
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

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⁽¹⁾;

(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 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.

(1) 1990 c.41, to which there are amendments not relevant to these Regulations.