
STATUTORY INSTRUMENTS

2008 No. 3257

The Merchant Shipping (Prevention of Pollution by Sewage and Garbage from Ships) Regulations 2008

PART 2

Sewage: Survey and Certification of Ships

Requirement for Sewage Certificate: initial survey

- 7.—(1) A ship to which this regulation applies must not—
- (a) be put into service, or
 - (b) (if it is already in service) continue in service,
- unless the requirements set out in paragraph (2) are met.
- (2) The requirements are that—
- (a) a survey has been carried out in respect of the ship,
 - (b) at the date of the survey the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and materials of the ship fully comply with the requirements of Part 3, and
 - (c) a Sewage Certificate has been issued in respect of that ship and is still valid.
- (3) A survey carried out under paragraph (2) is referred to in these Regulations as an “initial survey”.

Renewal of Sewage Certificate: renewal survey

- 8.—(1) A ship to which this regulation applies must not—
- (a) proceed to sea, or
 - (b) (if it is already at sea) remain at sea,
- after the date of expiry of a Sewage Certificate issued in respect of that ship unless the requirements set out in paragraph (2) are met.
- (2) The requirements are that—
- (a) a survey has been carried out in respect of the ship,
 - (b) at the date of the survey the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and materials of the ship fully comply with the requirements of Part 3, and
 - (c) in consequence a Sewage Certificate has been issued in respect of that ship and is still valid.
- (3) A survey carried out under paragraph (2) is referred to in these Regulations as a “renewal survey”.

Responsibilities of the owner and master of a ship

9.—(1) The owner and the master of a ship to which this regulation applies must ensure that the condition of the ship and its equipment are maintained to conform with the provisions of Parts 3 and 4 so as to ensure that the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) The owner and the master of a ship to which this regulation applies must ensure that after any survey of the ship required by this Part has been completed, no change, except by way of direct replacement, is made to the infrastructure of that ship covered by the survey without the approval of—

- (a) the Certifying Authority who appointed the surveyor to carry out the survey, or
- (b) the Secretary of State, where the Sewage Certificate was issued by a Contracting Government” following a request made pursuant to regulation 12,

as the case may be.

(3) Whenever—

- (a) an accident occurs to a ship, or
- (b) a defect is discovered in a ship,

which substantially affects the integrity of the ship or the efficiency or completeness of the equipment of the ship required under Part 3, the owner and the master of the ship must ensure that the requirements of paragraph (4) are complied with.

(4) The requirements are that—

- (a) the accident or defect, as the case may be, is reported at the earliest opportunity to the Certifying Authority who issued the Sewage Certificate in respect of the ship, and
- (b) in the case of a ship in a port outside the United Kingdom, the accident or the defect, as the case may be, is also immediately reported to the appropriate maritime authorities in the country in which the port is situated.

(5) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph (4)(a), the Certifying Authority—

- (a) must cause an investigation to be initiated to determine whether or not an additional survey is necessary, and
- (b) if it considers that an additional survey is necessary, must cause that survey to be carried out.

(6) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph (4)(a) and the ship in question is in a port outside the United Kingdom, the Certifying Authority must take all appropriate steps to ascertain that the requirement in paragraph (4)(b) has been complied with.

Additional surveys

10.—(1) This regulation applies to a ship where—

- (a) a repair resulting from an investigation referred to in regulation 9(5) has been made to the ship, or
- (b) an important repair or renewal has been made to the ship.

(2) A ship to which this regulation applies must not—

- (a) proceed to sea, or
- (b) (it is already at sea) remain at sea,

unless the requirements set out in paragraph (3) are met.

- (3) The requirements are that—
 - (a) a survey has been carried out in respect of the ship,
 - (b) at the date of the survey the surveyor is satisfied that—
 - (i) the repair or renewal has been made effectively,
 - (ii) the materials used in, and the workmanship of, the repair or renewal are satisfactory in all respects, and
 - (iii) the ship complies in all respects with the requirements of Part 3; and
 - (c) the surveyor has issued a survey report expressing the satisfaction required by sub-paragraph (b).
- (4) A survey carried out under paragraph (3) is referred to in these Regulations as an “additional survey”.

Issue of Sewage Certificates by a Certifying Authority

11.—(1) Subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2006⁽¹⁾, on being notified by a surveyor that the surveyor—

- (a) has carried out an initial survey or a renewal survey in respect of a ship to which this regulation applies; and
 - (b) is satisfied at the date of the survey that the structure, equipment, systems, fittings, arrangements and materials of the ship fully comply with the requirements of Part 3,
- a Certifying Authority must issue a Sewage Certificate in respect of that ship.

(2) Where a ship becomes a ship to which this regulation applies on transfer from the flag of another Contracting Government”, a Certifying Authority must issue a Sewage Certificate in respect of that ship where—

- (a) a Sewage Certificate has been issued in respect of the ship and was still valid immediately before the date of the transfer,
- (b) the Certifying Authority has caused a survey to be carried out in respect of the ship, and
- (c) the Certifying Authority is satisfied that—
 - (i) the condition of the ship and its equipment is maintained to conform with the provisions of Annex IV, so as to ensure that the ship is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, and
 - (ii) no change, other than a change referred to in paragraph (3), has been made to the structure, equipment, systems, fittings, arrangements or materials of the ship covered by the last survey carried out under Regulation 4.1 of Annex IV without the approval of the Contracting Government” in question.

(3) The changes referred to in paragraph (2)(c)(ii) are the direct replacement of equipment and fittings.

(4) A Sewage Certificate issued under this regulation must be in English and in the form set out in the Appendix to Annex IV.

Issue of Sewage Certificates by another Government in respect of United Kingdom ships

12.—(1) The Secretary of State may request a Contracting Government”—

- (a) to survey a ship to which this regulation applies, and

(1) [S.I. 2006/2055](#), to which there are amendments not relevant to these Regulations.

- (b) to issue, or authorise the issue of, a Sewage Certificate in respect of that ship, if the Contracting Government” is satisfied that the ship complies with the requirements of Annex IV.
- (2) Where a Sewage Certificate is issued pursuant to paragraph (1)—
 - (a) the Secretary of State is to be treated as the Certifying Authority in relation to it, and
 - (b) any reference in these Regulations to the Certifying Authority who issued the Certificate is to be treated as a reference to the Secretary of State.

Issue of Sewage Certificates in respect of ships which are not United Kingdom ships

- 13.—(1) When requested to do so by a Contracting Government”, the Secretary of State—
- (a) may cause a survey to be carried out in respect of a ship to which this regulation applies, and
 - (b) must, subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2006, issue in respect of that ship a Sewage Certificate if the Secretary of State is satisfied that the requirements of Annex IV are complied with.
- (2) A Sewage Certificate issued pursuant to paragraph (1) is to—
- (a) be in English and in the form set out in the Appendix to Annex IV,
 - (b) contain a statement that it has been so issued, and
 - (c) have the same effect as if it had been issued by the Contracting Government” who made the request referred to in paragraph (1) and not by the Secretary of State.
- (3) The Secretary of State must send as soon as possible to the Contracting Government” who made the request referred to in paragraph (1) a copy of—
- (a) the Sewage Certificate issued pursuant to that paragraph, and
 - (b) the survey report.
- (4) The Secretary of State must not issue a Sewage Certificate in respect of a ship which is—
- (a) registered in a State whose Government is not a Contracting Government”, or
 - (b) is not registered, but is entitled to fly the flag of a State whose Government is not a Contracting Government”.

Duration and validity of Sewage Certificates

14.—(1) Subject to the following paragraphs and to regulations 16(3) and 18(1), a Sewage Certificate which is issued in respect of a ship to which this regulation applies is valid for such period as is specified in the certificate, not exceeding five years, beginning with the date of the completion of the relevant initial or renewal survey.

- (2) Subject to paragraph (3) and regulation 15(9), where a renewal survey is completed—
- (a) within the final three month period, or
 - (b) after the date of expiry of the latest Sewage Certificate,

the new Sewage Certificate is valid for such period as is specified in the Certificate, beginning with the date of the completion of the renewal survey and ending with a date not exceeding five years from the date of expiry of the latest Sewage Certificate.

- (3) A Sewage Certificate issued in respect of a ship ceases to be valid upon whichever is the earliest of the following—
- (a) upon the ship being transferred to the flag of another State,
 - (b) upon a ship proceeding to sea where—

- (i) a repair or renewal referred to in regulation 10(1) has been made, and
- (ii) the requirements set out in regulation 10(3) have not been complied with,
- (c) upon a new Sewage Certificate being issued in respect of the ship, or
- (d) upon the date of expiry of the Certificate.

(4) Where a ship is transferred to the flag of another State whose Government is a Contracting Government”, and within three months after the date of transfer that Government so requests, the Secretary of State must send the Government a copy of—

- (a) the Sewage Certificate issued in respect of the ship, and
- (b) if available, the survey report.

(5) In this regulation, the “final three month period” means the period of three months ending on the date of expiry of the Sewage Certificate in question.

Extension of periods of validity of Sewage Certificates

15.—(1) Where the period of the validity of a Sewage Certificate in respect of a ship to which this regulation applies is less than five years, the Certifying Authority who issued the Sewage Certificate may extend its period of validity to a maximum period of five years.

(2) Where—

- (a) a renewal survey has been completed by a surveyor; but
- (b) the new Sewage Certificate cannot be issued or placed on board the ship before the date of expiry of the latest Sewage Certificate,

the surveyor may endorse the latest Sewage Certificate.

(3) Where a Sewage Certificate has been endorsed under paragraph (2), that Certificate is valid for such further period as is specified in the Certificate, not exceeding five months beginning with the original date of expiry of the Certificate.

(4) Where—

- (a) a renewal survey has not been completed before the date of expiry of the latest Sewage Certificate in question; and
- (b) at that date of expiry the ship is not in the port in which the survey is to be carried out,

the Certifying Authority who issued the latest Sewage Certificate may extend the period of validity of that Sewage Certificate for a period not exceeding three months, if it appears to the Certifying Authority that it is proper and reasonable to do so solely for the purpose of allowing the ship to complete its voyage to its port of survey.

(5) Where the period of validity of a Sewage Certificate has been extended pursuant to paragraph (4), the ship in question must not leave its port of survey until a new Sewage Certificate has been issued in respect of that ship.

(6) Subject to paragraph (7), the Certifying Authority who issued the latest Sewage Certificate in respect of a ship engaged solely on short international voyages may extend the period of validity of that Sewage Certificate for a period not exceeding one month.

(7) A Certifying Authority must not extend the period of validity of a Sewage Certificate under paragraph (6) if the period of validity of that Sewage Certificate has already been extended under paragraph (1), (3) or (4).

(8) Subject to paragraph (9) and to regulations 16(3) and 18(1), where a renewal survey has been completed and a new Sewage Certificate has been issued in respect of a ship referred to in paragraph (5) or (6), that new Certificate is valid for such period as is specified in the Certificate, not exceeding five years beginning with the original date of expiry of the previous Sewage Certificate.

(9) In the special circumstances set out in Merchant Shipping Notice MSN No. 1807, the period of validity of a new Sewage Certificate which is—

- (a) issued in respect of a ship referred to in paragraph (5) or (6), or
- (b) referred to in regulation 14(2) and issued where the renewal survey is completed after the date of expiry of the latest Sewage Certificate,

is such period as is specified in the new Certificate, not exceeding five years beginning with the date of the completion of the renewal survey in question.

(10) Where the period of validity of a Sewage Certificate is extended under paragraph (1), (4) or (6), the Certifying Authority in question must endorse the Sewage Certificate in accordance with the relevant form set out in the Appendix to Annex IV.

(11) An endorsement issued pursuant to paragraph (2) must be in the relevant form set out in the Appendix to Annex IV.

(12) In this regulation, “the original date of expiry” means the date on which a Sewage Certificate would have expired but for any extension of its period of validity.

Procedure to be adopted when a ship is deficient

16.—(1) This regulation applies where a surveyor determines that—

- (a) the condition of a ship to which paragraphs (1) to (5) of this regulation apply, or its equipment, does not correspond substantially with the particulars of the Sewage Certificate (if any) issued in respect of the ship, or
- (b) a ship, to which paragraphs (1) to (5) of this regulation apply, is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) The surveyor must—

- (a) advise the owner or master of the corrective action which in the opinion of the surveyor is required, and
- (b) where a Sewage Certificate has been issued in respect of the ship and is still valid, notify the Certifying Authority who issued the Certificate—
 - (i) that the surveyor has so advised the owner or master, and
 - (ii) if that corrective action is not taken.

(3) Where a Sewage Certificate has been issued in respect of the ship and is still valid, the Certifying Authority may suspend the validity of that Certificate until the corrective action has been taken.

(4) Where the Certifying Authority suspends the validity of a Sewage Certificate issued in respect of a ship, it must immediately give notice of such suspension—

- (a) to the owner of the ship, and
- (b) where the ship is in a port outside the United Kingdom, to the appropriate maritime authorities of the country in which the port is situated.

(5) Where the owner of a ship is given notice of suspension, that owner must notify the master of the ship in question of the suspension.

(6) Paragraphs (1) and (2) have effect in relation to a ship to which this paragraph applies as they have effect in relation to a ship to which those paragraphs apply, and as if—

- (a) the reference to “the Certifying Authority” were to the Government of the State where the ship is registered (or if the ship is not registered, the Government of the flag State), and
- (b) the reference to a “surveyor” included a reference to a person authorised by that Government to survey the ship.

Arbitration

17.—(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a ship to which this regulation applies, the applicant may serve a written notice on the responsible person within 21 days of receiving notification of that outcome—

- (a) stating that there is a dispute between them; and
- (b) requesting that the dispute be referred to a single arbitrator.

(2) An arbitrator referred to in paragraph (1) must be appointed by agreement between the applicant and the responsible person.

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

- (a) a person who holds a certificate to act as—
 - (i) a master or chief mate on a seagoing ship of 3,000 GT or more, in accordance with Regulation II/2 of Chapter 2 of the Annex to STCW, or
 - (ii) a chief engineer officer or second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more, in accordance with Regulation III/2 of Chapter 3 of the Annex to STCW;
- (b) a person who holds a certificate of competency equivalent to a certificate referred to in sub-paragraph (a);
- (c) a naval architect;
- (d) a qualified person;
- (e) a person with special experience of shipping matters, or of the fishing industry, or of activities carried on in ports; or
- (f) a member of the Chartered Institute of Arbitrators.

(4) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 259 of the 1995 Act.

(5) 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 applicant and the responsible person is to be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by a sheriff.

(6) The rules for arbitration set out in Merchant Shipping Notice No. M.1613 apply unless alternative procedures are agreed between the applicant and the responsible person before the commencement of arbitration proceedings.

(7) In this regulation—

- (a) “applicant” means a person who makes an application for a survey required by these Regulations;
- (b) “qualified person” means—
 - (i) a person who has a 10 year general qualification, within the meaning of the section 71 of the Courts and Legal Services Act 1990⁽²⁾;
 - (ii) a person who is an advocate or solicitor in Scotland of at least 10 years’ standing; or
 - (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 10 years’ standing;
- (c) “responsible person” means—

(2) 1990 c.41, to which there are amendments not relevant to these Regulations.

- (i) the Certifying Authority responsible under regulation 11 or 12 for the issue of the Sewage Certificate in connection with which a survey required by these Regulations is carried out, or
- (ii) in the case of a dispute relating to an additional survey, the Certifying Authority which issued the Sewage Certificate in respect of the ship.

Miscellaneous provisions relating to Sewage Certificates

18.—(1) The Secretary of State may cancel a Sewage Certificate issued in respect of a ship to which this paragraph applies, where the Secretary of State has reason to believe that—

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

(2) The Secretary of State may require that a Sewage Certificate, issued in respect of a ship to which this paragraph applies, and which has expired or has been suspended or cancelled, is to be surrendered within such time and in such manner as the Secretary of State may in writing direct.

(3) In relation to a ship to which this paragraph applies, no person may—

- (a) intentionally alter a Sewage Certificate;
- (b) intentionally make a false Sewage Certificate;
- (c) knowingly or recklessly provide false information in connection with a survey required under these Regulations;
- (d) with intent to deceive, use or lend a Sewage Certificate or permit a Sewage Certificate to be used by another person;
- (e) fail to surrender a Sewage Certificate when required to do so pursuant to paragraph (2); or
- (f) in Scotland, forge a Sewage Certificate.

(4) The owner and master of a ship, in respect of which a Sewage Certificate has been issued and in relation to which this paragraph applies, must ensure that the Certificate is readily available on board the ship for examination at all times.

Prohibition on non United Kingdom ships proceeding to sea without a Sewage Certificate

19.—(1) A ship to which this paragraph applies must not proceed to sea from a port in the United Kingdom unless—

- (a) a Sewage Certificate has been issued pursuant to Annex IV in respect of that ship and is still valid,
- (b) a surveyor of ships is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment, or
- (c) a person having powers to detain the ship has permitted the ship to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard available.

(2) A ship to which this paragraph applies must not proceed to sea from a port in the United Kingdom unless documentation has been issued in respect of that ship which is still valid and shows that—

- (a) a survey has been carried out in respect of the ship as if regulation 7 applied to the ship, and
- (b) a surveyor of ships is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment, or a person having powers to detain the ship has permitted the ship to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard available.

Survey and certification of ships to which regulations 7, 8 and 10 do not apply

20.—(1) When requested by the owner of a ship to which this regulation applies, a surveyor may carry out a survey equivalent to one carried out under regulation 7, 8 or 10 in respect of that ship.

(2) In the following paragraphs, a “relevant ship” means a ship to which this regulation applies and in respect of which such a survey is carried out.

(3) The provisions referred to in paragraph (4) have effect—

- (a) in relation to a relevant ship as they have effect in relation to a ship to which regulations 7, 8 and 10 apply,
- (b) in relation to a Sewage Certificate issued in respect of a relevant ship as they have effect in relation to a Sewage Certificate issued in respect of a ship to which those regulations apply,
- (c) as if any reference in those provisions to a ship to which one of those provisions applies included a reference to a relevant ship, and
- (d) as if any reference in those provisions to a Sewage Certificate included a reference to a Sewage Certificate issued in respect of a relevant ship.

(4) The provisions are—

- (a) regulation 9,
- (b) regulation 11,
- (c) regulation 14,
- (d) regulation 15 other than paragraph (5),
- (e) regulation 16 other than paragraph (6), and
- (f) regulation 18.