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## (Amendment 4)

# Ship Inspection and Survey Organisations

**Notice to all Classification Societies, Shipowners, Ship Operators and Managers, Masters and Officers of Merchant Ships and Fishing Vessels**

*This notice amends and replaces all previous versions of MSN 1672. Any references in Merchant Shipping legislation, MSNs, MGNs, MINs and other MCA instructions or procedures to MSN 1672 should be read as a reference to MSN 1672 as amended by this Notice.*

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### Summary

This MSN outlines the approved standards referred to in the Merchant Shipping legislation cited in paragraph 4 and contains additional information about requirements for the recognition, authorisation and assessment of recognised organisations in retained EU law, which has been amended by the Merchant Shipping (Recognised Organisations) (Amendment) (EU Exit) Regulations 2019 in order to correct deficiencies arising as a result of the United Kingdom's withdrawal from the European Union. These Regulations came into force following the United Kingdom's withdrawal from the European Union.

This MSN, which revokes and replaces all previous versions of MSN 1672, has statutory force by virtue of the various regulations in which it is referenced (but these do not include the retained EU law, ie Regulation (EC) 391/2009, Commission Regulation (EU) 788/2014 or Commission Decision 2009/491/EC, as amended by the Merchant Shipping (Recognised Organisations) (Amendment) (EU Exit) Regulations 2019).

## 1. Introduction / Background

1.1 The Merchant Shipping (Recognised Organisations) (Amendment) (EU Exit) Regulations 2019 amend Regulation (EC) 391/2009 on common rules and standards for ship inspection and survey organisations and subordinate legislation made under it (referred to as "retained EU law"), to ensure that the retained EU law is operable following the UK's withdrawal from the European Union. The retained EU law, as amended by the Regulations, ensure that the United Kingdom continues to comply with its international obligations under the International Maritime Organization's (IMO) Code for Recognized Organizations ("the RO Code"). The RO Code is introduced in IMO Resolutions MSC.350(92) amending the International Convention for the Safety of Life at Sea, 1974, MSC.356(92) and the 1988 Protocol to the International Convention on Load Lines, 1966, and



MEPC.237(65) amending the International Convention for the Prevention of Pollution from Ships, 1973. The RO Code is contained in IMO Resolutions MSC.349(92) and MEPC.237(65).

1.2 The requirements of the RO Code were previously implemented in the United Kingdom by way of European legislation, that is:

- Regulation (EC) 391/2009 of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations (as amended by Commission Implementing Regulation (EU) 1355/2014),
- Commission Regulation (EU) 788/2014 laying down detailed rules for the imposition of fines and periodic penalty payments and the withdrawal of recognition of ship inspection and survey organisations pursuant to Articles 6 and 7 of Regulation (EC) 391/2009,
- Commission Decision 2009/491/EC on criteria to be followed in order to decide when the performance of an organisation acting on behalf of the flag State can be considered as an unacceptable threat to safety and environment, and
- Directive 2009/15/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (as amended by Commission Implementing Directive 2014/111/EU).

The requirements of the Code continue to be implemented in the United Kingdom by way of the amended retained European legislation referred to in this paragraph (this does not include Directive 2009/15/EC, but see paragraph 1.5 below for explanation on how the former requirements of Directive 2009/15/EC relating to the RO Code are now implemented).

1.3 Following the United Kingdom's withdrawal from the European Union, the Merchant Shipping (Recognised Organisations) (Amendment) (EU Exit) Regulations 2019 came into force on 29 March 2019, which corrected failures in the retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union, that is in Regulation (EC) 391/2009, Commission Regulation (EU) 788/2014 and Commission Decision 2009/491/EC. Commission Implementing Regulation (EU) No 1355/2014 was revoked.

1.4 This MSN outlines requirements to be met by the United Kingdom, United Kingdom registered vessels, and United Kingdom authorised Recognised Organisations (alternatively described as an "RO") within the context of delegation of survey and certification functions, and establishes which organisations are recognised and authorised to act on behalf of the United Kingdom.

1.5 The previous agreements with recognised organisations that implemented requirements under then relevant European legislation (principally Directive 2009/15/EC) have been brought to an end by mutual consent. In their place, the UK has signed revised agreements with recognised organisations, which are referred to in paragraph 1.6 below.

1.6 The list of the United Kingdom authorised Recognised Organisations are as follows:

- 1.6.1 American Bureau of Shipping (ABS)
- 1.6.2 Bureau Veritas Marine and Offshore SAS (BV)
- 1.6.3 Nippon Kaiji Kyokai (ClassNK)
- 1.6.4 DNV GL AS
- 1.6.5 Lloyd's Register (LR)
- 1.6.6 RINA Services S.p.A (RINA)

1.7 The list of Recognised Organisations in paragraph 1.6 is correct as at the date of publication of this MSN. Any changes or updates to the above list will be published on [www.gov.uk](http://www.gov.uk).



## **2. Implementation of the RO Code**

2.1 IMO Member States are required to implement IMO Resolution MSC.349(92)/MEPC.237(65) Code for Recognised Organisations (RO Code) as amended and relevant sections of IMO Resolution A.1070(28) IMO Instruments Implementation Code (III Code), into their domestic law. In the UK the requirements of Section 18.2 of the III Code and guidelines for the authorisation of organisations acting on behalf of the administration contained in Part 3 of the RO Code are met by formal agreements signed between the Maritime and Coastguard Agency (MCA) on behalf of the Secretary of State and each of the UK Recognised Organisations authorised to perform statutory functions and certification services in respect of UK registered vessels. Regulation (EC) 391/2009, Commission Regulation (EU) 788/2014 and Commission Decision 2009/491/EC (which are retained EU law) continue to implement the remaining requirements of the RO Code.

## **3. Approved Standards and Authorised Organisations**

3.1 The approved standards referred to in the provisions of UK legislation referenced at section 4 of this MSN relating to one or more of the following:

- (i) Hull;
- (ii) Machinery;
- (iii) Electrical installations; and
- (iv) Control installations

are the standards specified in paragraph 3.2 below:

3.2 With reference to items (i) to (iv) of paragraph 3.1 above, the standard shall be the classification society rules of one of the authorised organisations (available by application to the relevant classification society), applicable to the size, type and age of the ship. The list of UK authorised recognised organisations is listed under paragraphs 1.6 and 1.7 of this MSN.

3.3 Notwithstanding the above, where a ship embodies features of a novel kind, and alternative or equivalent standards in accordance with the “alternative design and arrangements” or “equivalents” provisions of international conventions are proposed by the authorised organisation, which may involve direct calculations, then such alternative or equivalent standards may be accepted provided details have been submitted to the MCA for prior approval.

3.4 Any standards must be applied as a consistent whole for each of the elements or installations listed at paragraph 3.1 as relevant to the regulations referred to in the same paragraph.

3.5 The UK does not currently use rules it considers equivalent to the rules and procedures of a recognised organisation but reserves the right to do so in the future if necessary.

3.6 The rules referred to in paragraph 3.2 concerning the matters specified in paragraph 3.1 are the relevant rules of a recognised “Classification Society” (authorised recognised organisation) for the purposes of that defined term in the Code of Practice for the Construction and Use of Fishing Vessels of 15m Length Overall to less than 24m Registered Length (MSN 1872(F)) and the Code of Practice for the Construction and Use of Fishing Vessels of 24m Registered Length and Over (MSN 1873(F)). This supersedes any previous specification of rules for the purposes of that defined term in those Codes of Practice.

## **4. References to Approved Standards**

4.1 The standards referenced in the following UK legislative instruments are those listed in paragraph 3 of this MSN:



4.1.1 Regulation 5 of Statutory Instrument 1998 No. 2514, the Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998, as amended;

4.1.2 Regulation 5 of Statutory Instrument 1997 No. 1509, the Merchant Shipping (Cargo Ship Construction) Regulations 1997, as amended;

4.1.3 Regulation 6 of Statutory Instrument 2004 No. 302, the Merchant Shipping (High Speed Craft) Regulations 2004, as amended.

4.2 In addition this MSN sets out the approved standards and authorised organisations with regards to vessels as referred to in:

4.2.1 Regulation 5 of the Statutory Instrument 1998 No. 2515, the Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998, as amended;

4.2.2 Regulation 6 of Statutory Instrument 2000 No. 2687, the Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000, as amended.

4.3 The statutory functions and certification services referred to in paragraph 2.1 above comprise the assessment of UK registered vessels classed with or certified by one of the UK authorised recognised organisations. Statutory functions and certification services are required in order to determine the compliance of UK registered vessels with the applicable requirements of the international conventions, codes and UK national requirements, and issue relevant certificates as set out in Annexes to the agreements with UK Recognised Organisations.

## **5. Recognition**

5.1 Procedure MCA 313 contains details of the application procedure for organisations seeking recognition. This procedure and further details about contents of the UK RO agreement are available on request from the Maritime and Coastguard Agency.

5.2 In assuming its responsibilities and obligations under the international conventions, the UK shall ensure that their competent administrations can ensure appropriate enforcement of the provisions thereof, in particular with regard to the inspection and survey of ships and the issue of statutory certificates and exemption certificates as provided for by the international conventions.

5.3 The UK shall act in accordance with the relevant provisions of IMO Resolution MSC.349(92)/MEPC.237(65) Code for Recognized Organizations as amended, and of the Annex to IMO Resolution A.1070(28) IMO Instruments Implementation Code (III Code), for the authorisation of organisations acting on behalf of the administration.

5.4 Where the UK decides with respect to ships flying its flag:

5.4.1 to authorise organisations to undertake fully or in part inspections and surveys related to statutory certificates including those for the assessment of compliance with the rules referred to in paragraph 3.2 of this MSN and, where appropriate, to issue or renew the related certificates; or

5.4.2 to rely upon organisations to undertake fully or in part the inspections and surveys referred to in point (5.4.1);

5.4.3 it shall entrust/delegate these duties only to recognised organisations. The competent administration shall in all cases approve the first issue of the exemption certificates. However, for the cargo ship safety radio certificate these duties may be entrusted to a private body recognised by a competent administration and having sufficient expertise and qualified personnel to carry out specified safety assessment work on radio-communication on its behalf. Full requirements for this



are established in Marine Guidance Note (MGN) 392, which is available on request from the Maritime and Coastguard Agency or on [www.gov.uk](http://www.gov.uk).

5.5 The minimum criteria for organisations to obtain or continue to enjoy UK recognition is detailed in the Annex of this MSN.

5.6 The UK may restrict the number of organisations they authorise in accordance with their needs, or if monitoring the organisation would cause excessive expenditure to the MCA and subsequently to the UK taxpayer. Procedure MCA 313 contains further details on authorisation and is available upon request from the Maritime and Coastguard Agency.

5.7 Reciprocity: The UK may choose to only authorise an RO where the state in which the RO is located grants reciprocal treatment to ROs located in the UK. Where such reciprocity does not yet exist, the UK may agree to authorise an RO providing that a statement of principle confirming an intention to offer reciprocal treatment is given on behalf of the State in which the RO is located. Procedure MCA 313 contains further details for authorisation and is available upon request.

## **6. Monitoring**

6.1 The MCA will use the supervision powers provided for in the Agreement signed between the MCA and the relevant UK authorised recognised organisation in order to make sure that the authorised functions are being carried out to its satisfaction.

6.2 The powers referred to in the above paragraph 6.1 will be used regularly, and as a minimum each organisation will be monitored to verify that they meet the obligations under the RO Code, III Code, and relevant UK legislation, fulfil the minimum criteria set out in the Annex to this MSN, and the functions as delegated/entrusted by the RO Agreement. The assessment shall be confined to those activities of the recognised organisations, which fall within the scope of the relevant IMO and UK instruments.

6.3 In monitoring the recognised organisations, the MCA shall pay particular attention to the safety and pollution prevention performance of the recognised organisation. The assessment may include a visit to regional branches of the recognised organisation as well as random inspection of ships, both in service and under construction, for the purpose of auditing the recognised organisation's performance.

## **7. Remedial Action**

7.1 If the MCA believes that the RO is failing to observe the requirements of relevant international and UK instruments, they will notify the RO in writing, and undertake the following consultation with a view to resolving the breach or poor performance:

7.1.1 The matter will be discussed at the next scheduled British Committee meeting with the RO (or an earlier meeting if required). If it is considered that the RO, an RO surveyor, or RO survey office is at fault then the MCA shall identify matters that need to be completed in order to rectify the issue, within an agreed timescale.

7.1.2 If the MCA considers that the issue has not been rectified to its satisfaction, then, and in accordance with Article 12 of Commission Regulation (EU) 788/2014, the MCA shall address the matter to senior management within the RO. The MCA may identify actions that need to be addressed immediately in order to rectify the identified failings of the RO. The RO will be given the opportunity to provide an explanation within an agreed time period (which will not be less than six weeks from the date of receipt of the statement of objections by the RO) and to demonstrate that reasonable steps were taken to ensure that the requirements upon the RO, as outlined within this agreement, were complied with. In accordance with Article 13 of Commission Regulation (EU)





788/2014, the MCA may also request further information from the RO within an agreed time period (which will not be less than four weeks).

7.1.3 Prior to the MCA making a decision in relation to the withdrawal of recognition, an RO (in accordance with Article 14 of Commission Regulation (EU) 788/2014) may also request an oral hearing.

7.1.4 The MCA will make a decision in relation to the withdrawal of recognition based on the grounds on which the RO has been able to respond (see Article 19 of Commission Regulation (EU) 391/2009). If the MCA is not satisfied with the responses given by the RO, including those given under paragraph 7.1.2, the MCA may suspend or terminate the recognition or may cancel, or reduce the level of, authorisation for one or more statutory functions delegated to the RO.

7.2 For the purpose of paragraphs 7.1 and 7.3, the MCA shall use all the available information, including:

- (a) the results of its own assessment of the Recognised Organisation concerned;
- (b) reports submitted by Red Ensign Group members and other relevant parties against an RO's performance;
- (c) analyses of casualties involving ships classed by the recognised organisations;
- (d) any recurrence of the shortcomings against performance criteria in the Annex to Regulation (EC) 391/2009 as amended by the Merchant Shipping (Recognised Organisations) (Amendment) (EU Exit) Regulations 2019 (where it refers to serious or repeated failure to fulfil the minimum criteria or its obligations, or worsening performance which reveals serious shortcomings in its structure, systems, procedures or internal controls); and
- (e) the extent to which the fleet in the Recognised Organisation's class is affected.

### 7.3 Fines and Penalties

7.3.1 The Secretary of State may impose fines and periodic penalty payments on ROs where there has been a serious or repeated failure to fulfil the minimum criteria set out in Annex 1 to Regulation (EC) 391/2009, or whose worsening performance reveals shortcomings in its structure, systems, procedures or internal controls, or which has deliberately provided incorrect, incomplete or misleading information to the Secretary of State in the course of an assessment by the Secretary of State or which has otherwise obstructed the assessment. The right to impose fines and period penalty payments is set out in Article 6 of Regulation (EC) 391/2009.

7.3.2 The procedures to be followed in imposing fines and periodic penalty payments are contained in Commission Regulation (EU) 788/2014 and Commission Decision 2009/491/EC.

## 8. Withdrawal of Recognition

8.1 Where the recognition of an organisation is suspended or terminated under Regulation (EC) 391/2009, following the procedures set out in Commission Regulation (EU) 788/2014 and paragraphs 7.1.3 and 7.2 above, and pursuant to its agreement with the MCA referred to in paragraph 2.1 of this MSN, the organisation shall cease to be authorised to perform any statutory functions or certification services until recognition is restored.

### More Information

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## ANNEX

# MINIMUM CRITERIA FOR ORGANISATIONS TO OBTAIN OR TO CONTINUE TO ENJOY UK RECOGNITION

(referred to in Regulation (EC) 391/2009)

### A. GENERAL MINIMUM CRITERIA

1. A recognised organisation must have legal personality in the State of its location. Its accounts shall be certified by independent auditors.
2. The recognised organisation must be able to document extensive experience in assessing the design and construction of merchant ships.
3. The recognised organisation must be equipped at all times with significant managerial, technical, support and research staff commensurate with the size of the fleet in its class, its composition and the organisation's involvement in the construction and conversion of ships. The recognised organisation must be capable of assigning to every place of work, when and as needed, means and staff commensurate with the tasks to be carried out in accordance with general minimum criteria under points 6 and 7 and with the specific minimum criteria under part B.
4. The recognised organisation must have and apply a set of own comprehensive rules and procedures, or the demonstrated ability thereto, for the design, construction and periodic survey of merchant ships, having the quality of internationally recognised standards. They must be published and continually upgraded and improved through research and development programmes.
5. The recognised organisation must have its register of ships published on an annual basis or maintained in an electronic database accessible to the public.
6. The recognised organisation must not be controlled by shipowners or shipbuilders, or by others engaged commercially in the manufacture, equipping, repair or operation of ships. The recognised organisation is not substantially dependent on a single commercial enterprise for its revenue. The recognised organisation does not carry out class or statutory work if it is identical to or has business, personal or family links to the shipowner or operator. This incompatibility shall also apply to surveyors employed by the recognised organisation.
7. The recognised organisation must operate in accordance with the provisions set out in the Annex to IMO Resolution A.789(19) on specifications on the survey and certification functions of recognised organisations acting on behalf of the administration, in so far as they cover matters falling within the scope of this Regulation.

### B. SPECIFIC MINIMUM CRITERIA

1. The recognised organisation must provide worldwide coverage by its exclusive surveyors or, in exceptional and duly justified cases, through exclusive surveyors of other recognised organisations.
2. The recognised organisation must be governed by a code of ethics.





3. The recognised organisation must be managed and administered in such a way as to ensure the confidentiality of information required by the Secretary of State.
4. The recognised organisation must provide relevant information to the administration, to the Secretary of State and to interested parties.
5. The recognised organisation, its surveyors and its technical staff shall carry out their work without in any way harming the intellectual property rights of shipyards, equipment suppliers, and shipowners, including patents, licences, know-how, or any other kind of knowledge whose use is legally protected at international, Community or national level; under no circumstances, and without prejudice to the assessment powers of the Secretary of State and in particular under Article 9, may either the recognised organisation or the surveyors and technical staff, whom it employs pass on or divulge commercially relevant data obtained in the course of their work of inspecting, checking, and monitoring ships under construction or repair.
6. The recognised organisation's management must define and document its policy and objectives for, and commitment to, quality and must ensure that this policy is understood, implemented and maintained at all levels in the recognised organisation. The recognised organisation's policy must refer to safety and pollution prevention performance targets and indicators.
7. The recognised organisation must ensure that:
  - (a) its rules and procedures are established and maintained in a systematic manner;
  - (b) its rules and procedures are complied with and an internal system to measure the quality of service in relation to these rules and procedures is put in place;
  - (c) the requirements of the statutory work for which the recognised organisation is authorised are satisfied and an internal system to measure the quality of service in relation to compliance with the international conventions is put in place;
  - (d) the responsibilities, powers and interrelation of personnel whose work affects the quality of the recognised organisation's services are defined and documented;
  - (e) all work is carried out under controlled conditions;
  - (f) a supervisory system is in place which monitors the actions and work carried out by surveyors and technical and administrative staff employed by the recognised organisation;
  - (g) surveyors have an extensive knowledge of the particular type of ship on which they carry out their work as relevant to the particular survey to be carried out and of the relevant applicable requirements;
  - (h) a system for qualification of surveyors and continuous updating of their knowledge is implemented;
  - (i) records are maintained, demonstrating achievement of the required standards in the items covered by the services performed, as well as the effective operation of the quality system;
  - (j) a comprehensive system of planned and documented internal audits of the quality related activities is maintained in all locations;



- (k) the statutory surveys and inspections required by the harmonised system of survey and certification for which the recognised organisation is authorised are carried out in accordance with the provision set out in the Annex and Appendix to IMO Resolution A.948(23) on survey guidelines under the harmonised system of survey and certification;
  - (l) clear and direct lines of responsibility and control are established between the central and the regional offices of the recognised organisation and between the recognised organisations and their surveyors.
8. The recognised organisation must have developed, implemented and must maintain an effective internal quality system based on appropriate parts of internationally recognised quality standards and in compliance with EN ISO/IEC 17020:2004 (inspection bodies) and with EN ISO 9001:2000 (quality management systems, requirements).
  9. The rules and procedures of the recognised organisation must be implemented in such a way that the organisation remains in a position to derive from its own direct knowledge and judgment a reliable and objective declaration on the safety of the ships concerned by means of class certificates on the basis of which statutory certificates can be issued.
  10. The recognised organisation must have the necessary means of assessing, through the use of qualified professional staff and pursuant to the provisions set out in the Annex to IMO Resolution A.913(22) on guidelines on implementation of the International Safety Management (ISM) Code by administrations, the application and maintenance of the safety management system, both shore-based and on board ships, intended to be covered in the certification.
  11. The recognised organisation must allow participation in the development of its rules and procedures by representatives of the Secretary of State and other parties concerned.

