



IPTM - Instituto Portuário e dos Transportes Marítimos, I.P.

**DIRECÇÃO DE SERVIÇOS DE SEGURANÇA MARÍTIMA**  
Edifício Vasco da Gama  
Rua General Gomes Araújo 1399-005 LISBOA, PORTUGAL  
Telefone: 213914500 – Fax: 213914600 - [www.imarpor.pt](http://www.imarpor.pt)

## Information Note N.º 11

Date: 19-12-2012

Pages: 3

<b>Subject:</b>	<b>Implementation of Regulation (EC) 392/2009 on the liability of carriers of passengers by sea in the event of accidents</b>
<b>Addressed to:</b>	Owners, ship owners and/or operators, companies, masters and insurers of passenger ships

### NOTE

This Information Note is to be read together with Regulation (EC) 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents.

### PURPOSE

This Information Note provides information that should help to ensure that Portuguese flagged passengers vessels and non-EU flagged passenger vessels, hereinafter non-EU States, which use Portuguese ports, are issued with the certificate required by Regulation (EC) 392/2009 ahead of 31 December 2012.

### INTRODUCTION

The Regulation (EC) 392/2009 creates an-wide regime relating to liability and insurance for the carriage of passengers by sea.

This Regulation reproduces relevant provisions of the Athens Convention relating to the Carriage of Passengers and the Luggage by Sea, 1974, as amended by the Protocol of 2002 and the International Maritime Organisation's Reservation and Guidelines for the implementation of the Athens Convention which were adopted by the Legal Committee of the IMO on 19 October 2006.

The 2002 Protocol enhances the existing 1974 Convention by introducing the concept of strict liability in respect of claims for passenger death and injury in relation to claims of up to 250,000 SDRs<sup>1</sup> (Special

<sup>1</sup> SDR – Special Drawing Rate (or Unit of Account) – is an international reserve asset created by the International Monetary Fund (IMF) in 1969 to supplement its member countries' official reserve. At time of publication 1 SDR was worth around € 0,860.

Drawing Right). From 31 December 2012 the limits of liability for death and personal injury will be increased to 400,000 SDR per passenger as a result of a shipping-related incident.

Performing carriers operating passenger ships under the jurisdiction of the EU and EEA member States will also be required to maintain insurance to cover liability for death and personal injury to passengers. The limit of this compulsory insurance must not be less than 250,000 SDR per passenger.

The EU Regulation includes specific provisions for the payment of claims up to a defined limit in cases of death or injury, and compensation for damage to mobility equipment. Furthermore, the 2002 Protocol also introduces a requirement for carriers to have insurance cover for war and terrorism liabilities.

## **SCOPE OF THE EU REGULATION**

The EU Regulation will apply to any international carriage where:

- a) the vessel is registered in an EU or EEA Member State; or
- b) the contract of carriage is made in an EU or EEA Member state; or
- c) the place of departure, or destination, according to the contract of carriage, is in an EU or EEA Member State.

The EU Regulation will apply also to carriage of passengers within Portugal:

- From 31 December 2016 onboard ships of EU Class A; and
- From 31 December 2018 for the domestic carriage of passengers onboard ships of EU Class B.

## **INSURANCE CERTIFICATION**

As from 31 December 2012 all passenger ships to which the Regulation applies will be issued a certificate attesting that appropriate insurance or other financial security is in place, under article 4.<sup>o</sup>-A of the mentioned regulation.

The certificates of Portuguese flagged passenger ships will be issued by Instituto Português e dos Transportes Marítimos, I.P. (IPTM, I.P.) in the Portuguese language and are to be onboard the ship all the time.

Such certificates will be issued according to the commencement and expiry date stipulated on the blue card or financial guarantee provided by the insurer or other provider of financial security. Under no circumstances will certificates be issued for periods greater than 12 months commencing at any point in the calendar year. The commencement and expiry date of both war and non-war insurance cover required for an individual vessel should be identical.

Owners of passenger ships covered by the Regulation shall seek to obtain the insurance certificate from IPTM, I.P., submitting evidence of having subscribed an insurance or other financial security, in particular a bank guarantee or other similar institution, for covering liability for the death of and personal injury to passengers. The scope and amount of cover must be equal to that described in article 4bis of the Regulation and the provisions of the IMO Guidelines on the implementation of the Athens Convention.

The existing certificates onboard ships registered by non-EU States, which use EU ports and terminals, will be recognised by Portugal if issued by, or under, the authority of the Government of an EU or EEA Member State. When the 2002 Protocol enters into force internationally, passenger ships flagged to non-EU State and using ports of the EU shall hold a certificate of insurance obtained by a EU or EEA Member State or a State party to the 2002 Protocol.

Noting that the insurance year for ships entered in the 13 P&I Associations comprising the International Group of P&I Clubs normally runs from 20 February, IPTM, I.P. will accept requests for two certificates covering the periods from 31 December 2012 to 20 February 2013, and from 20 February 2013 to 20 February 2014.

**More Information:**

INSTITUTO PORTUARIO E DOS TRANSPORTES MARÍTIMOS, I.P.

**DIRECÇÃO DE SERVIÇOS DE SEGURANÇA MARÍTIMA**

Edifício Vasco da Gama

Rua General Gomes Araújo 1399-005 LISBOA, PORTUGAL

Telefone: 213 914 500 – Fax: 213914600

[www.imarpor.pt](http://www.imarpor.pt)

e-mail: [dsm.dns@imarpor.pt](mailto:dsm.dns@imarpor.pt)