
 STATUTORY INSTRUMENTS

1981 No. 573

MERCHANT SHIPPING

SAFETY

**The Merchant Shipping (Cargo Ship Safety Equipment Survey)
Regulations 1981**

<i>Made</i> - - - -	8th April 1981
<i>Laid before Parliament</i>	10th April 1981
<i>Coming into Operation</i>	1st May 1981

The Secretary of State, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979(a), in exercise of the powers conferred on him by subsection (1)(a), paragraphs (a), (p) and (q) of subsection (3), and subsections (4), (5) and (6) of section 21 and by section 22(1)(c) and (d) and (3)(b) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Cargo Ship Safety Equipment Survey) Regulations 1981 and shall come into operation on 1st May 1981.

(2) In these Regulations:

“anniversary date” means the date in each year corresponding to the date of expiry of the cargo ship safety equipment certificate;

“international voyage” means a voyage from a port in one country to a port in another country;

“Merchant Shipping Notice” means a Notice described as such, issued by the Department of Trade and published by Her Majesty’s Stationery Office and includes a reference to any document amending that Notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“nominated surveyor” means a surveyor nominated by the Secretary of State to undertake the surveys required by these Regulations and includes a marine surveyor of the Department of Trade;

“prescribed” means prescribed in regulations made by the Secretary of State;

“proper officer” means a consular officer appointed by Her Majesty’s Government in the United Kingdom and, in relation to a port in a country outside the United Kingdom which is not a foreign country, also any officer exercising in that port functions similar to those of a superintendent;

“safety equipment” means life-saving appliances, fire appliances, lights, shapes, means of making sound signals, pilot ladders and associated equipment, mechanical pilot hoists, echo-sounder installations, gyro compass installations, direction-finder installations and radar installations;

“Safety Regulations” means the Merchant Shipping (Life-saving Appliances) Regulations 1980(a), the Merchant Shipping (Fire Appliances) Regulations 1980(b), the Merchant Shipping (Fire Appliances) Rules 1965(c), the Collision Regulations and Distress Signals Order 1977(d), the Merchant Shipping (Navigational Equipment) Regulations 1980(e), and the Merchant Shipping (Pilot Ladders and Hoists) Regulations 1980(f);

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature;

“tons” means gross tons and the gross tonnage of a ship having alternative gross tonnages shall be taken to be the larger of those tonnages;

“United Kingdom ship” has the same meaning as in section 21(2) of the Merchant Shipping Act 1979.

Application, exemption and transitional provisions

2.—(1) Subject to paragraph (2) of this regulation, these Regulations apply in relation to sea-going United Kingdom ships (except passenger ships, fishing vessels and pleasure craft) of 500 tons or over engaged in international voyages.

(2) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

(3) Every ship in relation to which these Regulations apply and in respect of which a safety equipment certificate has been issued before these Regulations come into operation and remains in force, shall be surveyed in accordance with regulation 4 not later than 12 months after these Regulations come into operation unless, during that period, the ship is surveyed in accordance with regulation 3.

Survey before issue of a cargo ship safety equipment certificate

3.—(1) The owner of every ship in relation to which these Regulations apply and in respect of which a cargo ship safety equipment certificate has not been issued or requires to be renewed, shall cause the same to be surveyed by a nominated surveyor subject to the provisions of regulation 5 and any application for a survey shall be accompanied by such information relating to the ship as the nominated surveyor may require for the purposes of the survey.

(2) Every application for the survey of a ship under this regulation shall be made by or on behalf of the owner of the ship to the Secretary of State and be accompanied by the prescribed fee.

(3) The nominated surveyor shall, upon receipt of an application, survey the ship and satisfy himself that the safety equipment:

(a) complies with the requirements of the Safety Regulations applicable to the ship, or is exempt from those requirements, and

(a) S.I. 1980/538.

(b) S.I. 1980/544.

(c) S.I. 1965/1106, amended by S.I. 1974/2185, 1980/541.

(d) S.I. 1977/982; relevant amending instruments are S.I. 1977/1301, 1979/1659.

(e) S.I. 1980/530.

(f) S.I. 1980/543.

(b) is in all respects satisfactory for the service for which the ship is intended, having regard to the period for which a cargo ship safety equipment certificate in respect of the ship is to be issued.

(4) The nominated surveyor, if satisfied on the survey that he may properly do so, shall forward to the Secretary of State a Declaration of Survey containing such particulars of the ship and its equipment as are required by the Secretary of State to enable him to issue a cargo ship safety equipment certificate in respect of the ship.

Annual and intermediate surveys

4.—(1) The owner of every ship in respect of which a cargo ship safety equipment certificate has been issued shall, subject to the requirements of regulations 2(3) and 5 and so long as the certificate remains in force, cause the ship to be surveyed at the interval and in the manner specified in paragraphs (2) and (4) of this regulation, for the purpose of seeing whether the certificate should remain in force, and if the ship is not so surveyed, the Secretary of State may cancel the certificate.

(2) The survey shall be termed an intermediate survey in respect of tankers of ten years of age and over and an annual survey in respect of other ships. The survey shall be carried out within three months before or after the anniversary date of the cargo ship safety equipment certificate. The age of a ship shall be determined from the year of build as indicated on the ship's certificate of registry.

(3) Every application for the survey of a ship under this regulation shall be made by or on behalf of the owner of the ship to the Secretary of State and any application for a survey shall be accompanied by such information relating to the ship as the Secretary of State may require for the purposes of the survey and the prescribed fee.

(4) The nominated surveyor shall, upon receipt of an application, survey the ship in accordance with the procedures specified by the Secretary of State in Merchant Shipping Notice M963 and shall satisfy himself:

- (a) that such parts of the ship and its equipment specified in the Merchant Shipping Notice as are the subject of the application for survey remain efficient and
- (b) that no material alterations have been made in the equipment of the ship to which the cargo ship safety equipment certificate relates without the approval of the Secretary of State.

(5) On completion of the survey in accordance with the requirements of the preceding paragraph, the nominated surveyor shall, where he is so satisfied:

- (a) in the case of an intermediate survey of a tanker of ten years of age and over, endorse the supplement to the cargo ship safety equipment certificate, or
- (b) in the case of an annual survey, endorse the attachment to the cargo ship safety equipment certificate to that effect.

Surveys by marine surveyors of the Department of Trade

5.—(1) A survey made pursuant to regulations 3 or 4 of these Regulations in a port in the United Kingdom or the territorial waters thereof shall be carried out by a marine surveyor of the Department of Trade.

(2) After the date these Regulations come into operation at least one survey pursuant to regulation 3 or 4 in any period of five years shall be carried out by a marine surveyor of the Department of Trade.

Responsibilities of owner and master

6.—(1) The owner or master of every ship in relation to which these Regulations apply shall ensure that:

- (a) the condition of the safety equipment is maintained so as to comply with the relevant Safety Regulations;
- (b) after any survey required by these Regulations has been completed, no material change shall be made in the safety equipment subject to such survey without the approval of the Secretary of State; and
- (c) whenever an accident occurs to a ship or a defect is discovered either of which affects the safety of the ship or the efficiency or completeness of its safety equipment, it shall be reported at the earliest opportunity to the Secretary of State or a proper officer, either of whom shall cause investigations to be initiated to determine whether a survey by a nominated surveyor is necessary and shall in that event require such a survey to be carried out. If the ship is in a port outside the United Kingdom the master or owner shall, in addition, make such a report immediately to the appropriate authorities of the country in which the port is situated.

(2) The nominated surveyor shall ascertain from the appropriate authorities of the country in which the port is situated that the report referred to in paragraph (1)(c) of this regulation has been made.

Procedure to be adopted when safety equipment is deficient

7.—(1) In any case where the nominated surveyor determines that the condition of the safety equipment does not correspond substantially with the particulars of the cargo ship safety equipment certificate or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the nominated surveyor shall advise the owner or master of the corrective action which in his opinion is required, and shall notify the Secretary of State.

(2) If such corrective action is not taken within such period (being a reasonable period) as the nominated surveyor may specify, the nominated surveyor shall, at the end of that time, immediately notify the Secretary of State who may, on receipt of such notification, suspend the validity of the cargo ship safety equipment certificate issued in relation to the ship. The Secretary of State shall give notice of any such suspension to the owner and to the nominated surveyor; the nominated surveyor shall notify the master.

(3) The master shall thereupon deliver up the certificate issued in relation to the ship to the nominated surveyor on demand and the owner shall on receipt of notice of suspension deliver up the duplicate certificate to the Secretary of State.

(4) When the nominated surveyor is satisfied that corrective action has been taken he shall notify the Secretary of State. The Secretary of State shall thereupon, in any case where the validity of the certificate has been suspended:

- (a) restore the validity of the certificate;
- (b) give notice thereof to the owner; and
- (c) return the duplicate certificate to the owner.

The nominated surveyor shall return the certificate issued in relation to the ship, to the master.

(5) Where the ship is not within a United Kingdom port and corrective action in accordance with paragraph (2) of this Regulation has not been taken, the nominated surveyor shall in addition immediately notify the appropriate authorities of the country in which the port is situated.

Penalties

8. If a ship to which these Regulations, proceeds or attempts to proceed to sea without the requirements of these Regulations having been complied with, the owner or master of the ship shall each be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

Power to detain

9. In any case where a ship to which these Regulations apply does not comply with the requirements of these Regulations, the ship shall be liable to be detained and section 692 of the Merchant Shipping Act 1894(a) (which relates to the detention of a ship) shall have effect in relation to the ship, subject to the modification that for the words "this Act" wherever they appear there shall be substituted "the Merchant Shipping Acts 1894 to 1979 or any Regulations made thereunder".

Trefgarne,

Parliamentary Under Secretary of State,
Department of Trade.

8th April 1981.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations give effect to certain provisions of the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea 1974 (Cmnd. 7346), obtainable from Her Majesty's Stationery Office. They introduce requirements in respect of safety equipment certification additional to those set out in the Merchant Shipping (Safety Convention) Act 1949 (c. 43). (The 1949 Act has effect by virtue of the Merchant Shipping (Safety Convention) Act 1977 (c. 24) and the Merchant Shipping (Modification of Enactments) Regulations 1981 (S.I. 1981/568) as if it referred to the 1974 Convention and to the 1978 Protocols). The requirements are as follows:

- (1) United Kingdom seagoing ships (except passenger ships, fishing vessels and pleasure craft) of 500 tons or over engaged in international voyages must now have the safety equipment in the ship surveyed within three months before or after the date in each year corresponding to the date of expiry of the safety equipment certificate (regulation 4(2)). The survey for the issue of a safety equipment certificate will include safety equipment additional to that specified in section 8 of the 1949 Act.

(a) 1894 c. 60.

- (2) Section 11 of the 1949 Act applies to these certificates and requires notice of alteration in the safety equipment to be given to the Secretary of State; if notice is not given the certificate is liable to cancellation. These Regulations, in addition, enable the validity of certificate to be suspended by the Secretary of State if corrective action in respect of deficiencies in the safety equipment is not taken by the owner or master (regulation 7).
- (3) Section 12 of the 1949 Act prohibits proceeding to sea without a safety equipment certificate and, as amended by section 43(2) of and Part V of Schedule 6 to the Merchant Shipping Act 1979, specifies a maximum penalty for contravention of this prohibition of a fine on conviction on indictment and a fine not exceeding £1,000 on summary conviction.
- (4) The miscellaneous provisions set out in sections 8, 11 and 13 of the 1949 Act apply to certificates issued pursuant to these Regulations. They make provision for the issue of exemption certificates, notice of alterations and additional surveys and appeal to a court of survey, specify the duration of the certificate as two years or such shorter period as is specified therein, and provide for this period to be extended. Section 13(9) makes provision for ships to be surveyed in other countries to which the Protocol applies and this will continue; in addition surveyors may be nominated by the Secretary of State.
- (5) The procedure for annual and intermediate surveys is to be specified by the Secretary of State in a Merchant Shipping Notice (regulation 4(4)). Any survey made in the United Kingdom or the territorial waters thereof is to be undertaken by a Department of Trade surveyor. Surveys carried out elsewhere may be made by a surveyor nominated by the Secretary of State or by surveyors of countries to which the Protocol applies but, whether or not the safety equipment has been so surveyed, at least one survey must be made by a Department of Trade surveyor in each period of five years (regulation 5). The Merchant Shipping Notice is obtainable from the Department of Trade Marine Library, Sunley House, Holborn, London WC1V 6LP and from any Department of Trade mercantile marine office or marine survey office.

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