L.N. 444 of 2003

MERCHANT SHIPPING ACT (CAP. 234)

Merchant Shipping (Ship Inspection and Survey Organisations) Regulations, 2003

IN exercise of the powers conferred by articles 367 and 374 of the Merchant Shipping Act, the Minister for Transport and Communications has made the following regulations -

Citation, commencement and scope.

1. (1) The title of these regulations is the Merchant Shipping (Ship Inspection and Survey Organisations) Regulations, 2003.

(2) These regulations shall come into force on the 1st May, 2004.

(3) These regulations prescribe the criteria in accordance with which organisations or bodies of surveyors may be authorized for the purposes of article 367(1) of the Act and implement the provisions of Council Directive 94/57/EC of 22 November 1994 in its up-to-date version, hereinafter referred to in these regulations as Council Directive 94/57/EC.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires-

"the Act" means the Merchant Shipping Act;

"authorise" means authorise organisations to undertake fully or in part inspections and surveys related to certificates including those for the assessment of compliance with regulation hereof and, where appropriate, to issue or renew the related certificates;

"cargo ship safety radio certificate" means the certificate provided for by Chapter V of SOLAS 1974/1978;

"certificate" means a certificate issued by or on behalf of the Government of Malta in accordance with the international conventions;

"class certificate" means a document issued by a classification society certifying the structural and mechanical fitness of a ship for a particular use or service in accordance with the rules and regulations laid down and made public by that society;

"Council Directive" or "Council Regulation" means a directive or regulation of the Council of the European Union published in the Official Journal of the European Union, as the case may be;

"cargo ship safety radio certificate" means the certificate provided for by Chapter V of SOLAS 1974/1978;

"international conventions" means the International Convention for the Safety of Life at Sea signed in London on 1st November, 1974 (SOLAS 1974/1978), the International Convention on Load Lines signed in London on 5th April 1966 and the International Convention for the Prevention of Pollution from Ships, signed in London on 2nd November, 1973 as modified by the Protocol of 1978 relating thereto signed in London on 17th February, together with the protocols and amendments thereto, and related codes of mandatory status in all Member States of the European Union, in their up-to-date version;

"Maltese ship" shall have the same meaning as is assigned to it by article 3 of the Act;

"organisation" means a classification society or other private body authorised for the purposes of article 367 of the Act;

"recognised organisation" means an organisation or a body of surveyors recognised by the European Union pursuant to article 4 of Council Directive 94/57/EC but does not include a recognised organisation whose recognition has been withdrawn pursuant to article 5 of the said Directive.

Authorisation of organisations or bodies of surveyors.

3. (1) For the purposes of article 367(1) of the Act in so far as it relates to organisations or bodies of surveyors, the Minister shall only authorise organisations or bodies of surveyors which are recognised organisations:

Provided further that the Minister may authorise a private body having sufficient expertise and qualified personnel to carry out specified work on radio-communication and to issue on behalf of the Government of Malta the cargo ship safety radio certificates.

(2) Subject to sub-regulation (6) of this regulation and regulations 4 and 5 hereof, the Minister shall in principle not refuse to authorise a recognised organisation:

Provided that the Minister may restrict the number of authorised recognised organisations in accordance with the requirements for the administration of the Act, provided there are transparent and objective grounds for so doing.

(3) If the Minister wishes to grant an authorisation to any organisation which is not yet recognised or to grant a limited recognition of three years for oganisations which meet all the criteria of the Annex Minimum Criteria For Organisations Referred To In Article 5 to Council Directive 94/57/EC others than those set out under paragraphs 2 and of section A of that Annex, he shall direct the Registrar-General to submit a request to the European Commission in the manner specified in paragraphs 1 or 2 of Article 4 of Council Directive 94/57/EC, as the case may be.

(4) If the European Commission replies positively to any request submitted in terms of sub-regulation (3) hereof, the Minister may authorise such an organisation under any conditions contained in the reply of the European Commission and under any other conditions that he may deem fit to impose.

(5) The Minister may refuse to authorise a recognised organisation located in a State outside the European Union if that State does not grant reciprocal treatment for recognised organisations which are located in the European Union.

(6) The Minister may suspend or withdraw the authorisation of a recognised organisation and for this purpose he shall first direct the Registrar General to comply with the procedure provided for in Article 10 of Council Directive 94/57/EC.

(7) This regulation does not concern the certification of specific items of marine equipment.

(8) For the purposes of this regulation, "located" refers to the place of the registered office, central administration or principal place of business of an organisation.

Working relationship with recognised organisations.

4. (1) The Registrar-General, shall set out a working relationship with the recognised organisations authorised by the Minister which working relationship shall be regulated by a formalised written and non-discriminatory agreement setting out the specific duties and functions assumed by the organisations and including at least the provisions set out in sub-paragraphs (a) to (e) of Article 6 of Council Directive 94/57/EC.

(2) The agreement referred to in sub-regulation (1) hereof may contain the requirement that the recognised organisation has a local representation in Malta which may be a representation of a legal nature ensuring legal personality under Maltese law and which is subject to the jurisdiction of the Maltese courts.

(3) For the purposes of this regulation, "administration" means the Government of Malta and includes the Malta Maritime Authority and the Registrar-General.

Monitoring of recognised organisations.

5. (1) The Registrar-General shall monitor the work of the authorised recognised organisations to ensure that they effectively carry out the functions for which they are authorised.

(2) The Registrar-General shall on a biennial basis draw up a report of the results of this monitoring and shall, through the Minister, submit same to Member States of the European Union and to the European Commission at the latest by the 31st March of each year following the years for which compliance has been assessed.

Compliance by Maltese ships with the requirements of recognised organisations.

6. Maltese ships to which the provisions of the international conventions are applicable shall be constructed and maintained in accordance with the hull, machinery and electrical and control installation requirements of an authorised recognised organisation.

Duties of recognised organisation.

7. (1) In performing functions for which they are authorised by the Minister in terms of article 367(1) of the Act relating to Maltese ships to which the provisions of international conventions apply, recognised organisations shall ensure that the provisions of regulation 7 of these regulations are complied with.

(2) The Registrar-General may require that a recognised organisations shall not issue any exemption certificate from the requirements of international conventions unless they are so authorised by the Registrar-General:

Provided that the Registrar-General shall in all cases approve the first issue of the exemption certificates

(3) Notwithstanding any requirements of the Act as to the issue of certificates, recognised organisations shall not issue certificates to a Maltese ship declassed or changing class for safety reasons before consulting the Registrar-General to determine whether a full inspection is necessary.

Port State control reporting.

8. The Registrar-General shall report to the European Commission and to other Member States of the European Union, and shall inform the flag State concerned, the discovery of the issue of valid certificates by organisations acting on behalf of a flag State to a ship which does not fulfil the relevant requirements of the international conventions, or of any failure of a ship carrying a valid class certificate and relating to items covered by that certificate.

(2) Only cases of ships representing a serious threat to safety and the environment or showing evidence of particularly negligent behaviour of the organisations shall be reported for the purposes of this regulation.