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PROPOSAL

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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Delegations will find attached document COM(2022) 53 final.

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Brussels, 18.2.2022
COM(2022) 53 final

2022/0036 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/25/EC as regards the inclusion of improved stability requirements and its alignment with stability requirements defined by the International Maritime Organisation

(Text with EEA relevance)

{SWD(2022) 29 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal concerns a modification of Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships¹.

In the framework of the Commission Regulatory Fitness and Performance Programme (REFIT) and Better Regulation agenda and as an immediate follow-up to the fitness check on EU passenger ship safety legislation², the Commission presented in 2017 three proposals amending such legislation. On 15 November 2017, the European Parliament and the Council adopted Directive 2017/2108³, Directive 2017/2109⁴ and Directive 2017/2110⁵.

Directive 2003/25/EC governing specific stability requirements for ro-ro passenger ships was also part of that fitness check. However, the Commission did not present a proposal for its modification because at that time discussions were taking place within the International Maritime Organization (IMO) on stability standards for ships in damaged condition. Following the adoption of the revised international rules⁶, the Commission is now ready to propose the amendment of EU damage stability requirements.

The general objective of the revision of the EU passenger ship safety legislation is to simplify and streamline the existing regulatory framework, in order to (i) maintain EU rules where necessary and proportionate; (ii) ensure their correct implementation; and (iii) eliminate a potential overlap of obligations and inconsistencies between related pieces of legislation. The overarching objective is to provide for a clear, simple and up-to-date legal framework that is easier to implement, monitor and enforce, thus increasing the overall safety level.

For ships engaged in international voyages, which include voyages between two Member States, international conventions (under the purview of the IMO) and certain EU rules apply. The most relevant convention with respect to safety is the International Convention for the Safety of Life At Sea (SOLAS), 1974, and its Protocol of 1988. General stability requirements contained in SOLAS 90 (as defined in the text of the Directive with all applicable amendments), were established on a deterministic basis and were included in Regulation II-1/B/8 of the SOLAS Convention. These requirements are applicable in the entire Union

¹ OJ L 123, 17.5.2003, p. 22.

² The results of which have been reported to the European Parliament and the Council on 16 October 2015 (COM(2015)508).

³ Directive (EU) 2017/2108 of the European Parliament and of the Council of 15 November 2017 amending Directive 2009/45/EC on safety rules and standards for passenger ships (OJ L 315, 30.11.2017).

⁴ Directive (EU) 2017/2109 of the European Parliament and of the Council of 15 November 2017 amending Council Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the 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 (OJ L 315, 30.11.2017, p. 52).

⁵ 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 (OJ L 315, 30.11.2017, p. 61).

⁶ Rules enshrined in the International Convention on the Safety of Life at Sea – SOLAS '74 as amended (year 2020 amendments referred as SOLAS 2020).

owing to the direct application of the SOLAS Convention to international voyages and the application to domestic voyages of Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (Recast)⁷.

In addition to the international requirements, specific EU rules apply to passenger ships, ro-ro passenger ships and to high speed crafts. Directive 2003/25/EC lays down stability requirements for ro-ro passenger ships in damaged condition for all ro-ro passenger ships operating to or from a port of a Member State on a regular service, regardless of their flag, when engaged in international voyages. It aims to ensure their stability following damage, what improves the survivability of this type of vessels in case of collision damage. In the aftermath of the *MS Estonia* accident on 28 September 1994, eight European countries (including seven Member States) launched the initiative (Stockholm Agreement of 28 February 1996) to introduce a higher damage stability standard for ro-ro passenger ships in damaged condition in order to take into account the effect of water accumulation on the ro-ro deck and to enable the ship to survive in more severe states than the SOLAS 90 standard, up to 4 m significant wave heights. This initiative led the Commission to present a proposal for a Directive and the subsequent adoption of Directive 2003/25/EC by the European Parliament and the Council.

The EU specific stability requirements come on top of the SOLAS damage stability requirements to take account of water on the ro-ro deck when the ship is damaged, the amount of which depends on the freeboard in damaged condition and the significant wave height in the area of operation. The requirements laid down in Directive 2003/25/EC are also applicable to ro-ro passenger ships trading domestically within the European Union through Directive 2009/45/EC. This Directive divides ships and sea areas in four categories (A, B C and D) based on distance from the coast and critical wave height. For ro-ro passenger ships of Class A, B and C, the requirements of Directive 2003/25/EC must be applied.

The REFIT of the passenger ships safety legislation resulted into a recommendation to assess the possibility to align the EU regulatory approach on specific stability requirements for ro-ro passenger ships with international legislation, providing that the current safety level determined by Directive 2003/25/EC is at least maintained.

In view of the differences between the revised SOLAS Convention (version applicable as of 2020) and the specific EU damage stability requirements for ro-ro passenger ships, the need for Directive 2003/25/EC and its added value were assessed based on whether those SOLAS Convention requirements ensure the same safety level.

According to Commission REFIT's conclusions and reflecting developments on the international level, the Commission was given the task to assess the possibility to propose to amend or repeal the specific EU damage stability requirements for ro-ro passenger ships, on the basis of international standards, if these were upgraded (as of 2020) in a satisfactory manner for the Union. With this aim, an expert study was carried out, which analysed the technical and policy options, namely the various options regarding the required subdivision index R, wave height limitations as imposed by Directive 2009/45/EC in a probabilistic concept and alternatives for additional deterministic requirements. It also assessed whether the requirements contained in Directive 2003/25/EC would remain relevant as long as the corresponding safety level determined at international level is not proven equivalent or superior.

⁷ OJ L 163, 25.6.2009, p. 1

Apart from the technical solutions for the damage stability calculations for various types of ships, the expert study results have also led to the recommendation not to account for wave height limitations in the probabilistic concept. The sample ship calculations did not show that wave-height limitations accounted for by either the normalised s-factor or expected critical wave height have significant impact on the overall survivability as expressed by the A-index. Therefore, there is no merit in introducing separate requirements with respect to the operational wave-height limitations for damage stability in a probabilistic concept.

Considering the results of the study and bearing in mind the general goal of simplifying and streamlining the EU regulatory framework for passenger ships safety, a proposal to amend Directive 2003/25/EC has been prepared. Specific objectives of its revision are to:

- Ensure consistency as far as practicable with the recently updated international damage stability standards as agreed at the IMO for passenger ships;
- Reduce the complexity as well as the technical and administrative burden, primarily stemming from two different regimes for evaluating the survivability of ro-ro passenger ships in damaged condition;
- Reduce the ambiguity of definitions and requirements, where possible, in the light of the amended Directive 2009/45/EC; and
- Eliminate outdated provisions concerning international instruments no longer relevant or in force

For the sake of clarity and consistency, this proposal also updates numerous definitions and references to relevant EU legislation and SOLAS Regulations.

- **Consistency with existing policy provisions in the policy area**

The proposal is fully consistent with the three passenger ship safety Amending Directives adopted in December 2017 – Directives 2017/2108, 2017/2109, and 2017/2110. It also ensures consistency with Directive 2009/16/EC⁸ on port state control. The proposal is fully in line with the fitness check recommendations and the 2011 White Paper for the future of transport⁹ that recognised the need to modernise the current EU passenger ship safety legislative framework.

- **Consistency with other Union policies**

The proposal forms part of the Commission's REFIT programme and delivers on its Better Regulation agenda by ensuring that the existing legislation is simple and clear, does not create unnecessary burden and keeps pace with evolving political, societal and technological developments. It also delivers on the goals of the 2018 Maritime Transport Strategy by ensuring quality ferry services in regular intra-EU passenger transport.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal base of the Amending Directive is Article 100(2) TFEU, providing for measures to improve transport safety and for specific provisions for sea transport.

⁸ idem

⁹ White Paper 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system' (COM/2011/0144).

- **Subsidiarity (for non-exclusive competence)**

On request of the Council¹⁰, the EU passenger ship safety legislation has been principally modelled and shaped on the basis of the international requirements and in reaction to a number of major accidents (e.g. the accidents with the *Herald of Free Enterprise*, the *MS Estonia*). Compared to international standards encoded in the IMO conventions, certain aspects have been made more stringent at Union level, as it is the case for the damage stability requirements for ro-ro ships specified in Directive 2003/25/EC.

Most Member States are concerned by the passenger ship safety legislation as flag States as well as port States, the exception being 4 landlocked countries.

- **Proportionality**

The proposal has been prepared in view of the latest developments on the international level and the results of the Commission's technical study that compared the regulatory framework as provided by Directive 2003/25/EC with the one provided by SOLAS 2020, identifying and providing evidence of any potential safety gaps between the two sets of rules. The Commission also identified, assessed and considered alternative measures that could close such safety gaps (towards an increased safety) by taking into account the overall survivability of the ship.

The proposal to amend damage stability requirements for newly built and newly certified ro-ro passenger ships, remove overlaps and outdated definitions and references is considered as the only proportionate and coherent option. It ensures that the current high level of safety is not compromised.

In accordance with the principle of proportionality, a Directive remains the most suitable form for achieving the objectives. It establishes common principles and safety levels, ensures their enforcement but leaves the choice of practical and technical procedures for their implementation to each Member State. In doing so, it leaves it each Member State the responsibility to decide on the implementation tools which best fit its internal system. A Directive also ensures that the simplification objective of this proposal is achieved to the maximum extent possible, albeit it will be ultimately determined by each Member State during implementation.

- **Choice of the instrument**

With a view to ensuring clear and consistent legal drafting, the most adequate legal solution is considered to be an amending Directive.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The fitness check showed that the key objectives of the EU passenger ship safety legislation related to passenger safety are being overall met and remain highly relevant. The EU passenger ship safety legal framework resulted in a common safety level for passenger ships within the Union and a level playing field between operators as well as an increased transfer of ships between Member States. The fitness check also showed that there is scope for further

¹⁰ Council Resolution of 22 December 1994 on the safety of ro-ro passenger ferries (94/C 379/05) (OJ C 379 of 31.12.94, p.8.).

enhancing the level of safety as well as the efficiency and proportionality of some of the regulatory requirements. Recommendations were made to simplify, clarify and repeal a number of ambiguous, outdated or overlapping requirements. With respect to the damage stability requirements, the fitness check recommended to assess the possibility to propose amending or repealing the specific EU damage stability requirements for ro-ro passenger ships, on the basis of the upgraded international standards.

- **Stakeholder consultations**

Given the technical nature of the envisaged proposal, a targeted consultation has been chosen as the most adequate consultation tool. National experts have been consulted in the framework of the Passenger Ship Safety Expert Group. In the framework of the outsourced technical study, two workshops were organised where all the Member States as well as industry and passenger associations were invited to participate.

The results of the technical study outsourced by the Commission for the purposes of the preparation of this revision are provided in the Staff Working Document accompanying the proposal. The proposed structure of damage stability requirements according to the capacity of the ships was supported by a large majority of national experts. Based on carefully reviewed comments made by the national experts and stakeholders, temporary alternatives were introduced in the proposal for newly built ships certified to carry 1350 persons or fewer. The use of these two options would be evaluated ten years after the Amendment's implementation.

All comments and proposals presented by the national experts and industrial stakeholders during the discussions in the expert group meetings were evaluated having in mind the overarching objective of ensuring that the existing level of safety is at least maintained.

- **Collection and use of expertise**

This review builds primarily on the data collected during the fitness check process as reported in the Commission Staff Working Document 'Adjusting course: EU Passenger Ship Safety Legislation Fitness Check', adopted in 16 October 2015¹¹.

In addition to the data and consultation carried out in the framework of the fitness check, the preparation of this simplification proposal necessitated an input from technical and legal experts regarding the concrete formulation of technical definitions and clear legal drafting. This expertise was gathered within the Commission, the European Maritime Safety Agency (EMSA) and the Passenger Ship Safety Expert Group. It is reported on in the Staff Working Document accompanying the proposal.

- **Impact assessment**

The proposal is an immediate follow-up to the fitness check that identified the issues for alignment and simplification in detail and assessed the simplification potential. As highlighted in the Staff Working Document, this proposal is of a highly technical nature. The proposal is based on the results of a technical study conducted in cooperation with highly specialised experts having specific knowledge in this area. In addition, this initiative provides for an alignment with the international rules established by the IMO. In line with the Commission's Better Regulation Guidelines, a fully-fledged impact assessment has not been carried out.

¹¹ SWD(2015)197.

Nonetheless, this proposal is accompanied by a Commission Staff Working Document that recalls the recommendations of the fitness check and explains the rationale of the proposed solutions from a technical as well as a legal perspective. It includes a summary of results of the Commission’s technical study carried out in support of this initiative

- **Regulatory fitness and simplification**

The main objective of this proposal is to reduce complexity, technical and administrative burden with respect to damage stability requirements, primarily stemming from two different regimes of evaluating the survivability of ro-ro passenger ships in damaged condition. It also aims to provide for consistency as far as practicable with the recently updated international damage stability standards as agreed at the IMO for passenger ships. The envisaged alignment with international rules and the simplification will rationalise the calculation burden of shipbuilding companies and operators.

- **Fundamental rights**

The proposal has no consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposal has no implications for the Union budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

According to the Better Regulation Guidance¹², Implementation Plans are not required for directives with very technical scope.

Adequate monitoring and reporting arrangements have been identified for the Member States, considering the fact that alternative technical solutions have been proposed for certain categories of ships in the draft Amending Directive. The key data on newly built ships and the damage stability calculations will be collected and evaluated with the assistance of EMSA. After ten years of the implementation of the revised requirements, an evaluation will be carried out and the Directive would be revised.

- **Explanatory documents (for directives)**

Explanatory documents are not required: while the amended requirements contained in the Directive are of technical nature, they are not of a complex nature for their target recipients.

- **Detailed explanation of the specific provisions of the proposal**

Article 1 of the draft amending Directive forms its main part and contains amendments to numerous provisions of Directive 2003/25/EC.

Purpose, scope and definitions

In point 1, a number of existing definitions is amended, such as “existing ship”, “new ship”, “regular service”, “port state” and “specific stability requirements”.

Significant wave heights

¹² <https://ec.europa.eu/info/sites/default/files/better-regulation-guidelines-preparing-proposals-implementation-transposition.pdf>

Point 2 better defines the notion of “significant wave heights” and limits its application to ships that will comply with the specific damage stability requirements contained in section A of Annex I to Directive 2003/25/EC.

Sea areas

Point 3 has simplified the obligation of Member States to publish their lists of sea areas together with the significant wave heights values.

Specific stability requirements

Point 4 contains the revised specific stability requirements. These rules are divided a) according to the date when the keel of ships was laid or when the ships were at a similar stage of construction; and b) according to the capacity of the ships to carry passengers on board. Existing and already certified ships will continue to apply the current requirements, while newly built and newly certified ships put into regular service operation in the EU will need to comply with the updated international rules (SOLAS 2020 for ships with the capacity to carry more than 1350 persons on board) combined with the specific EU requirement for R-index (SOLAS 2020 + SDC3 level of R-index value - for ships with the capacity to carry 1350 or fewer persons on board).

For a transitional period of ten years, two alternatives of the stability requirements have been provided to ships with the capacity to carry 1350 or fewer persons on board – the current rules in section A of Annex I or the updated ones in section B of Annex I. After the period of ten years, the use of these two options would be evaluated and the Directive revised accordingly.

Point 5 deletes the redundant provisions on the “introduction of the specific stability requirements” – process that followed the adoption of Directive 2003/25/EC.

Point 6 contains necessary amendments to the provisions related to “Certificates”. These changes stem from the introduction of a new section B of Annex I in Directive 2003/25/EC and from the modifications introduced by Directive (EU) 2017/2110, which abandoned the concept of ‘Host State’ and replaced it by the term ‘Port State’.

Point 7 amends provisions related to “Seasonal and short-time period operations”, reflecting the revision of ‘Host State’ to ‘Port State’, as well as the limited application of the significant wave height concept to ships complying with the stability requirements contained in section A of Annex I.

Point 8 announces the review of the implementation of the revised stability requirement ten years after their adoption.

Point 9 contains several formal revisions to the current stability requirement to be contained in section A of Annex I.

Point 10 introduces new specific stability requirements in section B of Annex I.

Point 11 introduces new Annex III, which defines the set of technical data that Member States shall notify to the Commission for all newly built and newly certified ro-ro passenger ships introduced in regular operation in the Union. This data would be used for the purposes of the evaluation of the implementation of the amended Directive 2003/25/EC.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2003/25/EC as regards the inclusion of improved stability requirements and its alignment with stability requirements defined by the International Maritime Organisation

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹³,

Having regard to the opinion of the Committee of the Regions¹⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Directive 2003/25/EC of the European Parliament and of the Council¹⁵ establishes a uniform level of specific stability requirements for ro-ro passenger ships improving the survivability of this type of vessel in case of collision damage and providing a high level of safety for the passengers and the crew in combination with the requirements set out in the SOLAS Convention in force at the date of adoption of the Directive (SOLAS 90).
- (2) The International Maritime Organisation ('IMO') adopted revised specific provisions on stability standards for passenger ships in damaged conditions on 15 June 2017 by Resolution MSC.421(98) which apply also to ro-ro passenger ships. It is necessary to take into account those developments at international level and to align the Union rules and requirements with those established in the International Convention for the Safety of Life at Sea ('the SOLAS Convention') for ro-ro passenger ships engaged in international voyages.
- (3) IMO Resolution 14 of the 1995 SOLAS Conference allowed IMO members to conclude regional agreements if they consider that prevailing sea conditions and other local conditions require specific stability requirements in a designated area. Deterministic damage stability requirements for ro-ro passenger ships set out in Annex

¹³ OJ C , , p. .

¹⁴ OJ C , , p. .

¹⁵ Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships (OJ L 123, 17.5.2003, p. 22).

I to Directive 2003/25/EC differ from the new international probabilistic requirements, where the safety of a ro-ro passenger ship is measured based on the probability of survival after a collision. The international probabilistic regime is set out in chapter II-1 of the SOLAS. The new requirements should be incorporated to Directive 2003/25.

- (4) Requirements laid down in Directive 2009/45/EC of the European Parliament and of the Council¹⁶ remain applicable to ro-ro passenger ships. The assessment for different sizes of ro-ro passenger ships of the safety level ensured by the SOLAS 2020 requirements led to the conclusion that the application of stability requirements according to SOLAS 2020 represents a significant risk reduction for ro-ro passenger ships certified to carry more than 1350 persons on board, compared with the requirements included in Directive 2003/25/EC in combination with the SOLAS Convention as amended by the relevant IMO instruments applicable at the time of its adoption ('SOLAS 90').
- (5) Stability requirements laid down in this Directive for ro-ro passenger ships certified to carry 1350 or fewer persons on board would be difficult to implement for certain designs of those ships. Therefore, economic operators owning or using those ships in a regular service in the Union should have the option to apply the stability requirements applicable before the entry into force of this Directive. The use of such option should be notified by Member States to the Commission together with a set of data related to the ships concerned. Ten years after the date of entry into force of this Directive, the Commission should assess the use of the option in order to decide about a further revision of this Directive.
- (6) For ro-ro passenger ships certified to carry 1350 or fewer persons on board, the optional application of the SOLAS 2020 requirements should be conditional to a higher level of the R-index than the one defined in SOLAS 2020 to achieve the appropriate level of safety.
- (7) In order to ensure the necessary level of safety, specific damage stability requirements should apply also to existing ro-ro passenger ships that have never been certified according to Directive 2003/25/EC and are entering into regular service in the Union.
- (8) In order to enable the Commission to evaluate and report to the European Parliament and the Council on the implementation of this Directive by *[OP : Please insert a date: ten years from the entry into force of this amending Directive]*, Member States should provide data on every new ro-ro passenger ship that is certified after *[OP: Please insert a date: one year from the entry into force of this amending Directive]* for regular service in compliance with the stability requirements contained in this Directive according to the structure set out in the Annex.
- (9) As Directive 2009/16/EC of the European Parliament and of the Council¹⁷ was amended, and Council Directive 1999/35/EC¹⁸ was repealed by Directive (EU) 2017/2110 of the European Parliament and of the Council¹⁹, the concept of the 'host State' is no longer relevant and should therefore be replaced by that of 'port State'.

¹⁶ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

¹⁷ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

¹⁸ Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services (OJ L 138, 1.6.1999, p. 1).

¹⁹ Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017 (OJ L 315, 30.11.2017, p. 61).

(10) Directive 2003/25/EC should therefore be amended accordingly,
HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2003/25/EC

Directive 2003/25/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) points (b) and (c) are replaced by the following:

“(b) ‘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 [*OP, please insert the date: one year after the date of entry into force of this amending Directive*]: 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;

(c) ‘new ro-ro passenger ship’ means a ro-ro passenger ship which is not an existing ship;”;

(b) point (e) is replaced by the following:

“(e) ‘SOLAS Convention’ means the 1974 International Convention for the Safety of Life at Seas and amendments thereto in force;”;

(c) the following points (ea), (eb) and (ec) are inserted:

“(ea) ‘SOLAS 90’ means the 1974 International Convention for the Safety of Life at Seas, as amended by the following IMO instruments:

- Res.MSC.1(45);
- Res.MSC.6(48);
- Res.MSC.11(55);
- Res.MSC.13(57);
- Res.MSC.19(58);
- Res.MSC.26(60);
- Res.MSC.24(60);
- Res.MSC.27(61);
- Res.MSC.31(63);
- SOLAS/CONF.2/21;
- Res.MSC.42(64);
- Res.MSC.46(65);
- Res.MSC.57(67);
- Res.MSC.65(68);

- SOLAS/CONF.4/25;
- Res.MSC.69(69);
- Res.MSC.99(73);
- Res.MSC.117(74);

(eb) ‘SOLAS 2009’ means the 1974 International Convention for the Safety of Life at Seas as amended by Resolution MSC.216(82);

(ec) ‘SOLAS 2020’ means the 1974 International Convention for the Safety of Life at Seas as amended by Resolution MSC.421(98);”;

(d) point (f) is replaced by the following:

“(f) ‘regular service’ means a series of ro-ro passenger 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:

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

(e) point (i) is replaced by the following:

“(i) ‘Port State’ means a Member State to or from whose ports a ro-ro passenger ship is engaged on a regular service;”;

(f) point (k) is replaced by the following:

“(k) ‘specific stability requirements’ means the stability requirements referred to in Article 6;”;

(g) the following point (n) is added:

“(n) ‘operator’ means the legal entity or physical person who has assumed the responsibility for the operation of the ship”;

(2) in Article 3, paragraph 2 is replaced by the following:

“2. Each Member State, in its capacity as Port State, shall ensure that ro-ro passenger ships flying the flag of a State which is not a Member State comply fully with the requirements of this Directive before they may be engaged on voyages in regular service from or to ports of that Member State in accordance with Directive 2017/2110/EC of the European Parliament and of the Council²⁰.”;

(3) Article 4 is replaced by the following:

“Article 4

Significant wave heights

The significant wave heights (h_s) shall be used for determining the height of water on the car deck when applying the specific stability requirements contained in section A of Annex I. The figures of significant wave heights shall be those which are not exceeded by a probability of more than 10 % on a yearly basis.”;

²⁰ 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 (OJ L 315, 30.11.2017, p. 61).

- (4) Article 5 is amended as follows:
- (a) paragraph 1 is replaced by the following:
- “1. Port States shall establish and keep updated a list of sea areas crossed by ro-ro passenger ships operating on regular service to or from their ports as well as the corresponding values of significant wave heights in these areas.”;
- (b) paragraph 3 is replaced by the following:
- “3. The list shall be published in a public database available on the internet site of the competent maritime authority. The location of such information as well as any updates to the list and the reasons for such updates shall be notified to the Commission.”;
- (5) Article 6 is replaced by the following:

“Article 6

Specific stability requirements

1. Without prejudice to the application of Directive 2009/45/EC, new ro-ro passenger ships certified to carry more than 1350 persons on board shall comply with the specific stability requirements set out in SOLAS 2020, Chapter II-1, Part B.
2. Upon the choice of the operator, new ro-ro passenger ships certified to carry 1350 or fewer persons on board shall comply with:
 - (a) the specific stability requirements set out in Annex I, section A, to this Directive, or
 - (b) the specific stability requirements set out in Annex I, section B, to this Directive.

For each such ship, the Flag State administration shall notify the Commission within a period of two months from the date of issuance of the certificate referred to in Article 8 of the choice made of the option referred to in points a or b of the first subparagraph and include with such notification the details referred to in Annex III.

3. In applying the requirements set out in Annex I, section A, Member States shall use the guidelines set out in Annex II, insofar as this is practicable and compatible with the design of the ship in question.
4. Upon the choice of the operator, existing ro-ro passenger ships certified to carry more than 1350 persons on board, introduced to the regular service operation to or from a port of a Member State after [*OP: Please insert the date: one year after the date of entry into force of this amending Directive*] which were never certified according to this Directive, shall comply with:
 - (a) the specific stability requirements set out in SOLAS 2020, Chapter II-1 Part B; or
 - (b) the specific requirements set out in Annex I, section A, to this Directive, in addition to those laid down in SOLAS 2009, Chapter II-1 Part B.

The applied standard shall be noted in the ship’s certificate required under Article 8.

5. Upon the choice of the operator, existing ro-ro passenger ships certified to carry 1350 or fewer persons on board, introduced to the regular service operation to or from a port of a Member State after *[OP: please insert the date one year after the date of entry into force of this amending Directive]* which were never certified according to this Directive, shall comply with:
 - (a) the specific stability requirements set out in Annex I, section A, to this Directive,
 - (b) the specific stability requirements set out in Annex I, section B, to this Directive, or
 - (c) the specific stability requirements set out in Annex I, section A, to this Directive, in addition to those laid down in SOLAS 2009, Chapter II-1, Part B.

The applied standard shall be noted in the ship's certificate referred to in Article 8.

6. Existing ro-ro passenger ships that were engaged in regular service operation to or from a port of a Member State by *[OP: please insert the date one year after the date of entry into force of this amending Directive]* shall comply with the specific stability requirements set out in Annex I as it stood before the entry into force of *[OP: please insert the name of this amending Directive].*";

(6) Article 7 is deleted.

(7) Article 8 is replaced by the following:

“Article 8

Certificates

1. All new and existing ro-ro passenger ships flying the flag of a Member State shall carry a certificate confirming compliance with the specific stability requirements referred to in Article 6.

The certificates shall be issued by the administration of the flag State and may be combined with other related certificates. For ro-ro passenger ships complying with the specific stability requirements encoded in Annex I, section A, the certificate shall indicate the significant wave height up to which the ship can satisfy the specific stability requirements.

The certificate shall remain valid as long as the ro-ro passenger ship operates in an area with the same or a lower value of significant wave height.

2. Each Member State acting in its capacity as Port State shall recognise certificates issued by another Member State in compliance with this Directive.

3. Each Member State acting in its capacity as Port State shall accept certificates issued by a third country certifying that a ro-ro passenger ship complies with the specific stability requirements laid down in this Directive.”;

(8) Articles 9 is replaced by the following

“Article 9

Seasonal and short-time period operations

1. If a shipping company operating a regular service on a year-round basis wishes to introduce additional ro-ro passenger ships to operate for a shorter

time period on that service, it shall notify the competent authority of the Port State or States not later than one month before said ships are operated on that service.

2. However, in cases where, following unforeseen circumstances, a replacement ro-ro passenger ship must be introduced rapidly to ensure continuity of service, instead of the notification requirement of paragraph 1, Article 4(4) of Directive (EU) 2017/2110 and Annex XVII, point 1.3, to Directive 2009/16/EC of the European Parliament and of the Council²¹ shall apply.

3. If a shipping company wishes to operate seasonally a regular service for a shorter time period not exceeding six months a year, it shall notify the competent authority of the Port State or States no later than three months before such operation takes place.

4. For ro-ro passenger ships complying with the specific requirements in Annex I, section A, where operations, as referred to in paragraphs 1 and 2 of this Article, take place under conditions of lower significant wave height than those established for the same sea area for all-year-round operation, the significant wave height value applicable for this shorter time period may be used by the competent authority for determining the height of water on the deck when applying the specific stability requirements contained in Annex I, section A. The value of the significant wave height applicable for this shorter time period shall be agreed between the Member States or, wherever applicable and possible, between Member States and third countries at both ends of the route.

5. Following agreement of the competent authority of the Port State or States for operations within the meaning of paragraphs 1 and 2, the ro-ro passenger ship which undertakes such operations shall be required to carry a certificate confirming compliance with the provisions of this Directive, as provided for in Article 8(1).”;

- (9) The following Article 13a is inserted:

“Article 13a

Review

The Commission shall evaluate the implementation of this Directive and submit the results of the evaluation to the European Parliament and the Council by *[OP: Please insert a date: ten years from the date of entry into force of this amending Directive]*. Information based on the notifications referred to in Article 6(2) shall be made available in anonymised form.”;

- (10) Annexes I and II to Directive 2003/25/EC are amended in accordance with Annex I to this Directive;
- (11) The text set out in Annex II to this Directive is added as Annex III to Directive 2003/25/EC.

²¹ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p. 57).

Article 2

Transposition

1. Member States shall adopt and publish, by [*OP: Please insert a date: one year from the date of entry into force of this amending Directive*] the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President