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STATUTORY INSTRUMENTS

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**1991 No. 1341**

**MERCHANT SHIPPING**

**The Merchant Shipping (Radio and Radio-Navigational Equipment Survey) Regulations 1991**

<i>Made</i>	- - - -	<i>7th June 1991</i>
<i>Laid before Parliament</i>		<i>10th June 1991</i>
<i>Coming into force</i>	- -	<i>1st July 1991</i>

The Secretary of State for Transport, after consulting with the persons referred to in section 22(2) of the Merchant Shipping Act 1979(1), in exercise of the powers conferred on him by sub-sections (1), (3), (4), (5) and (6) of section 21 and sub-sections (1) and (3) of section 22 of that Act and of all other powers enabling him in that behalf hereby makes the following Regulations:

**Citation, commencement, interpretation and revocation**

1.—(1) These Regulations may be cited as the Merchant Shipping (Radio and Radio-Navigational Equipment Survey) Regulations 1991 and shall come into force on July 1st 1991.

(2) In these Regulations—

“appointed surveyor” means a surveyor authorised or appointed to carry out a survey pursuant to these Regulations;

“British Telecom” means British Telecommunications plc;

“British Telecom surveyor” means a surveyor appointed by British Telecom to carry out a survey pursuant to these Regulations;

“cargo ship” means a ship to which the radio rules apply, other than a passenger ship;

“Certifying Authority” means the person who is to issue a certificate to which a survey carried out pursuant to these Regulations relates;

“Convention State” means a state which is a party to the Safety Convention;

“passenger certificate” means a certificate issued pursuant to section 7 of the Merchant Shipping (Safety Convention) Act 1949(2) or regulation 83 of the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984(3);

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

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(1) 1979 c. 39; section 21(6) was amended by section 49 of the Criminal Justice Act 1982 (c. 48).

(2) 1949 c. 43.

(3) S.I.1984/1216, to which there are amendments not relevant to these Regulations.

“proper Authority ” means in relation to a Convention State the authority appointed by the government of that state to carry out its obligations in relation to surveys and certificates;

“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;

“radio certificate ” means a cargo ship safety radiotelegraphy certificate or a cargo ship safety radiotelephony certificate, in either case in the form specified for that certificate in the appendix to the Safety Convention;

“radio-navigational equipment rules ” means Parts III, VI, VII and VIII of the Merchant Shipping (Navigational Equipment) Regulations 1984(4); and “radio- navigational equipment ” means the equipment required by those Parts;

“radio equipment ” means the equipment required by the radio rules other than radio-navigational equipment;

“radio rules ” means the Merchant Shipping (Radio Installations) Regulations 1980(5), the radio-navigational equipment rules and regulations 3(5), 4(11), 11(13), 12(5), 22(8) and 39(1) of the Merchant Shipping (Life-Saving Appliances) Regulations 1980(6) and regulations 5(6), 6(8), 7(9), 8(11) and 10(3) of the Merchant Shipping Life-Saving Appliances) Regulations 1986(7);

“Safety Convention ” means the International Convention for the Safety of Life at Sea 1974;

“tons ” means gross tons and—

- (a) for a ship having an alternative gross tonnage under paragraph 13 of Schedule 5 to the Merchant Shipping (Tonnage) Regulations 1982(8) means the larger of those two tonnages, and
- (b) for a ship having its tonnage determined both under Part II and regulation 16 of those Regulations means its gross tonnage as determined under regulation 16.

(3) The Merchant Shipping (Radio Installations Survey) Regulations 1981(9) are hereby revoked.

(4) Section 33(3) of the Merchant Shipping (Safety Convention) Act 1949 is hereby modified by adding at the end “except in the case of fees payable for services performed by British Telecommunications plc pursuant to the Merchant Shipping (Radio and Radio-Navigational Equipment Survey) Regulations 1991 ”.

### **Survey requirement**

2.—(1) The owner of every ship to which the radio rules apply and in respect of which, in the case of a cargo ship a radio certificate is required to be issued or renewed, and in the case of a passenger ship a passenger certificate is required to be issued or renewed, shall cause the ship to be surveyed in accordance with these Regulations to ascertain whether it complies with such of the radio rules as are applicable to the ship.

(2) The survey required by paragraph (1) shall be carried out annually, subject to any extensions of the period of validity of the relevant certificate prescribed or permitted by the Secretary of State.

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(4) S.I. 1984/1203, to which there is an amendment not relevant to these Regulations.

(5) S.I. 1980/529.

(6) S.I. 1980/538; relevant amending instrument is S.I. 1991/1300.

(7) S.I. 1986/1066; relevant amending instrument is S.I. 1991/1300.

(8) S.I. 1982/841, to which there is an amendment not relevant to these Regulations.

(9) S.I. 1981/583.

## **Surveyors**

3.—(1) Where a survey pursuant to these Regulations is to be carried out at a port in the United Kingdom it shall be carried out by a British Telecom surveyor; provided that where the survey relates to radio-navigational equipment only it may be carried out by a surveyor of the Department of Transport.

(2) Where a survey pursuant to these Regulations is to be carried out at a port outside the United Kingdom it shall be carried out, at the option of the shipowner, by

- (a) a British Telecom surveyor, or
- (b) if the port is a country or area in respect of which the Secretary of State has appointed a local surveyor, by that local surveyor, or
- (c) if the port is in a Convention State and the proper authority of that state so permits, by a surveyor appointed by that proper authority.

## **Applications for survey**

4.—(1) Applications for surveys pursuant to these Regulations shall be made by or on behalf of the owner of the ship as follows:—

- (a) if the application is for a survey of radio-navigational equipment to be carried out by a surveyor appointed by the Department of Transport it shall be made to the Secretary of State;
- (b) if the application is for a survey to be carried out by a British Telecom surveyor it shall be made to British Telecom;
- (c) if the application is for a survey to be carried out by a local surveyor it shall be made to him direct or to the Secretary of State;
- (d) if the application is for a survey to be carried out at a port in a Convention State by the proper Authority of that state, it shall be made to that authority through the proper officer at the port in question.

(2) All applications shall be accompanied by such information as the surveyor or the Certifying Authority may reasonably require.

## **Duties of surveyors**

5.—(1) A surveyor appointed to carry out a survey shall survey the ship and satisfy himself that the radio equipment and the radio-navigational equipment of the ship

- (a) comply (subject to any exemption granted in respect of the ship) with all the requirements of the radio rules which are applicable to the ship (or, if the survey is a survey of radio-navigational equipment only, with all the requirements of the radio-navigational equipment rules) and
- (b) are in all respects satisfactory for the service for which the ship is intended having regard to the period for which the relevant certificate is to be issued.

(2) The appointed surveyor, if satisfied as mentioned in paragraph (1), shall complete a Declaration of Survey containing such particulars as may be required by the Certifying Authority to enable it to issue the relevant certificate; and shall deliver the Declaration of Survey to the Secretary of State if the ship is a passenger ship, and in any other case to British Telecom.

## **Issue of radio certificates**

6. On receipt of a Declaration of Survey in respect of a cargo ship, British Telecom shall, if satisfied that the ship complies with all the radio rules applicable to it (and provided that the

prescribed fee has been paid), issue a radio certificate in respect of the ship in the form and for the period specified in the Safety Convention for radio certificates.

### **Exemptions**

7.—(1) 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.

(2) Before an exemption certificate or a document granting a partial exemption from any of the radio rules is issued, the fee prescribed in respect thereof shall be paid.

### **Responsibilities of owner and master**

8. The owner or master of every ship to which the radio rules apply shall ensure:

- (a) that the condition of the radio equipment and the radio-navigational equipment is maintained so as to comply with the radio rules;
- (b) that after any survey required by these Regulations has been completed, no material change is made in the radio equipment or the radio-navigational equipment which was subject to such survey without the approval of the Certifying Authority; and
- (c) that whenever an accident occurs to a ship or a defect is discovered either of which affects the efficiency or completeness of its radio equipment or its radio-navigational equipment, the accident or defect is 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 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 then:
  - (i) the master or owner shall, in addition, make such a report immediately to the proper Authority of the state in which the port is situated, and
  - (ii) the appointed surveyor shall ascertain from the proper Authority in question that that report was duly made.

### **Procedure to be adopted when radio installations are deficient**

9.—(1) In any case where the appointed surveyor determines that the condition of the radio or the radio-navigational equipment does not correspond substantially with the particulars of the radio certificate or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, he 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 appointed surveyor may specify, he 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 radio certificate issued in relation to the ship. The Secretary of State shall give notice of any such suspension to the owner and to the appointed surveyor; the appointed surveyor shall notify the master.

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

(4) When the appointed 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 appointed 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) has not been taken, the surveyor shall in addition immediately notify the appropriate authorities of the country in which the port is situated.

### **Penalties**

**10.** If a ship to which these Regulations apply 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 level 4 on the standard scale or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

### **Power to detain**

**11.** 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(**10**) (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 (Radio and Radio-Navigational Equipment Survey) Regulations 1991 ”.

Signed by authority of the Secretary of State for Transport

7th June 1991

*Brabazon of Tara*  
Minister of State,  
Department of Transport

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations replace the Merchant Shipping (Radio Installations Survey) Regulations 1981. They give effect to the provisions concerning surveys of radio equipment contained in the International Convention for the Safety of Life at Sea 1974 as amended. They provide for surveys of radio equipment to be carried out by British Telecom surveyors, except in the case of radio-navigational equipment which may be carried out by Department of Transport surveyors. Surveys carried out abroad may also be carried out by surveyors appointed by the Secretary of State for the area in question or, in a State party to the Safety Convention, through the appropriate authority of that State.