

**2015 No. 508**

**MERCHANT SHIPPING**

**The Merchant Shipping (Survey and Certification) Regulations  
2015**

<i>Made</i> - - - -	<i>2nd March 2015</i>
<i>Laid before Parliament</i>	<i>9th March 2015</i>
<i>Coming into force</i> - -	<i>6th April 2015</i>

The Secretary of State, in exercise of the powers conferred by sections 85(1), (1B), (3) and (5) to (7) and 86(1) of the Merchant Shipping Act 1995(a), and having consulted the persons referred to in section 86(4) of that Act, makes the following Regulations:

**Citation and Commencement**

1. These Regulations may be cited as the Merchant Shipping (Survey and Certification) Regulations 2015 and come into force on 6th April 2015.

**Revocation**

2. The Instruments listed in the Schedule are revoked.

**Interpretation**

3.—(1) In these Regulations—

“the Act” means the Merchant Shipping Act 1995;

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

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

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

“Cargo Ship Safety Certificate”, “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 13;

“Certifying Authority” has the meaning given by regulation 4;

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(a) 1995 c.21: sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c.28), section 8.

“Class II(A) ship” means a passenger ship engaged on voyages other than international voyages, which is not—

- (a) a ship of Classes III to VI(A) as defined in the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998(a); or
- (b) a ship of Class A, B, C or D as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000(b) which is a new ship, engaged on domestic voyages, for the purposes of those Regulations;

Class IX(A) ship” and “Class IX(A)(T) ship” have the same meanings as in the Merchant Shipping (Boatmasters’ Qualifications, Crew and Hours of Work) Regulations 2015(c);

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

“the Directive” means Directive 2009/45/EC of the European Parliament and the Council of 6th May 2009 on safety rules and standards for passenger ships(d);

“Exemption Certificate” means the certificate of that name issued pursuant to regulation 16;

“gross tons” means gross tonnage ascertained under the Merchant Shipping (Tonnage) Regulations 1997(e);

“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 SOLAS Convention applies;

“Maritime and Coastguard Agency” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

“Merchant Shipping Notice” means a Notice described as such, issued by the Maritime and Coastguard 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” means the certificate of that name issued pursuant to regulation 14;

“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) (aa) 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
  - (bb) 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

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(a) S.I. 1998/2515, amended by S.I. 2000/2687 and 2004/302.  
(b) S.I. 2000/2687, amended by S.I. 2004/302, 2004/2883, 2010/680, 2010/1075 and 2012/2636.  
(c) S.I. 2015/410.  
(d) O.J. No L163, 25.06.2009, p.1.  
(e) S.I. 1997/1510, amended by S.I. 1998/1916.

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) 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 spouse or civil partner of the individual, and a relative of the individual or the relative's spouse or civil partner, 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, includes an officer exercising in that port functions similar to those of a superintendent;

"radio installations" means any radio equipment other than radio navigational equipment on board a ship or provided in relation to the ship's life-saving appliances;

"ship of war" has the same meaning as in the SOLAS Convention;

"short international voyage" means an international voyage in the course of which—

- (a) a ship is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety; and
- (b) the distance—
  - (i) between the last port of call in which the voyage begins and the final port of destination; or
  - (ii) of the return voyage

does not exceed 600 miles, where 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; and

"SOLAS Convention" means the International Convention for the Safety of Life at Sea 1974(a), its Protocols of 1978(b) and 1988(c), and all amendments to them in force on the date these Regulations come into force, and references to "the 1988 Protocol" are to that 1988 Protocol;

(2) For the purpose of these Regulations, the Classes for passenger ships not engaged on international voyages are as defined in the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000.

(3) References in the Directive to Conventions or Codes in their up to date versions which—

- (a) relate to all or any of the purposes set out in section 85(1) of the Merchant Shipping Act 1995;
- (b) are considered by the Secretary of State to be relevant from time to time; and
- (c) are specified in a Merchant Shipping Notice;

have effect in so far as they are so specified.

### **Certifying Authorities**

**4.—(1)** In these Regulations, "Certifying Authority" means the Secretary of State or any person authorised by the Secretary of State.

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(a) Cmnd. 7874.  
(b) Cmnd. 7346.  
(c) Cm. 4420.

(2) Authorisation under paragraph (1) may be given conditionally or unconditionally and is subject to paragraph (4).

(3) Without prejudice to the generality of paragraph (2), conditions may impose limitations on any person's authorisation relating to—

- (a) individual ships;
- (b) classes of ships; and
- (c) the extent of any survey to be carried out by that person.

(4) The Secretary of State may direct, in relation to an individual case or to a class of cases, that a survey, or part of a survey, for the purpose of these Regulations is carried out by the Secretary of State and not by another Certifying Authority.

(5) A Certifying Authority other than the Secretary of State is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and its property is not to be regarded as property of, or held on behalf of, the Crown.

### **Application and exemption**

**5.**—(1) Subject to paragraph (2) these Regulations apply to United Kingdom ships wherever they may be and to other ships while they are in United Kingdom waters.

(2) These Regulations do not apply to—

- (a) fishing vessels,
- (b) pleasure vessels,
- (c) high-speed craft which comply with the requirements of the Merchant Shipping (High-Speed Craft) Regulations 2004(a),
- (d) passenger ships to which the Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010(b) apply,
- (e) vessels to which the Merchant Shipping (Technical Requirements for Inland Waterway Vessels) Regulations 2010(c) apply, and
- (f) Class IX(A) and Class IX(A)(T) ships.

(3) The Secretary of State may grant exemptions from all or any of the provisions of these Regulations on such terms (if any) as he may specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

### **Surveys of passenger ships**

**6.**—(1) Subject to paragraph (4), a United Kingdom passenger ship shall be subject to the inspections and surveys mentioned in paragraphs (2) and (3).

(2) Those inspections are an annual inspection of the ship's bottom, of which two inspections within any five year period are to take place out of the water at intervals not exceeding 36 months.

(3) Those surveys are—

- (a) before the ship is put in service, a passenger ship initial survey, and
- (b) before the end of every period of 12 months following the issue of the ship's Passenger Ship Safety Certificate, a passenger ship renewal survey.

(4) A United Kingdom passenger ship to which the Directive applies shall be subject to a passenger ship initial survey, and to periodical and additional surveys, as set out in the Directive.

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(a) S.I. 2004/302.

(b) S.I. 2010/680, amended by S.I. 2010/1075.

(c) S.I. 2010/1075.

### **Surveys of cargo ship safety equipment**

7. A United Kingdom cargo ship of 500 gross tons or more engaged on international voyages shall be subject to the following surveys of its life-saving appliances and other equipment—

- (a) before the ship is put in service, a cargo ship safety equipment initial survey;
- (b) at the intervals specified in Merchant Shipping Notice MSN 1751 a cargo ship safety equipment renewal survey;
- (c) within three months before or after the second or third anniversary date of a Cargo Ship Safety Equipment Certificate, a cargo ship safety equipment periodical survey; and
- (d) within three months before or after each anniversary date of the ship's Cargo Ship Safety Equipment Certificate, other than where a periodical survey is required to be carried out within that period, an annual survey.

### **Surveys of cargo ship radio installations**

8. A United Kingdom cargo ship of 300 gross tons or more engaged on international voyages shall be subject to the following surveys of its radio installations—

- (a) before the ship is put in service, a cargo ship radio installations initial survey;
- (b) at the intervals specified in Merchant Shipping Notice MSN 1751 a cargo ship radio installations renewal survey; and
- (c) within three months before or after each anniversary date of the ship's Cargo Ship Safety Radio Certificate, a cargo ship radio installations periodical survey.

### **Surveys of cargo ship structure, machinery and equipment**

9.—(1) A United Kingdom cargo ship of 500 gross tons or more shall be subject to the following surveys of its structure, machinery and equipment, other than equipment to which regulations 7 and 8 apply—

- (a) before the ship is put in service, an initial survey ;
- (b) at the intervals specified in Merchant Shipping Notice MSN 1751 a cargo ship structure renewal survey;
- (c) within three months before or after the second or third anniversary date of a Cargo Ship Safety Construction Certificate, a cargo ship structure etc intermediate survey;
- (d) within three months before or after each anniversary date of the ship's Cargo Ship Safety Construction Certificate, other than where a cargo ship structure etc renewal or intermediate survey is required to be carried out within that period, a cargo ship structure etc annual survey ; and
- (e) subject to paragraph (2), two inspections of the ship's bottom to take place out of the water within any five year period, and at intervals not exceeding 36 months.

(2) For the purpose of paragraph (1)(e), where a cargo ship structure etc renewal survey takes place within three months after the end of the five year period of validity of a Convention Certificate, and that certificate has been extended in accordance with regulation 17(3) or (4), the period of extension of the certificate shall be deemed to be within the five year period.

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

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

- (a) the ship and its equipment is maintained so as to ensure that the ship in all respects remains fit to proceed to sea without danger to the ship or persons on board;
- (b) after any survey of the ship required by these Regulations has been completed, no change shall be made in the structural arrangements, machinery, equipment and other items covered by the survey, without the approval of the Certifying Authority, except by direct replacement; 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 life-saving appliances or other 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) If a report is made under paragraph (1)(c)(i), the Certifying Authority or proper officer shall determine whether a survey is necessary, and if so, require one to be carried out.

(3) If the survey referred to in paragraph (2) shows that repairs are required, or if any important repairs or renewals are otherwise made to the ship or its equipment, a further survey shall be carried out on the completion of those repairs or renewals.

(4) This regulation applies to—

(a) United Kingdom ships, and

(b) except as regards paragraph (1)(a), other ships which have been surveyed pursuant to these Regulations.

### **Surveys and inspections – general**

**11.** References in regulations 6(1) and 7 to 10 to surveys or inspections of a particular description which are required to be carried out on a ship are to the surveys or inspections, as the case may be, of those descriptions as set out in Merchant Shipping Notice MSN 1751.

### **Procedure to be adopted when the ship is deficient**

**12.—**(1) Where a surveyor determines that the condition of a ship to which this regulation applies 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 the surveyor's opinion is required, and shall notify the Certifying Authority.

(2) If such corrective action is not taken within such reasonable period as a surveyor may specify, the surveyor, or Certifying Authority, shall notify the Secretary of State who may suspend the validity of the particular certificate issued to the ship.

(3) 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.

(4) This regulation applies 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**

**13.** When a survey to meet the requirements set out in these Regulations has been satisfactorily completed in respect of a ship engaged on international voyages, the Certifying Authority shall issue—

(a) in the case of a passenger ship, 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) in the case of a cargo ship of 300 gross tons or more, a Cargo Ship Safety Radio Certificate; and

(c) in the case of a cargo ship of 500 gross tons or more—

- (i) a Cargo Ship Safety Equipment Certificate or, as the case may be, a Cargo Ship Safety Construction Certificate; or
- (ii) after an initial or renewal survey in accordance with regulations 7 to 9 a Cargo Ship Safety Certificate.

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

**14.**—When a survey of a United Kingdom passenger ship to meet the requirements set out in these Regulations has been satisfactorily completed in respect of a ship not engaged on international voyages, the Certifying Authority shall issue a Passenger Certificate appropriate to its class.

**Duration and validity of certificates**

**15.**—(1) Subject to paragraph (2), a Convention Certificate shall be issued from the date of the completion of the relevant survey and shall be issued for a period of validity 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, and
- (b) a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Radio Certificate or Cargo Ship Safety Certificate shall be issued for a period of validity not exceeding five years.

(2) Where a renewal survey has been completed within a period of three months before the expiry of the relevant Convention Certificate, the new certificate may be issued—

- (a) in the case of a Passenger Ship Safety Certificate, for a period of validity not exceeding 12 months from the date of expiry of the existing certificate, and
- (b) in the case of any other certificate, for a period of validity not exceeding five years from the date of expiry of the existing certificate.

(3) Except in special circumstances as determined by the Maritime and Coastguard Agency, where a renewal survey has been completed after the expiry of the relevant Convention Certificate, the new certificate shall be issued:

- (a) in the case of a Passenger Ship Safety Certificate, for a period of validity not exceeding 12 months from the date of expiry of the existing certificate, and
- (b) in the case of any other certificate, for a period of validity not exceeding five years from the date of expiry of the existing certificate.

(4) Where an annual, intermediate or periodical survey is completed before the period prescribed as respects such a survey in regulations 6 to 9:

- (a) the anniversary date shown on the relevant certificate shall be amended by endorsement to a date which shall not be more than three months later than the date on which the survey was completed,
- (b) subsequent annual, intermediate or periodical surveys required under regulations 6 to 9 shall be completed at the intervals prescribed by those regulations using the new anniversary date, and
- (c) the expiry date may remain unchanged provided one or more annual, intermediate or periodical surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by regulations 6 to 9 are not exceeded.

(5) A Passenger Certificate issued under regulation 14 shall be issued for a period of validity not exceeding 12 months.

(6) A Convention Certificate and a certificate issued under regulation 14 shall cease to be valid:

- (a) if its period of validity has been exceeded and the certificate has not been extended by the appropriate Certifying Authority in accordance with regulation 17 or otherwise in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies,

- (b) if the relevant surveys and inspections have not been completed within the periods specified under regulations 6 to 9 or otherwise in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies, and the certificate has either not been extended in accordance with regulation 17 or otherwise in accordance with the 1988 Protocol by the government of a country to which the 1974 SOLAS Convention applies, or the period of any such extension has expired,
- (c) upon transfer of the ship to the flag of another State, or
- (d) if the vessel no longer substantially complies with the requirements of the certificate.

### **Issue and duration of Exemption Certificates**

**16.**—(1) When an exemption is granted to a ship in accordance with the relevant regulations applicable to the ship, an Exemption Certificate shall be issued in addition to any Certificate issued under regulation 13 or 14.

(2) The period of validity of an Exemption Certificate shall not be 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.

### **Extension and other provisions**

**17.**—(1) Where a Convention Certificate other than a Passenger Ship Safety Certificate has been issued for a period of validity of less than five years and the surveys required under regulations 6(1) and 7 to 9 have been satisfactorily completed, the Certifying Authority may extend the validity of that Certificate so that the certificate is valid for a maximum period of five years.

(2) Where a renewal survey required under regulations 6(1) and 7 to 9 has been satisfactorily completed before the expiry of the relevant Convention Certificate but the new certificate cannot be issued or placed on board the ship before the expiry of the existing certificate, the Certifying Authority may endorse the existing certificate as valid for a period not exceeding 5 months from the expiry date.

(3) Where a renewal survey required under regulations 6(1) and 7 to 9 has not been satisfactorily completed before the expiry of the relevant Convention Certificate and at the time of expiry the ship is not in a port in which it is to be surveyed, the Certifying Authority may, where it appears to it proper and reasonable to do so, extend the validity of the certificate solely for the purpose of allowing the ship to complete its voyage to its port of survey.

(4) Where no other extension has been granted, the Certifying Authority may extend the validity of a Convention Certificate of ships engaged on short voyages for a period of no more than one month.

(5) An extension of validity under paragraph (1) or (2), and, except in special circumstances as determined by the Maritime and Coastguard Agency, an extension of validity under paragraph (3) or (4), shall be disregarded for the purposes of determining the date of expiry of an existing Convention Certificate under regulation 15(2) or (3).

### **Issue and endorsement of Certificates by another Government**

**18.**—(1) The Secretary of State may request the Government of a country to which the SOLAS Convention applies to survey a United Kingdom 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 13.

(2) 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.

### **Requests made by other SOLAS Governments**

**19.**—(1) The Secretary of State may, at the request of a government of a country to which the SOLAS Convention applies, survey a ship registered in that country.

(2) If the Secretary of State is satisfied that the requirements of the Convention are complied with and that a survey has been satisfactorily completed in accordance with these Regulations, the Secretary of State may issue to the ship one or more of the certificates referred to in regulation 13, and, where appropriate, endorse such certificates in accordance with the requirements of the Convention.

(3) A certificate issued in accordance with a request mentioned in paragraph (1) 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.

(4) 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 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.

(5) A surveyor may go on board a ship to which the SOLAS Convention applies for the purpose of verifying that there is in force any certificate required by these Regulations, that the hull, machinery and equipment correspond substantially with the particulars shown on the certificate and that the provisions of regulation 10 are being complied with.

### **Passenger ships which are not United Kingdom ships**

**20.**—(1) When a survey of a passenger ship which is not a United Kingdom ship, and which is not engaged on international voyages, is completed in accordance with these Regulations, the Certifying Authority shall issue a Passenger Certificate appropriate to its Class.

(2) Such certificates shall be subject to the requirements of these Regulations as though they were issued under regulation 14.

### **Cancellation of a certificate**

**21.**—(1) The Secretary of State may cancel a certificate issued to a United Kingdom ship where there is reason to believe that—

- (a) the certificate was issued on false or erroneous information; or
- (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.

(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; or
- (e) fail to surrender a certificate required to be surrendered under paragraph (2).

### **Availability of certificates**

**22.** The owner and master of every ship issued with a Convention Certificate shall ensure that it is readily available on board for examination at all times.

### **Prohibition on proceeding to sea without the appropriate documentation**

**23.**—(1) No United Kingdom ship engaged on international voyages 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, 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 gross tons or more, a Cargo Ship Safety Radio Certificate;
- (c) in the case of a cargo ship of 500 gross tons or more—
  - (i) a Cargo Ship Safety Radio Certificate, a Cargo Ship Safety Equipment Certificate and a Cargo Ship Safety Construction Certificate; or
  - (ii) a Cargo Ship Safety Certificate.

(2) No ship registered in a country to which the 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 were a United Kingdom ship.

(3) Regulation 17 applies to the Convention Certificates mentioned in paragraph (2) as if the ship were a United Kingdom ship.

(4) No cargo ship of 500 gross tons or more not engaged on international voyages shall proceed to sea from any port in the United Kingdom unless it has been surveyed and there is in force a Cargo Ship Safety Construction Certificate.

(5) No ship registered in a country to which the SOLAS Convention does not apply shall proceed to sea from any port in the United Kingdom unless the ship is in possession of documentation which shows that the ship has been surveyed for compliance with regulations 6 to 9 as if it were a United Kingdom ship.

(6) If 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.

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

**24.**—(1) A passenger ship of Class II(A), III, IV, V, VI, VI(A), A, B, C or D shall not proceed on a voyage or excursion unless it has been surveyed and there is in force—

- (a) a Passenger Certificate appropriate to the ship's Class and applicable to that voyage or excursion; or
- (b) in the case of a ship of Class A, B, C or D, a certificate issued by another Member State or EEA State pursuant to article 11 of the Directive.

(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**

**25.** 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**

**26.**—(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 6 to 9, 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 10(1), 23(1) to (5) or 24 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 21(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 22 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 25 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) 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**

**27.—**(1) In any case where a ship does not comply with the requirements of these Regulations, the ship is liable to be detained and section 284(1) to (6) and (8) of the Act (enforcing detention of 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 2015”.

(2) Where a ship is liable to be detained under these Regulations the detaining officer shall serve on the master a detention notice which shall—

- (a) state that a surveyor of ships is of the opinion that in relation to that vessel there is a failure to comply with the requirements of these Regulations,
- (b) specify the matters which, in the opinion of the surveyor of ships, have the effect that in relation to that vessel those requirements are not met, and
- (c) require the terms of the notice to be complied with before the vessel is released by any person mentioned in section 284(1) of the Act.

(3) Sections 96 and 97 of the Act (which relate to arbitration and compensation in connection with the detention of a ship) apply in relation to a detention notice under this regulation as those sections apply in relation to a detention notice under section 95 of the Act, with the following modifications—

- (a) the arbitrator shall have regard in coming to a decision to any other matters not specified in the detention notice which appear to be relevant to whether or not the ship was in breach of a requirement of these Regulations; and
- (b) the arbitrator shall include in the 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**

**28.—**(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a United Kingdom ship, that person may serve a written notice on the responsible person within 21 days of receiving notice of that outcome—

- (a) stating that there is a dispute in relation to the survey, and
- (b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to paragraphs (3), (4) and (6), an arbitrator referred to in paragraph (1) must be appointed by agreement between the parties.

(3) In default of agreement between the parties, the arbitrator is such person as may be appointed by the President or Vice President of the Chartered Institute of Arbitrators following a request by—

- (a) a party, after giving written notice to the other party, or
- (b) the parties jointly,

but this paragraph does not apply in relation to Scotland.

(4) No person is to be an arbitrator under this regulation unless that person is—

- (a) a person who holds a certificate of competency as a Class 1 Deck Officer or Class 1 Marine Engineer Officer, or a certificate of competency which is equivalent to such a certificate;
- (b) a naval architect,
- (c) a qualified person,
- (d) a person with experience of shipping matters, or
- (e) a Member of the Chartered Institute of Arbitrators.

(5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 259 of the Act.

(6) In the application of this regulation to Scotland—

- (a) any reference to an arbitrator is to be construed as a reference to an arbiter, and
- (b) the reference in paragraph (2) to a single arbitrator appointed by agreement between the parties is to be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by a sheriff.

(7) The rules for arbitration set out in Merchant Shipping Notice M1613 apply unless alternative arrangements are agreed between the applicant and the Secretary of State before the commencement of arbitration proceedings.

(8) In this regulation—

- (a) “applicant” means a person who makes an application for a survey required by these Regulations,
- (b) “the parties” means the applicant and the responsible person, and “party” is to be construed accordingly,
- (c) “qualified person” means—
  - (i) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007<sup>(a)</sup>,
  - (ii) a person who is an advocate or solicitor in Scotland of at least 7 years’ standing, and
  - (iii) a person who is a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland of at least 7 years’ standing, and
- (d) “responsible person” means the Certifying Authority responsible for the issue of the certificate in connection with which a survey required by these Regulations is carried out.

## Review

**29.**—(1) The Secretary of State must from time to time —

- (a) carry out a review of regulations 1 to 28,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

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(a) 2007 c.15.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the SOLAS Convention is implemented in other states.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The first report under this regulation must be published before the end of five years beginning with the day on which these Regulations come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

*John Hayes*  
Minister of State  
Department for Transport

2nd March 2015

## SCHEDULE

Regulation 2

### Instruments revoked

<i>Statutory Instrument</i>	<i>SI No.</i>
The Merchant Shipping (Survey and Certification) Regulations 1995	1995/1210
The Merchant Shipping (Survey and Certification) (Amendment) Regulations 1996	1996/2418
The Merchant Shipping (Survey and Certification) (Amendment) Regulations 2000	2000/1334

### EXPLANATORY NOTE

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

These Regulations make provision for the inspections and surveys to be carried out on United Kingdom ships wherever they may be, and also on other ships while in United Kingdom waters. They revoke the Merchant Shipping (Survey and Certification) Regulations 1995 and various instruments amending them, and re-enact the requirements for the survey and certification of passenger ships and cargo ships contained in the 1995 Regulations as amended.

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.

Other than the changes resulting from the consolidation of these requirements into a single set of regulations, and updating, the main changes from the previous provisions relate to the definition of “Certifying Authority” in *regulation 4*, which now provides for this to mean the Secretary of State or any person authorised by the Secretary of State (rather than the list of named bodies contained in the 1995 Regulations), for authorisation to be given subject to conditions, and for the Secretary

of State to direct that surveys be carried out by Secretary of State and not by another Certifying Authority.

*Regulation 4* also provides that a Certifying Authority other than the Secretary of State is not to be regarded as a servant or agent of the Crown, and that its property is not to be regarded as Crown property.

*Regulation 5* lists the types of ship to which the Regulations apply, and provides for the Secretary of State to issue, and to alter or cancel, exemptions from the requirements.

*Regulations 6-9* specify the various inspections and surveys required, and *regulation 10* imposes general obligations on owners and masters to ensure that a ship is fit to proceed to sea.

The detailed requirements of the various inspections and surveys continue to be contained in Merchant Shipping Notices issued by the Maritime and Coastguard Agency, an executive agency of the Department for Transport (*regulation 11*).

*Regulation 12* sets out the procedure to be followed when a ship is deficient, and *regulations 13-17* deal with issue, duration, and extension of certificates.

*Regulations 18-20* provide for certification of United Kingdom ships by other SOLAS Convention states, and the converse, and *regulation 21* for cancellation of certificates.

Certificates issued in accordance with the requirements of the SOLAS Convention must be available for inspection on board ships, and United Kingdom ships must not proceed to sea on an international voyage without these and other relevant certificates (*regulations 22 and 23*). Passenger ships of specified Classes are also prohibited from proceeding on any voyage or excursion without the applicable certificates (*regulation 24*).

*Regulation 25* requires owners and masters to ensure that the limit on passenger numbers is not exceeded.

*Regulation 26* provides for penalties for breaches of provisions of the Regulations, and *regulation 27* for detention of ships which do not comply.

*Regulation 28* provides for arbitration if a person is dissatisfied with the outcome of a survey.

The Regulations also contain a requirement for the Secretary of State to review the operation and effect of them and publish a report within five years after they come into force and every five years after that (*regulation 29*). Following a review it will fall to the Secretary of State to consider whether the Regulations should continue in force with or without amendment. A further instrument would be needed to revoke the Regulations.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk). Merchant Shipping Notices are obtainable from the Marine Information Centre, Maritime and Coastguard 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.

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