another Member State acting as an observer. Where the flag of the vessel is that of a Member State, the competent authority shall, upon request, invite a representative of the flag State to accompany the inspection as an observer."

5. Sub-regulation (3) of regulation 10, including its provisos thereof, of the principal regulations shall be deleted. Amends regulation 10 of the principal regulations.

6. Sub-regulation (1) of regulation 11 shall be substituted by the following: Amends regulation 11 of the principal regulations.

"(1) The competent authority shall refuse access to any port or anchorage in Malta to a ship which:

(a) flies the flag of a State whose detention rate falls into the black list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 36 months in a port or anchorage of a Member State or of a State signatory of the Paris MOU, except in the situations described in regulation 16(8); or

(b) flies the flag of a State whose detention rate falls into the grey list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the Commission, and has been detained more than twice in the course of the preceding 24 months in a port or anchorage of a Member State or of a State signatory of the Paris MOU:

Provided that the refusal of access shall be applicable as soon as the ship leaves the port or anchorage where it has been the subject of a third detention and where a refusal of access order has been issued."

7. Sub-regulation (4) of regulation 15 of the principal Amends regulation 15 of the principal regulations.

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regulations shall be substituted by the following:

Cap. 12. "(4) An appeal against a decision for detention or refusal of access may be made before the Courts of Justice, in accordance with the provisions of the Code of Organization and Civil Procedure."
