
STATUTORY INSTRUMENTS

2008 No. 2924

**The Merchant Shipping (Prevention of Air
Pollution from Ships) Regulations 2008**

PART 2

Surveys and Certificates of Ships

Requirement for appropriate certificate: initial survey

- 5.—(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,
- on or at any time after the date applicable to that ship specified in paragraph (2) unless the requirements set out in paragraph (3) are met.
- (2) The date applicable to—
- (a) a ship which was constructed before 19th May 2005 is 18th May 2008 or, if earlier, the date of its first scheduled dry-docking after the day before these Regulations come into force,
 - (b) any other ship is the date on which these Regulations come into force.
- (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 the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part 3, or an alternative that has been permitted pursuant to regulation 4, and
 - (c) an appropriate certificate has been issued in respect of that ship and is still valid.
- (4) A survey carried out under paragraph (3) is referred to in these Regulations as an “initial survey”.

Renewal of appropriate certificate: renewal survey

- 6.—(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 an appropriate certificate 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 equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part 3, or an alternative that has been permitted pursuant to regulation 4, and
- (c) in consequence an appropriate 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”.

Annual survey

7.—(1) — Subject to paragraph (3), 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 end of any annual survey period for 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, and
- (b) the surveyor—
 - (i) at the date of that survey is satisfied that the equipment, systems, fittings, arrangements and materials of that ship have been maintained in accordance with Part 3 and remain satisfactory for the service for which the ship is intended, and
 - (ii) has endorsed the appropriate certificate to that effect.

(3) Paragraph (1) does not apply if the requirements of regulation 6(2) or 8(2) have been met during the annual survey period in question.

(4) An endorsement referred to in sub-paragraph (2)(b)(ii) must be—

- (a) in the form set out in Appendix 1 to Annex VI where the certificate is an IAPP Certificate, and
- (b) in the form set out in Appendix 5 to Merchant Shipping Notice 1819 (M+F) where the certificate is a UKAPP Certificate.

(5) In this regulation, “annual survey period” means the period of six months beginning three months before each anniversary date.

Intermediate surveys

8.—(1) Subject to paragraph (3), 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 third anniversary date, 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 during an intermediate survey period, and
- (b) the surveyor—
 - (i) at the date of that survey is satisfied that the equipment and arrangements of that ship fully comply with the requirements of Part 3, or an alternative that has been

permitted pursuant to regulation 4, and are at the time of the survey in good working order, and

(ii) has endorsed the appropriate certificate to that effect.

(3) An endorsement referred to in sub-paragraph (2)(b)(ii) must be—

(a) in the form set out in Appendix 1 to Annex VI where the certificate is an IAPP Certificate, and

(b) in the form set out in Appendix 5 to Merchant Shipping Notice 1819 (M+F) where the certificate is a UKAPP Certificate.

(4) In this regulation, “intermediate survey period” means a period of six months beginning three months before the second or third anniversary date.

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 Part 3 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 equipment, systems, fittings, arrangements and materials 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 IAPP 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 that issued the appropriate 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.

(7) In paragraph (2) “direct replacement” means the direct replacement of equipment and fittings with equipment and fittings that conform with the provisions of Annex VI.

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) (if 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 subparagraph (b).

(4) A survey carried out under paragraph (3) is referred to in these Regulations as an “additional survey”.

Issue of appropriate certificate 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 equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part 3 or an alternative that has been permitted pursuant to regulation 4,

a Certifying Authority must issue an appropriate 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 an appropriate certificate in respect of that ship where—

- (a) an IAPP Certificate has been issued in respect of the ship and was still valid immediately before the date of 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—

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

- (i) the condition of the ship and its equipment is maintained to conform with the provisions of Annex VI, 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 equipment, systems, fittings, arrangements or material covered by the last survey carried out under regulation 5(1) of Annex VI 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 with equipment and fittings that conform with the provisions of Annex VI.

(4) An IAPP Certificate issued under this regulation must be in English and in the form set out in Appendix 1 to Annex VI.

(5) A UKAPP Certificate issued under this regulation must be in the form prescribed by the Secretary of State in Appendix 5 to Merchant Shipping Notice 1819 (M+F).

Issue of IAPP 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
- (b) to—
 - (i) issue, or authorise the issue of, or
 - (ii) endorse, or authorise the endorsement of,

an IAPP Certificate, in accordance with the requirements of Annex VI, in respect of that ship if the Contracting Government is satisfied that the ship complies with the requirements of Annex VI.

(2) Where an IAPP 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 that issued the certificate is to be treated as a reference to the Secretary of State.

Issue of IAPP 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 an IAPP certificate, or endorse the IAPP Certificate, in accordance with the requirements of Annex VI, if the Secretary of State is satisfied that the requirements of Annex VI are complied with.

(2) An IAPP Certificate issued pursuant to paragraph (1) must—

- (a) be in English in the form set out in Appendix 1 to Annex VI,
- (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 IAPP Certificate issued pursuant to that paragraph, and

- (b) the survey report.
- (4) The Secretary of State must not issue an IAPP Certificate in respect of a ship which —
 - (a) is registered in a country whose Government is not a Contracting Government, or
 - (b) is not registered, but is entitled to fly the flag of a country whose Government is not a Contracting Government.

Duration and validity of appropriate certificates

14.—(1) Subject to the following paragraphs and to regulations 16(3) and 18(1), an appropriate certificate 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 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 appropriate certificate,

the new appropriate 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 appropriate certificate.

- (3) An appropriate certificate issued in respect of a ship ceases to be valid—
 - (a) upon whichever is the earlier of the following—
 - (i) the ship being transferred to the flag of another State,
 - (ii) the ship proceeding to sea where—
 - (aa) a repair or renewal referred to in regulation 10(1) has been made, and
 - (bb) the requirements set out in regulation 10(3) have not been complied with,
 - (b) if a survey under regulations 5, 6, 7 or 8 is not completed in accordance with the requirements of these Regulations, or
 - (c) if an appropriate certificate is not endorsed in accordance with the requirements of these Regulations,
 - (d) upon a new appropriate certificate being issued in respect of the ship, or
 - (e) 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 IAPP certificate issued in respect of that 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 certificate in question.

Extension of periods of validity of appropriate certificates

15.—(1) Where the period of validity of an appropriate certificate issued in respect of a ship to which this regulation applies is less than five years, the Certifying Authority that issued the certificate may extend its period of validity to a maximum period of five years provided that any survey required under regulation 7 or 8 has been carried out.

- (2) Where—

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

the surveyor may endorse the latest appropriate certificate.

(3) Where an appropriate 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 appropriate certificate in question, and
- (b) at the date of expiry the ship is not in the port in which the survey is to be carried out,

the Certifying Authority that issued the latest appropriate certificate may extend the period of validity of that 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 an appropriate certificate has been extended pursuant to paragraph (4), the ship in question must not leave its port of survey until a new appropriate certificate has been issued in respect of that ship.

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

(7) A Certifying Authority must not extend the period of validity of an appropriate certificate under paragraph (6) if the period of validity of that 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 appropriate certificate has been issued in respect of a ship referred to in paragraph (5) or (6), the new appropriate 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 appropriate certificate.

(9) In the special circumstances set out in Marine Guidance Note 381 (M+F), the period of validity of a new appropriate 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) (b) and issued where the renewal survey is completed after the date of expiry of the latest appropriate 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 an appropriate certificate is extended under paragraph (1), (4) or (6), or an endorsement is to be made pursuant to paragraph (2), the Certifying Authority in question must endorse the appropriate certificate in accordance with paragraph (11).

(11) An endorsement referred to in paragraph (10) must be —

- (a) in the form set out in Appendix 1 to Annex VI where the certificate is an IAPP certificate, and
- (b) in the form set out in Appendix 5 to Merchant Shipping Notice 1819 (M+F) where the certificate is an UKAPP Certificate

(12) Where—

- (a) a survey is completed under regulation 7 before the annual survey period, or
- (b) a survey is completed under regulation 8 before the intermediate survey period,

the anniversary date shown on the appropriate certificate shall be amended by an endorsement on the appropriate certificate to a date which shall not be more than three months later than the date on which the survey referred to in sub-paragraph (a) or (b) was completed.

(13) Where the anniversary date on an appropriate certificate is amended in accordance with paragraph (12) any subsequent annual or intermediate survey required under these Regulations shall be completed at the intervals prescribed by these Regulations using the new anniversary date.

(14) Where—

- (a) a survey is completed under regulation 7 before the annual survey period, or
- (b) a survey is completed under regulation 8 before the intermediate survey period,

the date of expiry of the appropriate certificate may remain unchanged provided that any surveys required by regulation 7 or 8 are carried out so that the maximum intervals between the surveys as required by these Regulations are not exceeded.

(15) In this regulation—

- (a) “annual survey period” has the same meaning as in regulation 7,
- (b) “intermediate survey period” has the same meaning as in regulation 8, and
- (c) “the original date of expiry” means the date on which an appropriate 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 appropriate 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 an appropriate certificate has been issued in respect of the ship and is still valid, notify the Certifying Authority that issued the appropriate certificate—
 - (i) that the surveyor has so advised the owner and master, and
 - (ii) if that corrective action is not taken.

(3) Where an appropriate 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 an appropriate 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 the 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 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 the Annex to the STCW Convention, 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 the STCW Convention,
- (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 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 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—
 - (i) the Certifying Authority responsible under regulation 11 or 12 for the issue of the appropriate 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 required by regulation 10, the Certifying Authority which issued the appropriate certificate in respect of the ship.

Miscellaneous provisions relating to appropriate certificates

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

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

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

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

- (a) intentionally alter an appropriate certificate,
- (b) intentionally make a false appropriate 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 an appropriate certificate or permit an appropriate certificate to be used by another person,
- (e) fail to surrender an appropriate certificate where required to do so pursuant to paragraph (2), or
- (f) in Scotland, forge an appropriate certificate.

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

Prohibition on non United Kingdom ships proceeding to sea without an IAPP Certificate

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

- (a) an IAPP certificate has been issued pursuant to Annex VI 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

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

- (c) a person having power to detain the ship has permitted the ship to proceed to sea for the purpose 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 5 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.