Maritime and Coastguard Agency

MERCHANT SHIPPING NOTICE

MSN 1672 (M+F)
Amendment 3

Ship Inspection and Survey Organisations and European Directive 2009/15/EC

Notice to all Classification Societies, Shipowners, Ship Operators and Managers, Masters and Officers of Merchant Ships and Fishing Vessels

This notice amends MSN 1672 (as previously amended by MSN 1672 Amendment 1, and MSN 1672 Amendment 2). In place of all previous text in MSN 1672, MSN 1672 Amendment 1, and MSN 1672 Amendment 2, please insert the text in this amendment. Any reference in MSNs, MGNs, MINs, and other MCA instructions or procedures to MSN 1672 should be read as a reference to MSN 1672 as amended by this Notice.

PLEASE NOTE:-
Where this document provides guidance on the law it should not be regarded as definitive. The way the law applies to any particular case can vary according to circumstances - for example, from vessel to vessel and you should consider seeking independent legal advice if you are unsure of your own legal position.

Summary

This MSN outlines the approved standards as referred to in Merchant Shipping legislation and explains the means through which the UK has transposed Directive 2009/15/EC.

It also specifies standards referred to in the definition of "relevant rules of a recognised organisation" for the purposes of the Fishing Vessels (EC Directive on Harmonised Safety Regime) Regulations 1999 (SI 1999 No 2998).

1. Introduction

1.1 Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations sets requirements for EEA States on the management and control of organisations which have been delegated statutory duties, in the form of survey and certification functions, by Member States.

1.2 Supplementary to Directive 2009/15/EC is Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations. Regulation (EC) No 391/2009 sets provisions for ROs to meet in order to achieve recognition by EEA States and is available on the Europa website at the following link…

http://www.emsa.europa.eu/implementation-tasks/visits-and-inspections/weblink/32/270/1.html

1.3 This MSN outlines requirements on the UK, UK registered vessels, and UK authorised Recognised Organisations (ROs) within Directive 2009/15/EC, Regulation (EC) No 391/2009, and UK national legislation within the context of delegation of survey and certification functions, and establishes which organisations are authorised to act on behalf of the UK.

1.4 Directive 94/57/EC is revoked by the 2009 Directive. Accordingly, the UK implementation measures associated with that earlier Directive have been brought to an end. Statutory Instrument 1996/2908 will be revoked through a repealing Statutory Instrument, and the previous agreements with recognised organisations have been brought to an end by mutual consent. In their place, the UK has signed revised agreements with recognised organisations, which are referred to in para. 2.1 below.

2. Implementation

2.1 Member States are required to bring into force provisions to comply with Directive 2009/15/EC. In the UK the requirements of Article 5(2) of the Directive are met by formal agreements signed between the MCA and each of the UK recognised organisations authorised to perform statutory functions and certification services in respect of UK registered vessels on behalf of the Secretary of State.

2.2 Additionally, Articles 4(1), 4(2), 5(4), 7(1), 10 and 13 of Directive 2009/15/EC are implemented in the UK through this MSN. Articles 11(1) and 11(2) of Directive 2009/15/EC are implemented in the UK through paragraph 1.3 of Annex 1 to the agreement signed between the MCA and each of the UK authorised recognised organisations, and the following UK legislative instruments:-

2.2.1 Regulation 5 of Statutory Instrument 1998 No. 2514, The Merchant Shipping (Passenger Ship Construction: Ships of Classes I, II and II(A)) Regulations 1998, as amended.

2.2.2 Regulation 5 of Statutory Instrument 1997 No. 1509, The Merchant Shipping (Cargo Ship Construction) Regulations 1997, as amended.

2.2.3 Regulation 6 of Statutory Instrument 2004 No. 302, The Merchant Shipping (High Speed Craft) Regulations 2004, as amended.

2.3 It should also be noted that this MSN sets out the approved standards and authorised organisations with regards to vessels outside the scope of Directive 2009/15/EC, as referred to in:-

2.3.1 Regulation 5 of Statutory Instrument 1998 No. 2515, The Merchant Shipping (Passenger Ship Construction: Ships of Classes III to VI(A)) Regulations 1998, as amended.

2.3.2 Regulation 6 of Statutory Instrument 2000 No. 2687, The Merchant Shipping (Passenger Ships on Domestic Voyages) Regulations 2000, as amended.

2.3.3 Regulation 7 of Statutory Instrument 1999 No. 2998, The Fishing Vessels (EC Directive on Harmonised Safety Regime) Regulations 1999, as amended.

2.4 The statutory functions and certification services referred to in paragraph 2.1 above comprise of the assessment of UK registered vessels classed with one of the UK authorised recognised organisations, or when so otherwise authorised in Annex 1 to the UK RO agreements. Statutory functions and certification services are required in order to determine the compliance of UK registered vessels with the applicable requirements of the international conventions, codes, EU Directives, EU Regulations and UK national

requirements, and issue relevant certificates as set out in Annexes to the UK RO agreements.

2.5 As a port State, the MCA has a duty under Article 10 of Directive 2009/15/EC to report to the European Commission and to other Member States, and to inform the flag State concerned, if the MCA finds that valid statutory certificates have been issued by recognised organisations acting on behalf of a flag State to a ship which does not fulfil the relevant requirements of the international conventions, or in the event of any failure of a ship carrying a valid class certificate and relating to items covered by that certificate. Only cases of ships representing a serious threat to safety and to the environment or showing evidence of particularly negligent behaviour of the recognised organisations shall be reported for these purposes of Article 10 of Directive 2009/15/EC. The recognised organisation concerned shall be advised of the case at the time of the initial inspection so that it can take appropriate follow-up action immediately. Procedure MCA314 contains further details on this process.

2.6 The UK only entrusts the duties referred to in Article 3.2(i) and 3.2(ii) of Directive 2009/15/EC to recognised organisations. All UK delegation agreements with respect to the performance of marine statutory functions as required by International Conventions and UK legislation and the issuance of relevant certificates state in the opening paragraph that the agreements are between:-

2.6.1 a “Recognised Organisation, as defined in Regulation (EC) No 391/2009 of the European Parliament and of the Council on Common Rules and Standards for Ship Inspection and Survey Organisations”, and

2.6.2 the “United Kingdom's Maritime and Coastguard Agency, referred to as the MCA".

2.7 The UK has applied and, where relevant, continues to apply the guidelines to assist flag states in the implementation of IMO instruments, as detailed in the Annex and Appendix to IMO Resolution A.847(20) and subsequent IMO guidance. The UK has sufficient personnel, facilities, legislation, administrative systems, and resources to act as a flag State. Examples may be provided to the Commission on request.

3. Approved Standards and Authorised Organisations

3.1 The approved standards referred to in the provisions of UK legislation referenced at paragraph 2.2 and 2.3 of this MSN relating to one or more of the following:-

(i) hull;
(ii) machinery;
(iii) electrical installations; and
(iv) control installations,

are the standards specified in paragraph 3.2 below.

3.2 With reference to items (i) to (iv) of paragraph 3.1 above, the standard shall be the classification society rules of one of the authorised organisations listed below (available by application to the relevant classification society), applicable to the size, type and age of the ship;

.1 Lloyd’s Register,

.2 Bureau Veritas,

.3 Det Norske Veritas,

.4 Germanischer Lloyd,

.5 American Bureau of Shipping,

.6 RINA,

.7 ClassNK.

3.3 Notwithstanding the above, where a ship embodies features of a novel kind, and alternative or equivalent standards in accordance with the "alternative design and arrangements" or "equivalents" provisions of International Conventions are proposed by the authorised organisation, which may involve direct calculations, then such alternative or equivalent standards may be accepted provided details have been submitted to the MCA for prior approval.

3.4 Any standards must be applied as a consistent whole for each of the elements or installations listed at paragraph 3.1 as relevant to the regulations referred to in the same paragraph.

3.5 The UK does not currently use rules it considers equivalent to the rules and procedures of a recognised organisation but reserves the right to do so in the future if necessary. If it does so, the UK will notify the Commission and other Member States in accordance with Article 11(2) of Directive 2009/15/EC and the use of those rules will be subject to those rules being held not to be equivalent in the manner described in that Article.

3.6 The rules referred to in paragraph 3.2 concerning the matters specified in paragraph 3.1 are the "relevant rules of a recognised organisation" in respect of each recognised organisation listed, for the purposes of that defined term in the Fishing Vessels (EC Directive on Harmonised Safety Regime) Regulations 1999 (SI 1999 No 2998). This supersedes any previous specification of rules for the purposes of that defined term in those Regulations.

4. Withdrawal of Authorisation

4.1 Where the authorisation of a recognised organisation is suspended or terminated under paragraph 6.7 of its agreement with the MCA referred to in paragraph 2.1 above, the organisation shall cease to be authorised to perform any statutory functions or certification services, notwithstanding anything in the Merchant Shipping Act 1995 or any other instrument, until recognition is restored.

5. Reciprocity

5.1 The UK will generally only authorise an RO where the state in which that RO is located grants reciprocal treatment to ROs located in the UK and elsewhere in the EU/EEA. The UK applies this policy of reciprocity regardless of whether the applying RO is recognised or not recognised by any other EU/EEA State. Where such reciprocity does not yet exist the UK may agree to authorise an RO providing that a statement of principle confirming an intention to offer reciprocal treatment is given on behalf of the State in which the RO is located. Procedure MCA 313 contains further details on authorisation.

6. Monitoring

6.1 In order to discharge its duty under Article 9(1) of Directive 2009/15/EC, the MCA will use the supervision powers provided for in paragraph 5 of the agreement signed between the MCA and the relevant UK authorised recognised organisation in order to make sure that the authorised functions are being carried out to its satisfaction.

6.2 The powers referred to in paragraph 6.1 will be used regularly, and as a minimum each organisation will be monitored at least once every two years.

6.3 In accordance with Article 9(2) of the Directive, the MCA will provide other Member States and the Commission with an annual report by no later than 31 March each year, detailing the results of its monitoring activities in the previous calendar year.

7. Merchant Shipping Notice References

7.1 The amendment in paragraph 7.2 to MSN1775 is considered relevant by the Secretary of State.

7.2 The words “Council Directive 94/57/EC” in MSN1775 Annex 1, Section II, para 3 are replaced with “Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations”.

8. Other References

8.1 Reference to Directive 94/57/EC at MGN322 para 1.1 is replaced with a reference to Directive 2009/15/EC.

8.2 Reference to Article 4(1) of Directive 94/57/EC at MSIS 11 Appendix B should be read as a reference to Article 4(1) of Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations.

8.3 Reference to Article 4(1) of Directive 94/57/EC at MSIS 24 Appendix B should be read as a reference to Article 4(1) of Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations.

8.4 Reference to Article 4(3) of Directive 94/57/EC at MSIS 24 Appendix B should be read as a reference to Article 4(4) of Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations.

8.5 References to “as amended by 97/58/EC, 2001/105/EC and 2002/315/EC” at MSIS 24 Appendix B should be omitted.

More Information

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File Ref: MS107/024/0010

Published: September 2011
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