L.N. 220 of 2011

MERCHANT SHIPPING ACT
(CAP. 234)

Merchant Shipping (Ship Inspection and Survey Organisations) Regulations, 2011

IN exercise of the powers conferred by articles 367 and 374 of the Merchant Shipping Act, the Minister for Infrastructure, 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, 2011.

(2) These regulations shall come into force on the 17 June, 2011.

(3) These regulations prescribe the criteria in accordance with which organisations or bodies of surveyors may be authorised for the purposes of article 367(1) of the Act and implement the provisions of Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 in its up-to-date version, hereinafter referred to in these regulations as Directive 2009/15/EC.

Interpretation.

2. 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 the regulations 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 recognised organisation certifying the fitness of a ship for a particular use or service in accordance with the rules and procedures laid down and made public by that recognised organisation;

"international conventions" means the International Convention for the Safety of Life at Sea signed in London on 1st November, 1974 (SOLAS 1974/1978) with the exception of chapter XI-2 of the Annex thereto, 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, 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 legal entity, its subsidiaries and any other entities under its control, which jointly or separately carry out tasks falling under the scope of Directive 2009/15/EC;

"recognised organisation" means an organisation recognised in accordance with Regulation 391/2009/EC;

"rules and procedures" means a recognised organisation's requirements for the design, construction, equipment, maintenance and survey of ships.

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 certificate.

(2) Subject to sub-regulation (4) of this regulation and to 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) 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.

(4) The Minister may suspend or withdraw the authorisation of a recognised organisation in accordance with article 8 of Directive 2009/15/EC.

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

(6) 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 5 paragraph (2) of Directive 2009/15/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.

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 monitor every recognised organisation acting on its behalf and shall provide the other member States of the European Union and the European Commission with a report on the results of such monitoring activities at the latest by 31 March of the year following the year in which the monitoring was carried out.

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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 designed, constructed, equipped and maintained in accordance with the rules and procedures relating to hull, machinery and electrical and control installation requirements of an authorised recognised organisation.

Port State control reporting.

7. (1) 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 fulfill 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.

Duties of recognised organisation.

8. (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 this regulation are complied with.

(2) The Registrar-General may require that a recognised organisation 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.

Revokes L.N. 444 of 2003.

9. The Merchant Shipping (Ship Inspection and Survey Organisations) Regulations, 2003 are hereby being revoked.

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