
STATUTORY INSTRUMENTS

1995 No. 1210

**MERCHANT SHIPPING
SAFETY**

**The Merchant Shipping (Survey
and Certification) Regulations 1995**

<i>Made</i>	- - - -	<i>28th April 1995</i>
<i>Laid before Parliament</i>		<i>10th May 1995</i>
<i>Coming into force</i>	- -	<i>1st June 1995</i>

Whereas so far as these Regulations are made under paragraph (c) of subsection (1) of section 21 of the Merchant Shipping Act 1979⁽¹⁾ they are made only for the purpose of applying to certain other ships provisions of the International Convention for the Safety of Life at Sea Convention, 1974, as amended, and modified by its Protocol of 1978⁽²⁾, implemented under paragraph (b) of that subsection;

Now, therefore the Secretary of State for Transport, after consulting the persons referred to in section 22(2) of the Merchant Shipping Act 1979, in exercise of the powers conferred by sections 21(1)(a), (b) and (c), (3) to (6) and 22(1) and (3) of that Act⁽³⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation, modification, revocation and supplemental

1.—(1) These Regulations may be cited as the Merchant Shipping (Survey and Certification) Regulations 1995 and shall come into force on 1st June 1995.

(2) In these Regulations the following expressions have the following meanings respectively unless the context requires otherwise:

“1974 SOLAS Convention” means the International Convention for the Safety of Life at Sea, 1974, as amended in accordance with its Article VIII and as modified by its Protocol of 1978, as in force at the end of 1992;

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the relevant certificate;

(1) 1979 c. 39; section 21(1) has been amended by section 11 of the Safety at Sea Act 1986 and by paragraph 6(4) of Schedule 4 to the Merchant Shipping (Registration, etc) Act 1993 (c. 22).
(2) The Convention, Protocol and amendments are set out in the 1992 consolidated edition of SOLAS published by the International Maritime Organisation.
(3) Section 21(6) was amended by section 49(3) of the Criminal Justice Act 1982 (c. 48).

“appropriate Certifying Authority” means:

- (a) in relation to passenger ships and safety equipment of cargo ships, the Secretary of State;
- (b) in relation to cargo ships, except in relation to their radio installations and safety equipment, the Secretary of State or any person authorised by the Secretary of State and includes in particular (if so authorised) Lloyd’s Register of Shipping, the British Committee of Bureau Veritas, the British Committee of Det Norske Veritas, the British Committee of Germanischer Lloyd, and the British Technical Committee of the American Bureau of Shipping;
- (c) in relation to radio installations of cargo ships, British Telecom;

“British Telecom” means British Telecommunications plc;

“cargo ship” means any ship that is not a—

- (a) passenger ship;
- (b) ship of war;
- (c) fishing vessel; or a
- (d) pleasure vessel;

“Cargo Ship Safety Construction Certificate”, “Cargo Ship Safety Equipment Certificate”, “Cargo Ship Safety Radio Certificate” and “Passenger Ship Safety Certificate” means the certificates of those names issued pursuant to regulation 10;

“Convention Certificate” means a certificate issued in accordance with the requirements of the 1974 SOLAS Convention;

“international voyage” means a voyage from a port in one country to a port in another country, either of the countries being a country to which the 1974 SOLAS Convention applies;

“Marine Safety Agency” means the Marine Safety Agency, an Executive Agency of the Department of Transport;

“Merchant Shipping Notice” means a Notice described as such, issued by the Marine Safety Agency, and includes a reference to any document amending or replacing 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;

“mile” means an international nautical mile of 1852 metres;

“passenger” means any person carried on a ship except:

- (a) a person employed or engaged in any capacity on the business of the ship,
- (b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled,
- (c) a child of under one year of age;

“Passenger Certificate” and “United Kingdom Cargo Ship Safety Construction Certificate” mean the certificates of those names issued pursuant to regulation 11;

“passenger ship” means a ship carrying more than 12 passengers;

“pleasure vessel” means—

- (a) any vessel which at the time it is being used is:
 - (i) (a) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

- (b) in the case of a vessel owned by a body corporate, one on which the persons are employees or officers of the body corporate, or their immediate family or friends; and
- (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
- (b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of the club or their immediate family; and for the use of which any charges levied are paid into club funds and applied for the general use of the club; and
- (c) in the case of any vessel referred to in paragraph (a) or (b) above no other payments are made by or on behalf of the users of the vessel, other than by the owner;

and in this definition "immediate family" means, in relation to an individual, the husband or wife of the individual, and a relative of the individual or the relative's husband or wife, and "relative" means brother, sister, ancestor or lineal descendant;

"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 installations" means any radio installation provided on board a ship in life saving appliances, in compliance with the relevant regulations for the purposes of regulation 5;

"radio-navigational equipment" means the equipment required by Parts IV, VII, VIII and IX of the Merchant Shipping (Navigational Equipment) Regulations 1993(4);

"relevant regulations" in relation to a ship means the Regulations listed in M.Notice No. M 1612, as they apply to the subject matter of the survey in question;

"ro-ro passenger ship" means a passenger ship provided with cargo or vehicle spaces not normally subdivided in any way and extending to either a substantial length or the entire length of the ship in which vehicles or cargo can be loaded or unloaded in a horizontal direction;

"short international voyage" means an international voyage in the course of which a ship is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety. Neither the distance between the last port of call in which the voyage begins and the final port of destination nor the return voyage shall exceed 600 miles. The final port of destination is the last port of call in the scheduled voyage at which the ship commences its return voyage to the country in which the voyage began;

"tanker" means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of a flammable nature and its age shall be determined from the year of build as indicated on its certificate of registry;

"tons" means gross tons and a reference to tons:

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

(4) S.I.1993/69.
(5) S.I. 1982/841.

(3) For the purpose of these Regulations, the Classes for passenger ships not engaged on international voyages are as defined in the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984(6).

(4) Subject to paragraph (5) below the following enactments are hereby repealed:

- (a) sections 267, 271 to 283 and 363 of the Merchant Shipping Act 1894(7) except sections 280 to 282 as applied by section 27(3) of the Merchant Shipping (Load Lines) Act 1967(8) and section 3(4) of the Fishing Vessels (Safety Provisions) Act 1970(9);
- (b) sections 13, 21, 22 and 75(3) of the Merchant Shipping Act 1906(10);
- (c) sections 8 and 9 of the Merchant Shipping (Safety and Load Lines Conventions) Act 1932(11);
- (d) sections 7 to 15 and sections 17, 26, 31, 35(2), 35(5) and 36(2) of the Merchant Shipping (Safety Convention) Act 1949(12) and, in section 36, the definitions of “Accepted Safety Convention certificate”, “Country to which the Safety Convention applies”, “Declaration of survey”, “International voyage” and “Safety Convention ship”;
- (e) sections 1, 3, 4, 5, 7, 12, 13 and 17 of the Merchant Shipping Act 1964(13);
- (f) section 2(2) of the Fishing Vessels (Safety Provisions) Act 1970.

(5) The repeal of the following enactments shall not have effect until 31st December 1995 in relation to ships engaged on international voyages:

- (a) sections 267 and 271 to 283 of the Merchant Shipping Act 1894;
- (b) sections 13, 21 and 22 of the Merchant Shipping Act 1906;
- (c) in the Merchant Shipping (Safety Convention) Act 1949:
 - (i) section 15;
 - (ii) in section 36(1), the definitions of:
 - “Accepted Safety Convention certificate”;
 - “Declaration of survey”;
 - “International voyage”;
 - “Safety Convention ship”;
 - (iii) section 36(2);
- (d) section 17 of the Merchant Shipping Act 1964.

(6) In section 287(1) of the Merchant Shipping Act 1984, for “passenger steamer for which there is a passenger steamer’s certificate in force” there shall be substituted “ship carrying more than 12 passengers for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by regulations made under section 21 of the Merchant Shipping Act 1979”.

(7) In section 288 of the Merchant Shipping Act 1894 for “passenger steamer” there shall be substituted “ship (whether or not a United Kingdom ship) carrying more than 12 passengers”.

(8) In section 23 of the Merchant Shipping (Load Lines) Act 1967 for “Where in pursuance of any rules for the time being in force under section 1 of the Merchant Shipping (Safety Convention)

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

(7) 1894 c. 60.

(8) 1967 c. 27.

(9) 1970 c. 27.

(10) 1906 c. 48.

(11) 1932 c. 9.

(12) 1949 c. 43.

(13) 1967 c. 27.

Act 1949 a passenger steamer” there shall be substituted “Where in pursuance of regulations made under section 21 of the Merchant Shipping Act 1979 a passenger ship”.

(9) In the Merchant Shipping Act 1979, for paragraph 6(1) of Part II of Schedule 4 there shall be substituted “In case of a ship for which there is in force a Passenger Ship Safety Certificate or a Passenger Certificate, as the case may be, issued under or recognised by regulations made under section 21 of this Act, the ship’s certificate mentioned in paragraph 1 of article 7 shall be that certificate”.

(10) The following regulations are hereby revoked:

- (a) in the Merchant Shipping (Cargo Ship Construction and Survey) Regulations 1981⁽¹⁴⁾, regulations 71 to 74, regulations 74A to 74D, both regulations numbered 75 and regulations 76 to 78;
- (b) the Merchant Shipping (Cargo Ship Safety Equipment Survey) Regulations 1981⁽¹⁵⁾ and the Merchant Shipping (Cargo Ship Safety Equipment Survey) (Amendment) Regulations 1985⁽¹⁶⁾;
- (c) in the Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984 regulations 81 to 84;
- (d) in the Merchant Shipping (Cargo Ship Construction and Survey) Regulations 1984⁽¹⁷⁾, regulations 56 to 62;
- (e) the Merchant Shipping (Radio and Radio-Navigational Equipment Survey) Regulations 1991⁽¹⁸⁾;
- (f) in the Merchant Shipping (Radio Installations) Regulations 1992⁽¹⁹⁾, regulation 47;

Application and exemption

2.—(1) These Regulations apply to United Kingdom ships wherever they may be and to other ships whilst they are in United Kingdom waters, but not to fishing vessels or pleasure vessels.

(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) on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Responsibility for carrying out surveys

3.—(1) Except as provided in sub-paragraph (2) below, and subject also to regulation 16, surveys of ships shall be carried out by a surveyor appointed by an appropriate Certificate Authority.

- (a) In respect of surveys of radio installations:
 - (i) surveys in a port in the United Kingdom in respect of passenger ships shall be carried out by a surveyor appointed by British Telecom.
 - (ii) where a survey 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 surveyor appointed by British Telecom, or
 - (b) if the port is in a country or area in respect of which the Secretary of State has appointed a local surveyor, by that local surveyor, or

⁽¹⁴⁾ S.I. 1981/572; amended by S.I. 1984/1219 and S.I. 1985/663.

⁽¹⁵⁾ S.I. 1981/573, amended by S.I. 1985/211.

⁽¹⁶⁾ S.I. 1985/211.

⁽¹⁷⁾ S.I. 1984/1217, to which these amendments not relevant to these Regulations.

⁽¹⁸⁾ S.I. 1991/1341.

⁽¹⁹⁾ S.I. 1992/3.

- (c) in accordance with regulation 16 below.
 - (b) Subject to sub-paragraph (d) below, surveys:
 - (i) in a port in the United Kingdom, or in the territorial waters thereof, of safety equipment of cargo ships; and
 - (ii) of ro-ro passenger ships, shall be carried out by a surveyor of the Marine Safety Agency.
 - (c) Surveys of passenger ships, other than ro-ro passenger ships, may be carried out in part by a surveyor appointed by another Certifying Authority authorised for that purpose by the Secretary of State.
 - (d) Surveys of radio-navigational equipment may at the option of the owner be carried out by British Telecom.
- (3) Where in accordance with this regulation a survey has been carried out by a surveyor appointed by a particular appropriate Certifying Authority, the subsequent references to a Certifying Authority in relation to that survey or to any certificate issued as a result of it, are to that Certifying Authority.

Survey requirements for passenger ships

4. The structure, machinery and equipment of a passenger ship shall be subjected to the following surveys pursuant to these Regulations:

- (a) *a survey before the ship is put in service.* This survey shall include a complete inspection of its structure, machinery and equipment, including the outside of the ship's bottom and the inside and the outside of the boilers. The survey shall be such to ensure that the arrangements, material and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in life-saving appliances, fire protection, fire safety systems and appliances, life-saving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots, lights, shapes, means of making sound and distress signals and other equipment fully comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (b) *a periodical survey* before the Passenger Ship Safety Certificate or Passenger Certificate may be renewed which shall include an inspection of the ship's structure, machinery and equipment referred to in paragraph (a) to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (c) *an additional survey*, either general or partial, according to the circumstances, to be made after a repair resulting from investigations prescribed in regulation 8(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

Survey requirements for the radio installations of cargo ships

5. The radio installations, including those used in life-saving appliances, of a cargo ship of 300 tons or over engaged on international voyages shall be subjected to the following surveys pursuant to these Regulations:

- (a) *a survey before the ship is put in service.* This survey shall include a complete inspection of the radio installations, including, when appropriate, those used in life-saving appliances, to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (b) *a periodical survey* before the Cargo Ship Safety Radio Certificate may be renewed which shall include an inspection of the radio installations, including, when appropriate, those used in life-saving appliances, to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (c) *an additional survey*, either general or partial, according to the circumstances, to be made after a repair resulting from investigations prescribed in regulation 8(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

Survey requirements for the safety equipment of cargo ships

6.—(1) The safety equipment of a cargo ship of 500 tons or over engaged on international voyages shall be subjected to the following surveys pursuant to these Regulations:

- (a) *a survey before the ship is put in service.* This survey shall include a complete inspection of the life-saving appliances and arrangements (except radio installations where only the arrangements shall be inspected), the shipborne navigational equipment, the fire safety systems and appliances, the inert gas system, the fire control plans, the means of embarkation of pilots, the nautical publications, lights, shapes and means of making sound and distress signals and other equipment to ensure that they comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended;
- (b) *a periodical survey* before the Cargo Ship Safety Equipment Certificate may be renewed which shall include an inspection of the equipment referred to in sub-paragraph (a) to ensure that it complies with the relevant regulations applicable to the ship, is in a satisfactory condition and is fit for the service for which the ship is intended;
- (c) *an annual survey*, or, in the case of a tanker of ten years of age and over, *an intermediate survey*, within three months before or after the anniversary date of the Cargo Ship Safety Equipment Certificate which shall include a general inspection of the equipment referred to in sub-paragraph (a) to ensure that it is being maintained in accordance with regulation 8(1)(a) and it remains fit for the service for which the ship is intended;
- (d) *an additional survey*, either general or partial, according to the circumstances, to be made after a repair resulting from an investigation prescribed in regulation 8(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

(2) In any period of five years, at least one survey in accordance with this regulation shall be carried out by a marine surveyor of the Marine Safety Agency except that the survey of the radio-navigational equipment may be carried out by a surveyor appointed by British Telecom or, in respect of a country or area where the Secretary of State has appointed a local surveyor, by that surveyor.

Survey requirements for the structure, machinery and equipment of cargo ships

7. The structure, machinery and equipment, excluding the radio installations and safety equipment to which regulations 5 and 6 apply, of cargo ships of 500 tons or over shall be subjected to the following surveys pursuant to these Regulations:

- (a) *a survey before the ship is put in service.* This survey shall ensure that the arrangements, materials and scantlings of the structure including the sea connections, overboard discharge valves and other ship side fittings, the boilers and other pressure vessels and their appurtenances (other than domestic boilers having a heating surface of 5 square metres or less and a working pressure of 3.5 bar gauge or less and other domestic pressure vessels having such a working pressure), main and auxiliary machinery including steering gear and associated control systems, electrical installation, structural fire protection and special measures for tankers and other equipment comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended and that the required stability information is provided. The survey of the outside of the ship's bottom, the sea connections, overboard discharge valves and other ship side fittings and the rudder shall be carried out whilst the ship is in dry dock. The survey shall also, in the case of tankers, include an inspection of the pump rooms, cargo and bunker piping systems, vent piping, pressure/vacuum-valves and flame arresting screens;
- (b) *a periodic survey* before the Cargo Ship Safety Construction Certificate or the United Kingdom Cargo Ship Safety Construction Certificate may be renewed, which shall be such as to ensure that the arrangements, materials and scantlings referred to in sub-paragraph (a) comply with the relevant regulations applicable to the ship, are in a satisfactory condition and are fit for the service for which the ship is intended. The survey shall also, in the case of tankers, include an inspection of the pump rooms, cargo and bunker piping systems, vent piping, pressure/vacuum-valves and flames arresting screens;
- (c) in the case of a tanker of ten years of age or over, at least one *intermediate survey* during the period of validity of the certificate. Where there is only one such survey, it shall be held not more than six months before, nor later than six months after, the half way date of the period of validity of the certificate. In no case shall the period between the surveys so required exceed three years. Such surveys shall include an inspection of the arrangements, materials and scantlings of the structure provided in compliance with the relevant regulations applicable to the ship and the steering gear and associated control systems, cargo and bunker piping systems on deck and in the pump rooms, vent piping, pressure/vacuum-valves, flame arresting screens and the electrical installation in hazardous zones to ensure that they remain satisfactory for the service for which the ship is intended;
- (d) *an annual survey* within three months before or after each anniversary date of the Cargo Ship Safety Construction Certificate or the United Kingdom Cargo Ship Safety Construction Certificate, except that an annual survey shall not be required in respect of a tanker of ten years of age or over in any year in which it has been surveyed in accordance with sub-paragraph (c) within three months before or after the anniversary date of the Cargo Ship Safety Construction Certificate or the United Kingdom Cargo Ship Safety Construction Certificate. Such surveys shall include a general inspection of the arrangements, materials and scantlings of the structure provided in compliance with the relevant regulations applicable to the ship to ensure that they are being maintained in accordance with regulation 8(1)(a) and that they remain fit for the service for which the ship is intended;
- (e) *a minimum of two surveys of the lower areas of the hull*, including the sea connections, overboard discharge and other ship side fittings and the rudder with the ship in dry dock during any five year period, provided that in all cases the interval between any two such

surveys shall not exceed 36 months. Such surveys shall be such as to ensure that they remain satisfactory for the service for which the ship is intended;

- (f) *an additional survey*, either general or partial, according to the circumstances, to be made after a repair resulting from an investigation prescribed in regulation 8(2), or whenever any repairs or renewals are undertaken which could materially affect the safety and condition of the ship. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively made, that the material and workmanship of such repairs or renewals are in all respects satisfactory, and that the ship complies in all respects with the relevant regulations applicable to the ship.

Responsibilities of owner and master

8.—(1) The owner and master of every ship to which this regulation applies shall ensure that:

- (a) the condition of the ship, including its structure, machinery and equipment, is maintained so as to comply with the relevant regulations applicable to the ship;
- (b) after any survey required by these Regulations has been completed, no material change is made to the structure, machinery and equipment of the ship which was subject to the survey without the approval of the Certifying Authority, except by direct replacement;
- (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 the ship, including its structure, machinery and equipment,
 - (i) it is reported at the earliest opportunity to the Certifying Authority, or a proper officer; and
 - (ii) if a United Kingdom ship is in such a case in a port outside the United Kingdom it is also reported to the appropriate authorities of the country in which the port is situated.

(2) Whenever an accident or defect is reported to the Certifying Authority or to a proper officer under paragraph (1)(c)(i) above, the Certifying Authority or a proper officer shall cause investigations to be initiated to determine whether a survey by a surveyor is necessary and shall, in that event, require such a survey to be carried out.

(3) This regulation applies to:

- (i) United Kingdom ships and
- (ii) except as regards paragraph (1)(a) above, other ships which have been surveyed pursuant to these Regulations.

Procedure to be adopted when the ship, including its structure, machinery and equipment, is deficient

9.—(1) In any case where a surveyor determines that the condition of a ship to which this regulation applies, including its structure, machinery and equipment, does not correspond substantially with the particulars on one or more of the certificates referred to in these Regulations or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor shall advise the owner or master of the corrective action which in his opinion is required, and shall notify the Certifying Authority.

(2) If such corrective action is not taken within such a period (being a reasonable period) as a surveyor of the Marine Safety Agency or the Certifying Authority may specify, the surveyor, or Certifying Authority, 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 particular certificate issued to the

ship. The Secretary of State shall give notice of any such suspension to the owner, to the surveyor, and to the Certifying Authority who in turn shall notify the master.

(3) This regulation applies only to United Kingdom ships and other ships which have been surveyed pursuant to these Regulations.

Issue of certificates to United Kingdom ships engaged on international or short international voyages

10. When a survey or surveys, to meet the requirements set out in these Regulations, are satisfactorily completed:

- (a) the Marine Safety Agency shall issue:
 - (i) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, unless the ship is only engaged on short international voyages when a short international voyage Passenger Ship Safety Certificate shall be issued;
- (b) the Certifying Authority shall issue:
 - (i) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
 - (ii) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate;
 - (iii) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.

Issue of certificates to United Kingdom ships not engaged on international voyages

11. When a survey, or surveys, to meet the requirements set out in these Regulations are satisfactorily completed:

- (a) the Marine Safety Agency shall issue, in the case of a United Kingdom passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class;
- (b) The appropriate Certifying Authority shall issue, in the case of a United Kingdom cargo ship of 500 tons or over not engaged on international voyages, a United Kingdom Cargo Ship Safety Construction Certificate.

Form of Certificates

12.—(1) A Passenger Certificate shall indicate compliance with the provisions of the Merchant Shipping Acts and state:

- (a) the limits (if any) beyond which the ship is not fit to ply;
- (b) the number of passengers which the ship is fit to carry;
- (c) any condition with which the ship has to comply.

(2) A Passenger Ship Safety Certificate, Cargo Ship Safety Radio Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Construction Certificate and Exemption Certificate shall be in the form prescribed by the 1974 SOLAS Convention.

Duration and validity of certificates

13.—(1) The duration of certificates issued under regulation 10 shall be as follows:

- (a) a Passenger Ship Safety Certificate and a short international voyage Passenger Ship Safety Certificate shall be issued for a period of validity not exceeding 12 months;

- (b) a Cargo Ship Safety Radio Certificate shall be issued for a period of validity not exceeding 12 months;
 - (c) a Cargo Ship Safety Equipment Certificate shall be issued for a period of validity not exceeding 24 months;
 - (d) a Cargo Ship Safety Construction Certificate shall be issued for a period of validity not exceeding five years.
- (2) The duration of certificates issued under regulation 11 shall be as follows:
- (a) a Passenger Certificate shall be issued for a period of validity not exceeding 12 months;
 - (b) a United Kingdom Cargo Ship Safety Construction Certificate shall be issued for a period of validity not exceeding five years.
- (3) A certificate shall cease to be valid:
- (a) if its period of validity has been exceeded and the certificate has not been extended when permitted by regulation 15;
 - (b) if annual and intermediate surveys have not been carried out in accordance with these Regulations and the certificate has not been endorsed;
 - (c) upon the transfer of a ship to the flag of another government;

Issue and duration of Exemption Certificates

14.—(1) When an exemption is granted to a ship in accordance with the relevant regulations applicable to the ship, a certificate called an Exemption Certificate shall be issued in addition to any Certificate issued under regulation 10.

(2) An Exemption Certificate shall be issued for a period of validity that is not longer than the period of validity of the certificate to which it refers.

(3) An Exemption Certificate shall be subject to the same extension and other provisions as the certificate to which it refers.

(4) Where an Exemption Certificate has been issued, a statement to this effect shall be included on the certificate to which it refers.

Extension and other provisions

15.—(1) If a United Kingdom ship at the time when a certificate issued under regulation 10(1) (a) or (b) expires is not in a port in the United Kingdom or the port in which it is to be surveyed, the Secretary of State may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to a port in the United Kingdom or the port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. No certificate shall be extended for a period longer than five months, and a ship to which the extension is granted shall not, on its arrival in the port the United Kingdom or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port or the United Kingdom without having obtained a new certificate.

(2) The Secretary of State may extend a certificate issued under regulation 10(1)(a), or (b) which has not been extended under paragraph (1) for a period of grace of up to one month from the date of expiry stated on it.

(3) In the case of a United Kingdom ship in respect of which a Passenger Ship Safety Certificate or a short international voyage Passenger Ship Safety Certificate is in force and the total number of persons on board for a particular voyage is less than the number for which the ship's life-saving appliances provide, the Secretary of State may, at the request of the master of the ship, issue a memorandum that states the total number of persons on board for that voyage and details the

modifications that may be made with respect to life-saving appliances stated on the certificate. The memorandum shall be attached to the certificate during the particular voyage and shall be returned to the Secretary of State at the completion of the voyage.

(4) In the case of a ship that has transferred from the registry of the Government of another country to the United Kingdom registry, the Certifying Authority, subject to such survey requirements that may be considered to be necessary may, and in the case of a ship to which Council Regulation EEC No. 613/91(20) applies shall, issue one or more of the certificates prescribed by regulations 10 and 11 for a period to be determined by the Certifying Authority, but for not longer than the period of validity of the certificate or certificates issued by or on behalf of the Government of that other country if satisfied that:

- (a) the ship has already been subjected to satisfactory initial, periodical, intermediate, annual and additional surveys, as appropriate;
- (b) the certificate issued by or on behalf of the Government of that other country would have remained valid had the registry of the ship not been changed;
- (c) the condition of the ship, including its structure, machinery and equipment, have been maintained so as to comply with the relevant regulations applicable to the ship; and
- (d) after any of the surveys referred to in sub-paragraph (a) have been completed, no material change has been made to the ship, including its structure, machinery and equipment, subject to such surveys, without the approval of the Administration of that other State or the Certifying Authority, except by direct replacement.

Issue and endorsement of Certificates by another Government

16. The Secretary of State may request through a proper officer or otherwise the Government of a country to which the 1974 SOLAS Convention applies to survey a United Kingdom ship other than a ro-ro passenger ship and, if satisfied that the requirements of the Convention are complied with, to issue or authorise the issue to the ship the certificates referred to in regulation 10. A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Secretary of State.

Ships not registered in the United Kingdom and to which the 1974 SOLAS Convention applies

17.—(1) The Secretary of State may, at the request of a government of a country to which the 1974 SOLAS Convention applies, survey a ship registered in that country and, if satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with these Regulations, issue to the ship one or more of the certificates referred to in regulation 10, and, where appropriate, endorse such certificates in accordance with the requirements of the Convention. A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Secretary of State.

(2) Where a memorandum, issued by or under the authority of the Government concerned, is attached to a valid Passenger Ship Safety Certificate or a valid short international voyage Passenger Ship Safety Certificate, in respect of a ship to which the 1974 SOLAS Convention applies, which modifies the certificate in respect of the persons that may be carried for a particular voyage, the certificate shall have effect for the purpose of the voyage as if it was modified in accordance with the memorandum.

(3) A surveyor may go on board a ship to which the 1974 SOLAS Convention applies for the purpose of verifying that there is in force a certificate or certificates required by these Regulations,

(20) O.J. No. L.68, 15.3.91, p.1.

that the hull, machinery and equipment correspond substantially with the particulars shown on the certificate or certificates and that the provisions of regulation 8 are being complied with.

Other ships which are not United Kingdom ships

18.—(1) When a survey or surveys of ships which are not United Kingdom ships, to meet the requirements set out in these Regulations, are completed in accordance with these Regulations:

- (a) the Secretary of State shall issue in the case of a passenger ship not engaged on international voyages, a Passenger Certificate appropriate to its Class;
- (b) the Certifying Authority shall issue in the case of a cargo ship of 500 tons or over not engaged on international voyages, a United Kingdom Cargo Ship Safety Construction Certificate;

(2) Such certificates shall be subject to the requirements of these Regulations as though they were issued under regulation 11.

Cancellation of a certificate

19.—(1) The Secretary of State may cancel a certificate issued to a United Kingdom ship where he has reason to believe that:

- (a) the certificate was issued on false or erroneous information;
- (b) since any survey required by these Regulations, the structure, equipment or machinery has sustained damage or is otherwise deficient.

(2) The Secretary of State may require that a certificate issued to a United Kingdom ship which has expired or has been cancelled be surrendered, as directed.

(3) No person shall:

- (a) intentionally alter a certificate referred to in these Regulations;
- (b) intentionally make a false certificate referred to in these Regulations;
- (c) in connection with any survey required by these Regulations, knowingly or recklessly furnish false information;
- (d) with intent to deceive, use, lend, or allow to be used by another, a certificate referred to in these Regulations;
- (e) fail to surrender a certificate required to be surrendered under paragraph (2) above; or
- (f) in Scotland forge any certificate referred to in these Regulations.

Posting-up of certificates

20. The owner and master of every ship issued with a certificate in accordance with these Regulations shall ensure that it is posted-up in a prominent and accessible place in the ship.

Prohibition on proceeding to sea without the appropriate documentation

21.—(1) No United Kingdom ship shall proceed to sea unless it has been surveyed and there is in force the following certificate or certificates:

- (a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, or, if the ship is only engaged on short international voyages, a short international voyage Passenger Ship Safety Certificate;
- (b) in the case of a cargo ship of 300 tons or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;

- (c) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate;
- (d) in the case of a cargo ship of 500 tons or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.

(2) No ship registered in a country to which the 1974 SOLAS Convention applies shall proceed to sea from a port in the United Kingdom unless there is in force such Convention certificates that would be required if the ship was a United Kingdom ship. The extension provisions in regulation 15 shall apply to such certificates as if the ship was a United Kingdom ship and the Government of the country in which the ship is registered is substituted for the Secretary of State.

(3) No cargo ship of 500 tons and over not engaged on international voyages shall proceed to sea from a port in the United Kingdom unless it has been surveyed and there is in force a United Kingdom Cargo Ship Safety Construction Certificate, unless there is in force a Cargo Ship Safety Construction Certificate as referred to in these Regulations;

(4) No ship registered in a country to which the 1974 SOLAS Convention does not apply shall proceed to sea from a port in the United Kingdom unless the ship is in the possession of documentation which shows that either the ship has been surveyed for compliance with the relevant regulations applicable to the ship as though it was a United Kingdom ship or it has been surveyed and is in compliance with the relevant regulations applicable to the ship;

(5) Where a certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, the owner and master shall ensure that all conditions are complied with, or, as the case may be, that the ship only operates in the specified sea areas.

(6) The master of every ship shall produce to an officer of customs from whom a clearance for the ship is demanded for an international voyage the certificates or documentation referred to in this regulation.

Prohibition on proceeding on a voyage or excursion without the appropriate certificate

22.—(1) A passenger ship of Class II(A), III, IV, V, VI or VI(A) shall not proceed on a voyage or excursion unless it has been surveyed and there is in force a Passenger Certificate appropriate to the ship's Class and applicable to that voyage or excursion.

(2) Where a certificate is issued subject to conditions, the ship shall not proceed on a voyage or excursion unless all the conditions are complied with.

Limit on the number of passengers on passenger ships

23. The owner and master of a passenger ship shall ensure that there is not on board a greater number of passengers than that stated on the ship's Passenger Ship Safety Certificate or Passenger Certificate.

Penalties

24.—(1) If a ship to which these Regulations apply proceeds or attempts to proceed to sea or on a voyage or excursion without complying with the requirements of regulations 4 to 7 of these Regulations, the owner and master of the ship shall each be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(2) Any contravention of regulation 8(1), 21 paragraphs (1) to (5) or 22 shall be an offence by both the owner and master and shall be punishable on summary conviction by a fine not exceeding the statutory maximum or, on conviction on indictment, by imprisonment for a term not exceeding two years, or a fine, or both.

(3) Any contravention of regulation 19(3) shall be an offence, punishable on summary conviction by a fine not exceeding the statutory maximum, or conviction on indictment by imprisonment for a term not exceeding 6 months, or a fine, or both.

(4) If a ship proceeds to sea without regulation 20 being complied with, the owner and master shall each be guilty of an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(5) Any contravention of regulation 23, being an offence corresponding to the offence under section 283 of the Merchant Shipping Act 1894, shall be an offence by both the owner and master and shall be punishable by a fine not exceeding £50,000 on summary conviction, or on conviction on indictment, by imprisonment for a term not exceeding two years or a fine, or both.

(6) Any contravention of regulation 21(6) shall be an offence by the master and shall be punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(7) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to ensure that the Regulations were complied with.

Powers to detain

25.—(1) In any case where a ship 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⁽²¹⁾ (which relates to the detention of a ship) shall have effect in relation to the ship, subject to the modification that as if for the words “this Act” wherever they appear, there were substituted “the Merchant Shipping (Survey and Certification) Regulations 1995”.

(2) Sections 4 and 5 of the Merchant Shipping Act 1984⁽²²⁾(Arbitration and Compensation) shall apply in relation to a detention notice or order under this regulation as those sections apply in relation to a prohibition notice under section 2 of that Act, subject however to the following modifications:

- (a) the substitution of references to a detention order or notice for references to prohibition notices;
- (b) the substitution of references to the officer detaining the ship for references to the inspector referred to in those sections;
- (c) the right to refer a question to the arbitrator shall be available to the owner of the ship whether or not the master of the ship also exercises that right;
- (d) the giving of the notice referring the question to the arbitrator shall not suspend the operation of the detention notice unless, on the application of the person referring the question, the arbitrator so directs; and
- (e) the arbitration shall have regard in coming to a decision to any other matters not specified in the detention notice which appear to him to be relevant to whether or not the ship was in breach of a requirement of these Regulations; and
- (f) the arbitrator shall include in his decision a finding whether there was or was not a valid basis for the detention of the ship as not complying with the requirements of these Regulations.

Arbitration

26.—(1) Should an owner, or any other person making an application for a survey required by these Regulations, be dissatisfied with the outcome of the survey because the issue of a certificate has been refused or for any other reason, that person may serve notice, within twenty-one days of the completion of the survey, on the person responsible for issuing the particular certificate under

⁽²¹⁾ Section 692 was amended by the Merchant Shipping Act 1979, Schedule 6 and the Merchant Shipping Act 1988, Schedule 6.

⁽²²⁾ 1984 c. 5.

regulation 10 or 11, that their dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by him.

(2) A person shall not be qualified for appointment as an arbitrator under this regulation unless he is:

- (a) a person holding a certificate of competency as a Class 1 Deck Officer or as a Class 1 Marine Engineer Officer, or a person holding a certificate equivalent to any such certificate; or
- (b) a naval architect; or
- (c) a person falling within paragraph (3); or
- (d) a person with special experience of the shipping industry; or
- (e) a Member of the Chartered Institute of Arbitrators.

(3) For the purposes of paragraph (2)(c) a person falls within this paragraph if:

- (a) he has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990⁽²³⁾
- (b) he is an advocate or solicitor in Scotland of at least 10 years' standing; or
- (c) he is a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.

(4) In connection with his functions under this regulation, an arbitrator shall have the powers of an inspector conferred by section 27 of the Merchant Shipping Act 1979;

(5) In the application of this regulation to Scotland, any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in paragraph (1) to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of an agreement, appointed by a sheriff;

(6) The Arbitration Act (Northern Ireland) 1937⁽²⁴⁾ shall apply in relation to an arbitrator in pursuance of this regulation as if this regulation related to a matter in respect of which the Parliament of Northern Ireland had powers to make laws.

(7) The rules for arbitration are set out in Merchant Shipping Notice No. M 1613. These rules shall apply unless alternative procedures are agreed between the parties before the commencement of the arbitration proceedings.

Signed by authority of the Secretary of State for Transport

Department of Transport
28th April 1995

Goschen
Parliamentary Under-Secretary of State,

⁽²³⁾ 1990 c. 41.

⁽²⁴⁾ 1937 c. 8 (N.I.).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations repeal and revoke, as appropriate, and re-enact the requirements for the survey and certification of passenger ships and cargo ships previously contained in the following Acts and instruments:

The Merchant Shipping Act 1894;

The Merchant Shipping Act 1906;

The Merchant Shipping (Safety and Load Line Conventions) Act 1932;

The Merchant Shipping (Safety Convention) Act 1949;

The Merchant Shipping Act 1964;

The Fishing Vessels (Safety Provisions) Act 1970;

The Merchant Shipping (Cargo Ship Construction and Survey) Regulations 1981;

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

The Merchant Shipping (Passenger Ship Construction and Survey) Regulations 1984;

The Merchant Shipping (Cargo Ship Construction and Survey) Regulations 1984;

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

2. The Regulations give effect to the requirement as to surveys and the issue of certificates contained in the Safety of Life at Sea Convention 1974, as amended, and also contain similar requirements for ships not subject to the Convention.

3. Other than the changes resulting from the consolidation of these requirements into a single set of regulations, the main changes from the previous provisions relate to the delegation of some passenger ship surveys to the Classification Societies, and to ships on international voyages ceasing to require a Passenger Certificate as well as a (SOLAS) Passenger Ship Safety Certificate, from 31st December 1995.

4. The Regulations provide for appeals against surveys by an arbitration procedure, (regulation 25); and make consequential amendments in the Merchant Shipping Act 1894, the Fishing Vessels (Safety Provisions) Act 1970 and the Merchant Shipping Act 1979.

5. Merchant Shipping Notices are obtainable from the Marine Information Centre, Marine Safety Agency, Spring Place, 105 Commercial Road, Southampton, Hampshire, SO15 1EG. The SOLAS Convention, its Protocol and amendments are obtainable from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.