Sjøfartsdirektoratet
Norwegian Maritime Authority

Circular - Series R

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Adoption Circular for the Regulation concerning amendments to the Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages and amendments to other regulations

I. General information on the regulatory amendments

1. On the adoption

The Norwegian Maritime Authority (NMA) hereby adopts amendments to the Regulations of 28 March 2000 No. 305 on surveys, construction and equipment of passenger ships engaged on domestic voyages, the Regulations of 1 July 2014 No. 1072 on the construction of ships and the Regulations of 22 December 1893 on supervision and certificates for Norwegian ships and mobile offshore units (Certification Regulations).

The proposed amendments were circulated for review from 8 October to 20 November 2024. None of the consultees submitted comments on the proposal.

2. Summary of the amendments

Directive (EU) 2023/946 harmonises the probabilistic damage stability calculation method in SOLAS and the additional requirements laid down in Directive 2003/25/EC. The deadline for implementation of Directive 2023/946 in the EU is 5 December 2024. The directive has been adopted for incorporation into the EEA Agreement; however, the date of entry into force has not yet been determined. In light of the advantages of maintaining identical technical requirements in Norway and the EU, the Norwegian Maritime Authority is adopting amendments to the regulatory framework that correspond in substance to the amendments introduced by the EU legislation. The date of application will be the same as in the EU: 5 December 2024.

Uniform rules in Norway and the EU will ensure both an equivalent level of safety in the EU and Norway, and equal competitive conditions between Norwegian-flagged ships and EU-flagged ships. Harmonised rules will also be advantageous in the event of reflagging of affected ships within the EEA.

Once the relevant EEA Joint Committee Decision enters into force, the affected Norwegian regulations will be amended by including references to the relevant EU legal acts in the preamble as published on Lovdata.

The regulatory amendments may simplify the documentation requirements for newbuildings compared with the requirements currently in force. The level of safety is maintained through an increased required survivability index (R-factor) for ships carrying 1350 persons on board (POB) or fewer, compared with the recently updated SOLAS passenger ship stability standards that entered into force in 2020. At the same time, the original deterministic calculation method remains available as an alternative for these ships.

As a general rule, the provisions apply to ro-ro passenger ships engaged on international voyages. However, pursuant to Article 7 of Directive 2009/45/EC, the stability requirements also apply to ro-ro passenger ships engaged on domestic voyages in Classes A, B and C constructed on or after 1 October 2024, as well as to ro-ro passenger ships in Classes A and B constructed before 1 October 2004.

New ro-ro passenger ships certified to carry more than 1350 passengers shall comply with the stability requirements set out in SOLAS 2020, Chapter II-1 Part B.

For new ro-ro passenger ships certified to carry 1350 passengers or less, the company may choose between compliance with Annex I, Part A, which corresponds to the original requirements laid down in Directive 2003/25/EC, or Annex I, Part B, which requires application of SOLAS 2020, Chapter II-1, Part B, subject to an adjustment to the R-factor requirement set out in SOLAS regulation II-1/B/6.2.3. Both alternatives require compliance, in all cases, with SOLAS Chapter II-1, Part B up to and including B4, in the version in force. Where the new rules set out in Annex I, Part B are applied, significant wave height is no longer a relevant parameter.

Existing ro-ro passenger ships that were in service within the EEA no later than 5 December 2024 shall comply with the original stability requirements laid down in Directive 2003/25/EC. Existing passenger ships that are first placed in service within the EEA after 5 December 2024 may choose between compliance with the new stability requirements or the original requirements.

3. Background to Directive (EU) 2023/946

Following the accident involving the ro-ro passenger ship MS Estonia in 1994, stability requirements for ro-ro passenger ships were introduced into SOLAS. At the same time, the Stockholm Agreement established more stringent stability requirements for the parties to that agreement. The European Commission considered it necessary for the requirements of the Stockholm Agreement to be applied throughout the EU, and these stability requirements were implemented at EU level through Directive 2003/25/EC. It is emphasised in recital 3 of Directive 2003/25/EC that:

> *"the most dangerous problem for the stability of a ro-ro passenger ship with an enclosed ro-ro deck, following collision damage, is the one posed by the effect of a buildup of significant amounts of water on that deck."*

The stability requirements set out in Directive 2003(25/EC have been implemented into Norwegian law through the Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages, sections 8B and 8C, the Regulations on the construction of ships, sections 37 to 42 and the Regulations on the construction and operation of high-speed craft used as passenger craft or cargo craft (hereinafter referred to as the High-Speed Craft Regulations), sections 7A, 8, 8B and 8C. It has not been considered necessary to amend the High-Speed Craft Regulations as a consequence of Directive (EU) 2023/946, see further point II 1.3 below.

By IMO Resolution MSC.421(98), adopted on 15 June 2017, new stability requirements for passenger ships, including ro-ro passenger ships, were introduced at the international level. The EU subsequently carried out an evaluation of the need for amendments to Directive 2003/25/EC. Amending Directive (EU) 2023/946 is based on a number of technical studies and reports comparing the level of safety achieved through the application of the SOLAS rules and the rules set out in Directive 2003/25/EC. For ro-ro passenger ships carrying more than 1350 passengers, it was concluded that the level of safety provided under SOLAS 2020 is at least equivalent to that provided under Directive 2003/25/EC, and that SOLAS 2020 may therefore be applied. For ships carrying 1350 passengers or fewer, it was assessed that additional requirements are necessary for ships engaged in passenger traffic in Europe, beyond the level of safety ensured by SOLAS 2020 alone.

For ro-ro passenger ships certified to carry 1350 persons or fewer, the new calculation rules may be difficult to implement for certain ship designs. Accordingly, an element of choice is provided as regards the calculation method to be applied to such ships. The flag State shall report to the European Commission / EFTA Surveillance Authority (ESA) which calculation method has been applied. After ten years, an assessment shall be carried out as to whether the option to apply the regulatory framework set out in Annex I, Part A should be maintained. This provides the basis for the reporting requirements applicable to these ships.

In both Directive 2003/25/EC and Directive 2023/946, the technical calculation rules are set out in annexes to the Directives themselves. When Directive 2003/25/EC was implemented into the above-mentioned Norwegian regulations, however, the technical rules were incorporated directly into the regulatory text.

4. Legal basis, scope of application and duty holders
The amendments to the individual regulations are based on the following provisions of the Ship Safety and Security Act:

- Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages: sections 9, 11 and 13 of the Ship Safety and Security Act, cf. Formal Delegation of 16 February 2007 No. 171, Formal Delegation of 31 May 2007 No. 590 and Formal Delegation of 19 August 2013 No. 1002

- Regulations on the construction of ships: sections 9, 11 and 13 of the Ship Safety and Security Act, c.f. Formal Delegation of 16 February 2007 No. 171 and Formal Delegation of 31 May 2007 No. 590
- Certification Regulations: sections 9, 11 and 13 of the Ship Safety and Security Act, cf. Formal Delegation of 16 February 2007 No. 171, Formal Delegation of 31 May 2007 No. 590 and Formal Delegation of 19 August 2013 No. 1002

The primary duty holders are the shipping companies.

II. Further details on the regulatory amendments

1.1 General
When Directive 2003/25/EC was implemented into the Regulations on the construction of ships, the Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages and the High-Speed Craft Regulations, the regulatory structure set out in the Directive was to a large extent not followed. As described under point I.2 above, there are now several alternative sets of rules that may be applied. In order to make the provisions easier to understand, the structure of the Regulations has now been aligned more closely with that set out in Directive (EU) 2023/946.

To improve clarity and accessibility, the technical calculation requirements are being moved from operative provisions of the Regulations to annexes. Under the Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages, the existing calculation rules will follow from Annex IV, Section A, while the new rules will follow from Annex IV, Section B. Under the Regulations on the construction of ships, the existing calculation rules will follow from Annex III, Section A, while the new rules will follow from Annex III, Section B. This structure has been chosen as it corresponds to the layout used in Directive (EU) 2023/946.

The primary objective of Directive 2023/946 is to harmonise the existing deterministic rules laid down in Directive 2003/25/EC with the probabilistic standard set out in SOLAS 2009, while maintaining the overall level of safety. As noted above, SOLAS 2020 provides an increased level of safety for ships certified to carry 1350 persons on board or fewer, a need was identified to increase the required survivability index (R-factor). The rules set out in Part B of the annexes are considered easier to apply, as they do not entail any additional documentation requirements beyond those already required under the SOLAS consolidated edition 2020 and Directive 2009/45/EC.

1.2 “Existing” and “new” ro-ro passenger ships
The Directive distinguishes between “existing” and “new” ro-ro passenger ships. An “existing ro-ro passenger ship” is defined in Article 1(1)(b) of the Directive as follows:

> *"'existing ro-ro passenger ship' means a ro-ro passenger ship the keel of which is laid or which is at a similar stage of construction before 5 December 2024; a similar stage of construction means the stage at which:*
> *(i)construction identifiable with a specific ship begins; and*
> *(ii)assembly of that ship has commenced comprising at least 50 tonnes or 1 % of the estimated mass of structural material, whichever is less;"*

A "new ro-ro passenger ship" is defined in Article 1(1)(c) as follows:

> *"'new ro-ro passenger ship' means a ro-ro passenger ship which is not an existing ro-ro passenger ship."*

The Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages already contain the concepts "existing passenger ship"[1] and "new passenger ship"[2]. In those Regulations, however, it is the concept of "new passenger ship" that is explicitly defined, while an "existing passenger ship" is defined as a passenger ship that is not a new ship. The same definitions are applied to ro-ro passenger ships under Directive 2003/25/EC.

In order to avoid confusion arising from the use of differing terminology for passenger and ro-ro passenger ships, the terms "existing" and "new" ro-ro passenger ship are therefore not used in the amended Regulations.

The Regulations on the construction of ships do not contain definitions of "existing" and "new" passenger ships. For reasons of consistency within the regulatory framework, these concepts have likewise not been introduced in the amendments to the Regulations on the construction of ships.

It should be emphasised that the decision not to incorporate these terms has been made solely for practical reasons. Substantively, the amending Regulations treat the concepts of "existing" and "new" ro-ro passenger ships in the same manner as the Directive.

1.3 The High-Speed Craft Regulations

As previously noted, the High-Speed Craft Regulations contain stability requirements for ro-ro passenger ships in sections 7A, 8, 8B and 8C. New high-speed ro-ro passenger ships, however, are subject to the HSC Code and are therefore not required to comply with the stability requirements laid down in the High-Speed Craft Regulations. This follows from section 8 (18) of the High-Speed Craft Regulations, cf. section 2, subparagraph (j) or (k), cf. section 1 (4).

Only high-speed ro-ro passenger ships that are subject to the DSC Code are required to comply with the stability requirements set out in the High-Speed Craft Regulations, cf. section 1 (4), subparagraph (d) and section 8 (18) of those Regulations. These are vessels that were constructed and placed into service in Norway before 5 December 2024, and which therefore continue to be subject to the currently applicable stability requirements. Accordingly, there is no need to amend the High-Speed Craft Regulations.

2. Comments on the provisions

2.1 Amendments to the Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages section 8B. *Stability requirements for ro-ro passenger ships*

The Norwegian Maritime Authority adopts a new formulation of this provision.

[1] See section 2 (c) of the Regulations relating to domestic passenger ships
[2] See section 2 (n) of the Regulations relating to domestic passenger ships

In the heading, the reference to “phasing-out” has been removed, as it is no longer relevant.

The provision first defined what is meant by “ro-ro passenger ship” for the purpose of this section. The second paragraph sets out the stability requirements applicable to new ro-ro passenger ships certified to carry 1350 or fewer persons. The third paragraph specifies the stability requirements applicable to existing ro-ro passenger ships that are put into service after the Directive enters into force. The fourth paragraph specifies the stability requirements applicable to ro-ro passenger ships that were put into regular service in the EEA before the entry into force of the Directive.

The fifth paragraph sets out the reporting obligations of the shipping companies to the Norwegian Maritime Authority. As noted under point 1.3 above, Directive (EU) 2023/946 imposes reporting requirements for new ro-ro passenger ships certified to carry 1350 or fewer persons. The NMA considers it most practical for the shipping companies themselves to submit the required information using a prescribed form. The NMA will subsequently report this information to the EFTA Surveillance Authority (ESA) in accordance with Article 2, second paragraph, of Directive (EU) 2023/946.

In the proposed provision, the stability regime applicable to new ro-ro passenger ships certified to carry more than 1350 persons is not expressly addressed. This is because such ships are, in any event, required to comply with the stability requirements laid down in SOLAS, cf. section 8 (2) (a) of the Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages.

The sixth paragraph also corresponds to the current regulatory framework, cf. section 8B (13) of the Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages. The provision has been amended to clarify that it is the shipping companies that are responsible for compliance with the annex. The Norwegian Maritime Authority considers it sufficient to include a reference to the annex at this point. In the consultation paper, the NMA invited comments as to whether there was a need to include these provisions in a separate appendix to the Regulations. None of the consultation bodies indicated such a need.

Section 8C third paragraph
The provision is not amended substantively. The amendment consists solely in replacing the reference to section 8B with a reference to Appendix IV Section A.

2.2 Amendments the Regulations on the construction of ships

Section 37. ***Damage stability for ro-ro passenger ships engaged in regular service on international voyages***
The content of the second to sixth paragraphs, inclusive, is identical to that of the Regulations on surveys, construction and equipment of passenger ships engaged on domestic voyages, and reference is therefore made to point 2.1 above.

Nor is the stability regime applicable to new ro-ro passenger ships certified to carry more than 1350 persons addressed in this provision. This is because section 3 of the Regulations on the construction of ships provides that such ships shall comply with SOLAS requirements.

Under the current Regulations, there is no provision corresponding to that set out in the sixth paragraph. As the requirement also applies to ships subject to the Regulations on the construction of ships, it is therefore proposed to incorporate this provision in the Regulations.

Section 38. Determination of significant wave height
The first and fourth paragraphs have been amended by replacing the reference to section 37 with a reference to Appendix III Section A. Apart from this, the provision remains unchanged, and the amendments do not entail any substantive changes.

Sections 39 to 41
These provisions are proposed to be amended as the relevant rules now follow from Appendix III Section A.

2.3 Amendments to the Certification Regulations
Sections 6 (1) d and 18 (2) b
Article 8 of the Directive requires that the certificate indicate which stability rules the ship complies with. Norway has until now implemented this requirement by stating the maximum wave height in the approval of stability. This requirement has been implemented in sections 6 (1) d and 18 (2) b of the Certification Regulations.

Under Directive (EU) 2023/946, the requirement follows from Articles 6 and 8. Only the references need to be amended in order to align them with the new Directive. In order to clearly indicate the legal basis for the requirements, reference is now made to the relevant Regulations together with their associated appendices.

III. Administrative and financial implications

Consequences for the industry and affected stakeholders
The new calculation method is not expected to be more time-consuming than the method currently in use. If the requirements are considered during the design phase, the NMA expects the amendments will not have a negative economic impact on the industry. For existing ships that are put into service in the EEA after 4 December 2024, however, the requirements may give rise to conversion or retrofit costs for the shipping companies concerned.

It is considered practical for the shipping companies themselves to submit the information to the NMA that is to be reported onwards, rather than requiring the NMA to extract such information from the submitted documentation. This will entail a certain amount of administrative work for the shipping companies.

Consequences for the authorities
The amending Directive entails implementation of the amendments into the relevant regulatory framework, as well as reporting to the European Commission concerning new ro-ro passenger ships certified to carry 1350 passengers or fewer.

The reporting requirements set out in Article 6 (2) second paragraph are relatively extensive. As indicated above, the workload for the authorities will be reduced if the shipping companies themselves submit the relevant information to the Norwegian Maritime Authority.

Yours faithfully,

Alf Tore Sørheim
Interim Director General of Shipping and Navigation

Linda Bruås
Head of Department
Legislation and International Relations