



**Transport Malta**

**PORTS AND YACHTING DIRECTORATE**

Our Ref: TM/PYD/245/93/2

Port Notice No5 of 2019

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To: Commercial Vessels Owners, Operators, Masters and Crew  
Ship Masters  
Ship Owners and Operators  
Ship Agents  
Marine Terminals and Marine Facilities

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## Counting and Registration of Persons on Board Passenger Ships

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The Authority for Transport in Malta hereby brings to the attention of all the new requirements of Directive 98/41/EC on the registration of persons<sup>1</sup> on board passenger ships operating to or from ports of the Member States as amended by Directive (EU) 2017/2109.<sup>2</sup>

The provisions of Directive (EU) 2017/2109 shall be applicable as from 21<sup>st</sup> December 2019 and have been transposed via the Vessel Traffic Monitoring and Reporting Regulations (S.L. 499.34) and this Port Notice. This Directive has the objective to ensure that passenger ships calling and leaving, or sailing within, Maltese ports, internal and territorial waters are in a position to determine the number of persons boarding, disembarking and remaining on board at every landing place on their respective voyages and in this respect, new requirements have been introduced.

These new requirements shall apply to all passenger ships<sup>3</sup> calling or leaving Maltese ports, internal and territorial waters, or sailing within such waters, with the exception of ships of war and troop

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<sup>1</sup> “persons” shall mean all people on board irrespective of age.

<sup>2</sup> Directive (EU) 2017/2109 of the European Parliament and of the Council of 15<sup>th</sup> November 2017 amending Council Directive 98/41/EC on the registration of persons on board passenger ships operating to or from ports of Member States of the Community and Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States.

<sup>3</sup> “passenger ship” shall mean a ship or a high-speed craft which carries more than 12 passengers. “High-speed craft” shall mean a high-speed craft as defined in Regulation 1 of Chapter X of the 1974 SOLAS Convention.



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ships, pleasure yachts and pleasure craft<sup>4</sup>, and passenger ships exclusively engaged in port areas<sup>5</sup>, and are the following:

- i. Before a passenger ship departs, the number of persons on board shall be communicated to the master of the ship and reported to the Authority by the appropriate technical means in the national single window<sup>6</sup> system PORTNET or by means of the AIS. Owners and operators of vessels shall notify the Authority with the preferred choice of communication and shall immediately notify any changes thereto. Prior to the use of the chosen method, approval by the Authority must be given. All notifications and approvals shall be in writing.
- ii. Where a passenger ship departs from a port in order to undertake a voyage of which distance sailed from the point of departure to the next port of call exceeds 20 miles, the following information shall be recorded:
  - a. The family names of the persons on board, their forenames, their gender, their nationality and their dates of birth;
  - b. When volunteered by a passenger, information concerning special care or assistance that might be needed in an emergency; and
  - c. When volunteered by the passenger, a contact number in the case of an emergency.

This information shall be collected before the passenger ship's departure. It shall be reported in the national single window system PORTNET upon the passenger ship's departure but in no case later than 15 minutes after such departure.

For a transitional period up to 20<sup>th</sup> December 2023, the information in (i) and (ii) above may continue to be communicated to the company's<sup>7</sup> passenger registrar<sup>8</sup> or to the shore-based company system that performs the same function. Should this be the case, the Authority has to be immediately notified in writing in terms of Port Notice 03/2002.

All companies shall have a procedure in place for data registration guaranteeing that the information required is reported in an accurate and timely manner. The Authority shall have access to such information on demand; and, in the event of an emergency or in the aftermath of an incident, such access shall be immediate.

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<sup>4</sup> "pleasure yacht or pleasure craft" shall mean a vessel which is not engaged in trade, regardless of its means of propulsion.

<sup>5</sup> "port area" shall mean an area as defined by the Authority having jurisdiction over it, extending to the outermost permanent harbour works forming an integral part of the harbour system.

<sup>6</sup> The single window is the system established by virtue of Directive 2010/65/EU as transposed by the Vessel Traffic Monitoring and Reporting Requirements Regulations.

<sup>7</sup> "company" shall mean the owner of a passenger ship, or the operator, including charterer, who has assumed responsibility for operating the passenger ship from the owner.

<sup>8</sup> "passenger registrar" shall mean the responsible person designated by a company to fulfill the 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.

Masters of passenger ships are reminded to ensure that the number of persons on board does not exceed the number the passenger ship is permitted to carry before the departure of such passenger ship.

Owners and Operators of passenger ships are hereby also directed to take note of the obligations over companies laid down in Directive 98/41/EC as amended by Directive (EU) 2017/2109 and ensure full compliance therewith at all times.

For the purposes of this Port Notice, personal data shall be collected and recorded in such a way that no undue delay is caused for passengers embarking or disembarking the passenger ship. Such personal data shall be processed only for these purposes and to ensure compliance with Directive 98/41/EC as amended by Directive (EU) 2017/2109. Personal data shall be handled at all times in accordance with the applicable Union and national laws on data protection and privacy, including Regulation (EU) 2016/679;<sup>9</sup> and, without prejudice to other obligations including those for statistical purposes, shall be erased automatically and without undue delay once it is no longer needed.<sup>10</sup>

The provisions of this Port Notice are in addition to and not in derogation of Flag State requirements. Legal and enforcement action may be taken in the event of non-compliance with the above provisions.

The provisions of Port Notice 03/2002, hereto attached for ease of reference, shall remain in force and applicable until the transitional period up to 20<sup>th</sup> December 2023 expires.



Capt David Bugeja  
Chief Officer and Harbour Master

05 December 2019

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<sup>9</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27<sup>th</sup> April 2016 on the protection of natural persons with regard to processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

<sup>10</sup> Personal data collected by the Authority in terms of point (ii) of this Port Notice shall only be kept in any event not longer than: (a) until the moment the passenger ship's voyage in question has been safely completed, but in any case not longer than 60 days after the passenger ship's departure; or (b) in the event of an emergency or in the aftermath of an accident, until any investigation or judiciary proceedings have been completed.



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## MALTA MARITIME AUTHORITY

*Ports Directorate*

MMA/PD 245/93/2

**PORT NOTICE No: 003/02**

August 12, 2002

**Notice To: Ship Owners/Agents**

### **THE MERCHANT SHIPPING (COUNTING AND REGISTRATION OF PERSONS ON BOARD PASSENGER SHIPS) REGULATIONS 2002**

The attention of the shipping community is drawn to the coming into force as on November 01, 2002 LN 149 of 2002 entitled The Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations, 2002.

The objective of these regulations is to ensure that passenger ships flying the Maltese flag or ships sailing within Maltese territorial and internal waters are in a position to determine the number of persons boarding, disembarking and remaining on board, at every landing place on their respective voyages. In this respect, the regulations prescribe the establishment of a counting system that enables ships to fulfill this obligation. The process established by the ship owner for the application of this system, shall be described in written instructions which are to be kept on board by the Master of the ship at all times.

Such system is to be submitted for the approval of the relevant authority, that is the Executive Director (Ports) in the case of passenger ships leaving Maltese landing places, and the Registrar General in the case of Maltese passenger ships leaving any landing places. In the case of Maltese passenger ships leaving Maltese landing places, approval is due by both the Executive Director (Ports) and the Registrar General. By virtue of this notice, it is however being advised that in such cases, the approval of the ship's counting system by the Executive Director (Ports) will automatically be considered as having been granted also by the Registrar General.

The regulations also require the appointment by the ship owner, of a shore based passenger registrar who would be responsible for holding the information collected from the prescribed counting system and for transmitting such information to the appropriate search and rescue services in the event of an emergency or an accident involving the respective ship.



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## MALTA MARITIME AUTHORITY

The regulations require that before a passenger ship leaves its landing place, the total number of persons on board at that time, as determined by the prescribed counting system, should be communicated to the Master of the ship and to the passenger registrar. Any need for special care or assistance in case of emergency, declared by any person on board, also needs to be communicated to the Master. The regulations further lay down the items of information that should be collected and made available by the ship in respect of every passenger counted. As regards ships leaving Maltese landing places, the information requirements contemplated by the regulations should be considered to be without prejudice to the information requirements established by the Authority through its Port Notice 003/2001. The regulations also establish functional criteria that must characterise the information submitted.

Other specific obligations applying to ships in particular circumstances also feature in the regulations, which are by no means comprehensively covered by this notice. It is therefore advisable that ship owners refer directly to the regulations in order to determine the obligations applicable to them therein.

Anthony Caruana  
Operations Manager