

**2021 No.000**

**MERCHANT SHIPPING**

**The Merchant Shipping (Polar Code) (Safety) Regulations 2021**

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

**CONTENTS**

**PART 1**

Preliminary

1. Citation and commencement
2. Interpretation
3. Application
4. Ambulatory reference
5. Exemptions
6. Equivalents
7. Alternative design and arrangements
8. Approvals
9. Amendment of the Merchant Shipping (Fees) Regulations 2018

**PART 2**

Ship requirements and certification

10. Requirements for ships operating in polar waters
11. Certification required to operate in polar waters
12. Duration and validity of Polar Ship Certificate
13. Responsibilities of owner and master
14. Procedure to be adopted when the ship is deficient
15. Cancellation of Polar Ship Certificate
16. Issue of Polar Ship Certificate by another Convention country
17. Request for a survey made by another Convention country
18. Arbitration

**PART 3**

Control and enforcement

19. Offences and penalties

20. Control
21. Detention
22. Review of the Regulations

The Secretary of State, after consulting the persons referred to in section 86(4) of the Merchant Shipping Act 1995(a), and in exercise of the powers conferred by sections 85(1), (3)(a), (c), (d), (e), (f), (g), (h), (j), (k), (l), (n), (o), (p) and (q), and (5) to (7), 86(1)(a), (b), (c) and (d), 302(1) and 306A of that Act, and with the consent of the Treasury, makes the following Regulations.

## PART 1

### Preliminary

#### Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Polar Code) (Safety) Regulations 2021 and come into force on [DATE].

#### Interpretation

2. In these Regulations—

“Certifying Authority” has the meaning given to it in regulation 4 of the Merchant Shipping (Survey and Certification) Regulations 2015(b);

“Chapter I” means Chapter I in the Annex to the Convention (general provisions);

“Chapter XIV” means Chapter XIV in the Annex to the Convention (safety measures for ships operating in polar waters);

“Convention” means the International Convention for the Safety of Life at Sea, 1974(c);

“Convention country” means a country or territory which is either—

- (a) a country the Government of which is party to the Convention; or
- (b) a territory to which the Convention extends whether or not it is subject to the amendments to, or reservations in respect of, the Convention;

“non-United Kingdom ship” means any ship other than a United Kingdom ship;

“Polar Code”(d) has the meaning given to it in regulation 1 of Chapter XIV;

- 
- (a) 1995 c. 21; sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), sections 8 and 29(2) and Schedule 7. Section 85 was amended by the British Overseas Territories Act 2002 (c. 8), section 2(3). Section 306A was inserted by the Deregulation Act 2015 (c. 20), section 106. There are other amendments but none is relevant.
  - (b) S.I. 2015/508, amended by S.I. 2018/53 and prospectively by S.I. 2018/1221.
  - (c) Cmnd 7874. The Convention may be obtained in copy from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=79786>). The Convention was modified by its Protocol of 1978 (Cmnd. 8277) (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=68013>), which was replaced and abrogated by the Protocol of 1988 (Cm 5044) (<https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=69573>) with respect to the parties to the 1988 Protocol. The amendments to the Convention are available from the International Maritime Organization of 4 Albert Embankment, London SE1 7SR or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>). Hard copies of the Command Papers are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW. The Parliamentary Archives catalogue numbers for the Command Papers are HL/PO/JO/10/11/2031/2878 (Cmnd 7874), HL/PO/JO/10/11/1959/2032 (Cmnd 8277) and HL/PO/JO/10/11/3156/2280 (Cm 5044).
  - (d) The International Code for Ships Operating in Polar Waters, known as the “Polar Code”, was adopted by IMO Resolutions MSC.385(94) and MEPC.264(68) and took effect on 1st January 2017 upon entry into force of new Chapter XIV of the

“Polar Ship Certificate” means a certificate prescribed by paragraph 1.3 of chapter 1 of part I-A of the Polar Code (certificate and survey) and issued to a United Kingdom ship pursuant to regulation 11(1) (issue of polar ship certificate) or to a ship flying the flag of a Convention country, by that country;

“polar waters”(a) has the meaning given to it in regulation 1 of Chapter XIV;

“Polar Water Operational Manual” means a manual containing information regarding the ship’s operational capabilities and limitations and procedures to be followed in polar waters in accordance with chapter 2 of part I-A of the Polar Code;

“surveyor” means a surveyor of ships, or any other person appointed by a Certifying Authority other than the Secretary of State to be a surveyor;

“valid” means in force and “validity” is to be construed accordingly.

## Application

3.—(1) Subject to paragraph (2), these Regulations apply to—

- (a) United Kingdom ships which are operating, or which intend to operate, in polar waters; and
- (b) non-United Kingdom ships which—
  - (i) commence a voyage from a port in the United Kingdom or end a voyage in a port in the United Kingdom; and
  - (ii) as part of that voyage operate, or intend to operate, in polar waters.

(2) These Regulations do not apply to—

- (a) ships of war and naval auxiliaries;
- (b) ships owned or operated by a State and engaged only on governmental non-commercial service;
- (c) cargo ships of less than 500 gross tons;
- (d) ships not propelled by mechanical means;
- (e) wooden ships of primitive build;
- (f) pleasure vessels;
- (g) fishing vessels;
- (h) ships solely navigating the Great Lakes of North America and the River St Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

(3) A non-United Kingdom ship flying the flag of a State which is not a party to the Convention is not subject to these Regulations if it would not have been in a United Kingdom port but for stress of weather or any other circumstances which neither the master nor the owner or the charterer could have prevented.

(4) Where persons are on board a ship as a consequence of—

---

Convention, in which it is referenced, and amendments to Annexes I, II, IV and V of the International Convention for the Prevention of Pollution from Ships 1973 (MARPOL). IMO Resolution MSC.386(94) amended the Convention to incorporate Chapter XIV and the safety related provisions of the Polar Code, and MEPC.265(68) amended Annexes I, II, IV and V of MARPOL to incorporate the environment related provisions. MARPOL was published in Cmnd 5748 and was amended by the Protocols of 1978 (Cmnd 7347) and 1997 (Cm 4427). The Polar Code is available from the IMO of 4 Albert Embankment, London SE1 7SR, and on the IMO website at <http://www.imo.org/en/MediaCentre/HotTopics/polar/Documents/POLAR%20CODE%20TEXT%20AS%20ADOPTED.pdf>. Hard copies of the Command Papers are available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London SW1A 0PW. MARPOL and the IMO Resolutions are also available from the IMO or found on the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>).

- (a) Polar waters are illustrated in figure 1 and figure 2 in the Introduction to the Polar Code.

- (a) the circumstances described in paragraph (3); or
- (b) an obligation laid upon the master to carry shipwrecked or other persons<sup>(a)</sup>, those persons are not to be taken into account for the purpose of determining the application to that ship of any provision of these Regulations.

(5) For the purposes of paragraph (2)—

“cargo ship” means any ship which is not a passenger ship;

“fishing vessel” means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;

“passenger” is a person other than—

- (a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; or

- (b) a child under 1 year of age;

“passenger ship” means a ship which carries more than 12 passengers;

“pleasure vessel” means—

- (a) any vessel which at the time it is being used is—

- (i) in the case of a vessel wholly owned by—

- (aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

- (bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

- (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

- (b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in paragraphs (a) or (b), no other payments are made by or on behalf of users of the vessel, other than by the owner; and in this definition “immediate family” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual’s spouse or civil partner; and “relative” means brother, sister, ancestor or lineal descendant.

### **Ambulatory reference**

**4.—**(1) In these Regulations, any reference to Chapter I, Chapter XIV or the Polar Code is to be construed—

- (a) as a reference to Chapter I, Chapter XIV or the Polar Code as modified from time to time; and

- (b) as, if Chapter I, Chapter XIV or the Polar Code is replaced, a reference to the replacement.

(2) For the purposes of paragraph (1), Chapter I, Chapter XIV or the Polar Code are modified or replaced if the modification or replacement takes effect in accordance with Article VIII of the Convention.

---

(a) Regulation 33 in Chapter V of the Convention (safety of navigation) places an obligation on the master to provide assistance to persons in distress at sea and this obligation is implemented in the Merchant Shipping (Safety of Navigation) Regulations 2020 (S.I. 2020/673).

(3) A modification or replacement of Chapter I, Chapter XIV or the Polar Code has effect at the time such modification or replacement comes into force in accordance with Article VIII of the Convention.

### **Exemptions**

**5.**—(1) Subject to paragraph (2), the Secretary of State may, in exceptional circumstances, exempt a ship or class of ship from any provision of—

- (a) these Regulations; or
- (b) the Polar Code, except for chapter 12 (manning and training),  
if satisfied that compliance with such provision is either impracticable or unreasonable in the case of that ship or class of ship.

(2) An exemption under paragraph (1) may be granted subject to such safety requirements as the Secretary of State thinks fit to ensure the overall safety of the ship.

(3) An exemption granted under paragraph (1) may, on the giving of reasonable notice, be altered or cancelled.

(4) Where an exemption under paragraph (1) is granted subject to safety requirements under paragraph (2), the exemption ceases to have effect if those requirements are not complied with.

(5) An exemption under paragraph (1), or an alteration or cancellation under paragraph (3), must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) specify the terms, if any, on which it is given.

(6) The requirement that an exemption granted under paragraph (1), or an alteration or cancellation under paragraph (3), be in writing is satisfied where the text of the exemption, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

(7) The period of validity of an exemption granted under paragraph (1), or an alteration under paragraph (3), must not be longer than the period of validity of the Polar Ship Certificate issued in respect of that ship.

### **Equivalents**

**6.**—(1) Where these Regulations or the Polar Code, except for chapter 12 of the Polar Code (manning and training), requires that—

- (a) a particular fitting, material, appliance or apparatus, or a type of fitting, material, appliance or apparatus be fitted on, or carried in, a ship;
- (b) a particular arrangement be made on, or in relation to, a ship; or
- (c) any particular provision be made in relation to a ship,

the Secretary of State may approve any other fitting, material, appliance or apparatus, arrangement or other provision if satisfied that it is at least as effective as that required by these Regulations or the Polar Code, as the case may be.

(2) An approval given under paragraph (1) may, on the giving of reasonable notice, be continued, altered or cancelled.

(3) Any approval given under paragraph (1), or a continuation, alteration or cancellation under paragraph (2), must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and

(c) specify the terms, if any, on which it is given.

(4) The requirement that the approval referred to in paragraph (1), or a continuation, alteration or cancellation under paragraph (2), be in writing is satisfied where the text of the approval, continuation, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

(5) The procedure for the granting of approvals in regulation 8 (approvals) does not apply to this regulation.

### **Alternative design and arrangements**

7.—(1) Structural arrangements, machinery and electrical installations, fire safety design and arrangement measures, and life-saving appliances and arrangements for ships to which these Regulations apply, may deviate from the requirements of chapters 3, 6, 7 and 8 of part 1-A of the Polar Code (“the relevant chapters”), provided that the alternative design and arrangements—

- (a) meet the intent of the goal and functional requirements of the relevant chapters; and
- (b) provide an equivalent level of safety to the requirements in those chapters.

(2) In relation to a ship to which paragraph (1) applies—

- (a) an alternative design or arrangement must be subjected to an engineering analysis in accordance with regulation 4 of Chapter XIV (alternative design and arrangement); and
- (b) a copy of the engineering analysis must be provided by the owner to the Secretary of State.

(3) In relation to the alternative design or arrangement and the engineering analysis mentioned in paragraph (2)—

- (a) the Secretary of State must evaluate and, if satisfied that the requirements of regulation 4 of Chapter XIV are met, approve the engineering analysis; and
- (b) any amendment to the alternative design or arrangement must, provided the Secretary of State is satisfied that such alternative design or arrangement is at least as effective as that required by the relevant chapters, be approved by the Secretary of State.

(4) Where there are changes to the assumptions and operational restrictions that were stipulated in the alternative design or arrangement mentioned in paragraph (2)—

- (a) a further engineering analysis must be carried out which takes into account the changed assumptions and operational restrictions; and
- (b) where the alternative design or arrangement requires amendment, this must be evaluated and, if satisfied that such alternative design or arrangement is at least as effective as that required by the relevant chapters, approved by the Secretary of State.

(5) An approval given under paragraph (3) or (4) may, on the giving of reasonable notice, be continued, altered or cancelled.

(6) An approval given under paragraph (3) or (4), or a continuation, alteration or cancellation under paragraph (5), must—

- (a) be in writing;
- (b) specify the date on which it takes effect;
- (c) specify the terms, if any, on which it is given.

(7) The requirement that the approval referred to in paragraph (3) or (4), or a continuation, alteration or cancellation under paragraph (5), be in writing is satisfied where the text of the approval, continuation, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and

(c) capable of being used for subsequent reference.

(8) Any alternative design or arrangement deviating from the requirements of the relevant chapters, together with the technical and operational measures and conditions for the approved deviation, must be recorded in the ship's Polar Ship Certificate and the ship's Polar Water Operational Manual.

## Approvals

**8.**—(1) The Secretary of State, or any person authorised by the Secretary of State, may grant an approval in relation to a United Kingdom ship for anything in part 1-A of the Polar Code, except for chapter 12 (manning and training), requiring to be—

- (a) approved by the Administration of the State whose flag the ship is entitled to fly;
- (b) done to the satisfaction of such Administration; or
- (c) acceptable to that Administration<sup>(a)</sup>.

(2) An approval given under paragraph (1) may, on the giving of reasonable notice, be continued, altered or cancelled.

(3) Any approval given under paragraph (1), or a continuation, alteration or cancellation under paragraph (2), must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) specify the terms, if any, on which it is given.

(4) The requirement that the approval referred to in paragraph (1), or a continuation, alteration or cancellation under paragraph (2), be in writing is satisfied where the text of the approval, continuation, alteration or cancellation is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

## Amendment of the Merchant Shipping (Fees) Regulations 2018

**9.**—(1) The Merchant Shipping (Fees) Regulations 2018<sup>(b)</sup> are amended as follows.

(2) In Schedule 1 (fees under the Merchant Shipping Act 1995), in the table in paragraph 5 (fees for inspections, etc.) of Part 1 (surveys, inspections and application for exemption), in Section L (survey and certification) after the entry for the Merchant Shipping (Work in Fishing Convention) (Survey and Certification) Regulations 2018—

- (a) in the first column, insert “The Merchant Shipping (Polar Code) (Safety) Regulations 2021”;
- (b) in the second column, insert “2021/XXXX”;
- (c) in the third column, insert “None”.

---

<sup>(a)</sup> Guidance in relation to the matters requiring the approval of the Secretary of State in the Polar Code is set out in Marine Guidance Note (MGN) XXX. MGN XXX is available from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000) and email [infoline@mca.gov.uk](mailto:infoline@mca.gov.uk) and on <https://www.gov.uk>.

<sup>(b)</sup> S.I. 2018/1104. There are amending instruments which are not relevant.

## PART 2

### Ship requirements and certification

#### Requirements for ships operating in polar waters

**10.**—(1) A ship must comply with each requirement referred to in paragraph (2) which is applicable to that ship.

(2) The requirements referred to in paragraph (1) are the following provisions in part 1-A of the Polar Code—

- (a) paragraph 1.4 of chapter 1 (performance standards);
- (b) paragraph 1.5 of chapter 1 (operational assessment); and
- (c) chapters 2 to 11 (safety measures).

(3) A ship must be operated in compliance with its Polar Water Operational Manual.

#### Certification required to operate in polar waters

**11.**—(1) Subject to the payment of the relevant fee for a survey due under the Merchant Shipping (Fees) Regulations 2018, a Certifying Authority must issue a Polar Ship Certificate in respect of a United Kingdom ship on being notified by a surveyor that—

- (a) the surveyor has carried out a survey in respect of that ship in accordance with the requirements of paragraph 1.3 of chapter 1 of part 1-A of the Polar Code (certificate and survey); and
- (b) the surveyor is satisfied at the date of the survey that—
  - (i) the ship complies with each requirement of the Polar Code referred to in regulation 10(2) (requirements for ships operating in polar waters) applicable to it; and
  - (ii) a member of crew to whom regulation 13C, 13D or 13E of the Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2015(a) (training for seafarers on a ship operating in polar waters) applies, holds a certificate, or certificates, required by those regulations, as the case may be.

(2) A ship must be—

- (a) certified—
  - (i) in the case of a United Kingdom ship, under the Merchant Shipping (Survey and Certification) Regulations 2015;
  - (ii) in the case of a non-United Kingdom ship flying the flag of a Convention country, in accordance with Chapter I (as required by regulation 2 of Chapter XIV); or
  - (iii) in the case of a non-United Kingdom ship flying the flag of a State which is not a Convention country, in accordance with the requirements of that country; and
- (b) surveyed and certified for the purposes of operating in polar waters—
  - (i) in the case of a United Kingdom ship, in accordance with paragraph (1);
  - (ii) in the case of a non-United Kingdom ship flying the flag of a Convention country, in accordance with paragraph 1.3 of chapter 1 of part I-A of the Polar Code and issued with a Polar Ship Certificate; or
  - (iii) in the case of a non-United Kingdom ship flying the flag of a State which is not a Convention country, in accordance with the requirements of that country.

(3) A ship must hold on board—

- (a) in the case of a United Kingdom ship or a non-United Kingdom ship flying the flag of a Convention country, a valid Polar Ship Certificate; or

---

(a) S.I. 2015/782, amended by S.I. 2018/68 and S.I. 2019/630 (which contains prospective amendments).



- (b) in the case of a non-United Kingdom ship flying the flag of a State which is not a Convention country, a certificate issued in accordance with the requirements of that country for the purpose of operating in polar waters.

(4) A ship must ensure that the certificate mentioned in paragraph (3)(a) or (b), as the case may be, is readily available for examination at all times.

### **Duration and validity of Polar Ship Certificate**

**12.**—(1) A Polar Ship Certificate must be issued to a ship for a period of validity which is the same as a certificate or certificates issued in respect of that ship pursuant to regulation 15 of the Merchant Shipping (Survey and Certification) Regulations 2015 (duration and validity of certificates).

(2) Where the validity of a certificate issued under regulation 15 of the Merchant Shipping (Survey and Certification) Regulations 2015 has been extended under regulation 17 of those Regulations (extension etc.), a Polar Ship Certificate may be similarly extended provided that a Certifying Authority is satisfied that the ship continues to comply with the requirements of these Regulations.

### **Responsibilities of owner and master**

**13.**—(1) This regulation applies to—

- (a) United Kingdom ships;
- (b) other ships which have been surveyed pursuant to regulation 17 (request for a survey made by another convention country).

(2) The owner and master of each ship to which this regulation applies must ensure that—

- (a) subject to paragraph (3), the ship and its equipment is maintained so that the ship in all respects remains fit to operate in polar waters without danger to the ship or persons on board;
- (b) after a survey of the ship required by regulation 11 (polar ship certificate) has been completed, no change is made in the structural arrangements, machinery, equipment and other items covered by the survey, without the approval of the Certifying Authority, except by direct replacement; and
- (c) whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment required by part 1-A of the Polar Code—
  - (i) it is reported at the earliest opportunity to the Certifying Authority, or a proper officer<sup>(a)</sup>; and
  - (ii) if a United Kingdom ship is in such a case in a port outside the United Kingdom it is also reported to the appropriate authorities of the country in which the port is situated.

(3) Paragraph (2)(a) does not apply to a non-United Kingdom ship surveyed pursuant to regulation 17.

(4) If a report is made under paragraph (2)(c)(i), the Certifying Authority or proper officer must determine whether a survey is necessary, and, if so, require one to be carried out.

(5) If the survey referred to in paragraph (4) shows that repairs are required, or if any important repairs or renewals are otherwise made to the ship or its equipment, a further survey must be carried out on the completion of those repairs or renewals.

---

(a) “Proper officer” is defined in section 313(1) of the Merchant Shipping Act 1995 and means, in the United Kingdom, a consular officer.

### **Procedure to be adopted when the ship is deficient**

**14.**—(1) This regulation applies to United Kingdom ships and to other ships which have been surveyed pursuant to regulation 17 (request for a survey made by another convention country).

- (2) Where a surveyor determines that the condition of a ship to which this regulation applies—
- (a) does not correspond substantially with the particulars on the Polar Ship Certificate issued to the ship; or
  - (b) is such that the ship is not fit to proceed to enter polar waters without danger to the ship or to persons on board,

the surveyor must advise the owner or master of the corrective action which in the surveyor's opinion is required, and must notify the Certifying Authority.

(3) If such corrective action is not taken within such reasonable period as a surveyor may specify, the surveyor, or the Certifying Authority, must notify the Secretary of State in writing who may suspend the validity of the Polar Ship Certificate issued in respect of that ship until the corrective action has been taken.

(4) Where the Secretary of State suspends the validity of a Polar Ship Certificate issued in respect of a ship or reinstates the validity of the certificate, the Secretary of State must give notice in writing of such suspension to the owner, the surveyor, and the Certifying Authority who in turn must give notice to the master.

(5) The requirement that each notification under paragraphs (3) and (4) be in writing is satisfied where the text of the notification is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

### **Cancellation of Polar Ship Certificate**

**15.**—(1) The Secretary of State may cancel a Polar Ship Certificate issued to a United Kingdom ship where there is reason to believe that—

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

(2) The Secretary of State may require a Polar Ship Certificate issued to a United Kingdom ship which has expired, or has been cancelled, to be surrendered.

(3) No person must—

- (a) intentionally alter a Polar Ship Certificate;
- (b) intentionally make a false Polar Ship Certificate;
- (c) in connection with a survey referred to in regulation 11 (polar ship certificate), knowingly or recklessly furnish false information;
- (d) with intent to deceive, use, lend, or allow to be used by another, a Polar Ship Certificate; or
- (e) fail to surrender a Polar Ship Certificate required to be surrendered under paragraph (2).

### **Issue of Polar Ship Certificate by another Convention country**

**16.** The Secretary of State may request the government of another Convention country—

- (a) to survey a United Kingdom ship for the purpose of issuing a Polar Ship Certificate; and
- (b) if satisfied that each requirement of part 1-A of the Polar Code applicable to that ship is complied with, to issue a Polar Ship Certificate in respect of that ship in accordance with the Polar Code.

### **Request for a survey made by another Convention country**

**17.**—(1) The Secretary of State may, at the request of another Convention country, survey a ship intending to enter polar waters in accordance with paragraph 1.3 of chapter 1 of part I-A of the Polar Code (certificate and survey).

(2) If the Secretary of State is satisfied at the date of the survey that the ship complies with each requirement of the Polar Code applicable to it, the Secretary of State may issue a Polar Ship Certificate in respect of that ship.

(3) A Polar Ship Certificate issued in accordance with a request mentioned in paragraph (1) must contain a statement that it has been so issued and has the same effect as if it had been issued by the government of that other Convention country and not by the Secretary of State.

### **Arbitration**

**18.**—(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a United Kingdom ship, that person may serve a written notice on the responsible person within 21 days of receiving notice of that outcome—

- (a) stating that there is a dispute in relation to the survey; and
- (b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to paragraphs (3), (4) and (6), an arbitrator referred to in paragraph (1) must be appointed by agreement between the parties.

(3) In default of agreement between the parties, the arbitrator is such person as may be appointed by the President or Vice President of the Chartered Institute of Arbitrators following a request by—

- (a) a party, after giving written notice to the other party; or
  - (b) the parties jointly,
- but this paragraph does not apply in Scotland.

(4) No person is to be an arbitrator under this regulation unless that person is—

- (a) a person who holds a certificate of competency as a Class 1 Deck Officer or Class 1 Marine Engineer Officer, or a certificate of competency which is equivalent to such a certificate;
- (b) a naval architect;
- (c) a qualified person;
- (d) a person with experience of shipping matters; or
- (e) a Member of the Chartered Institute of Arbitrators.

(5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 259 of the Merchant Shipping Act 1995.

(6) 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 an arbitrator appointed by agreement between the parties is to be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by a sheriff.

(7) The rules for arbitration set out in Merchant Shipping Notice M.1613 apply unless alternative arrangements are agreed between the applicant and the Secretary of State before the commencement of arbitration proceedings.

(8) In this regulation—

“applicant” means a person who makes an application for a survey required by these Regulations;

“Merchant Shipping Notice” means a notice described as such and issued by the Maritime and Coastguard Agency (an executive agency of the Department for Transport) and includes a

reference to any document amending or replacing that notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice;

“the parties” means the applicant and the responsible person, and “party” is to be construed accordingly;

“qualified person” means—

- (a) a person who satisfies the judicial-appointment eligibility on a 7-year basis within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007(a);
- (b) a person who is an advocate or solicitor in Scotland of at least 7 years’ standing; or
- (c) 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 7 years’ standing;

“responsible person” means the Certifying Authority responsible for the issue of the Polar Ship Certificate in connection with which a survey required by these Regulations is carried out.

## PART 3

### Control and enforcement

#### Offences and penalties

**19.**—(1) Any contravention of—

- (a) regulation 7(8) (recording of alternative design and arrangements);
- (b) regulation 10(2)(a) (performance standards);
- (c) regulation 10(2)(b) (operational assessment);
- (d) regulation 10(2)(c) (requirement to comply with chapters 2 to 11 of part 1-A of the Polar Code) in so far as it requires a ship to comply with chapters 2 to 10 of part 1-A of the Polar Code (safety measures);
- (e) regulation 10(3) (compliance with polar water operational manual);
- (f) regulation 11(2) (requirement for survey and certification before entering polar waters);
- (g) regulation 11(3) (requirement to hold on board a valid Polar Ship Certificate);
- (h) regulation 13(2) (responsibilities of owner and master),

is an offence by the owner and master of the ship in respect of each case of non-compliance.

(2) Any contravention of regulation 10(2)(c) (requirement to comply with chapters 2 to 11 of part 1-A of the Polar Code) in so far as it requires a ship to comply with chapter 11 of part 1-A of the Polar Code (voyage planning), is an offence by the master in respect of each case of non-compliance.

(3) An offence under paragraph (1) or (2) is punishable—

- (a) on summary conviction—
  - (i) in England and Wales by a fine; or
  - (ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

(4) Any contravention of regulation 11(4) (failure to have readily available for examination a certificate mentioned in regulation 11(3)) is an offence by the owner and master.

---

(a) 2007 c. 15.

(5) Any contravention of regulation 15(3) (falsification of polar ship certificate etc.) is an offence by the person in question.

(6) An offence under paragraph (4) or (5) is punishable—

(a) on summary conviction—

(i) in England and Wales by a fine; or

(ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or

(b) on conviction on indictment by imprisonment for a term not exceeding six months, or a fine, or both.

(7) It is a defence for a person charged with an offence under this regulation to prove that the person charged took all reasonable steps to avoid the commission of the offence.

## **Control**

**20.** A surveyor may go on board a non-United Kingdom ship for the purposes of verifying that—

(a) there is a valid Polar Ship Certificate, or an equivalent valid certificate where the ship flies the flag of a country which is not a Convention country;

(b) the condition of the ship and its equipment correspond substantially with the particulars shown on the certificate; and

(c) where applicable, the provisions of regulation 13 (responsibilities of owner and master) are being complied with.

## **Detention**

**21.**—(1) For the purposes of this regulation, any reference to “the Act” is a reference to the Merchant Shipping Act 1995.

(2) Any ship which does not comply with the requirements of these Regulations, Chapter XIV or the Polar Code, except for chapter 12 of that Code (manning and training), applicable to that ship, may be detained in the United Kingdom.

(3) Section 284 of the Act (a) applies where a ship is liable to be detained under this regulation as if—

(a) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and

(b) subsection (7) were omitted.

(4) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—

(a) states the grounds of the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(5) Subject to paragraph (6), section 96 (references of detention notices to arbitration) (b) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 (power to detain dangerously unsafe ship).

(6) For the purposes of paragraph (5)—

(a) section 96 of the Act applies as if—

---

(a) Section 284 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28) and S.I. 2015/664.

(b) Section 96(7) was amended by Part 1 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) and by Schedule 11 to the Constitutional Reform Act 2005 (c. 4). Section 96(10) was repealed by Schedule 4 to the Arbitration Act 1996 (c. 23).

- (i) subsection (3) were omitted;
  - (ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;
  - (iii) subsection (11) were omitted; and
- (b) sections 96 and 97 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.

(7) Subject to paragraph (8), where a ship other than a United Kingdom ship is detained, the Secretary of State must immediately inform the ship’s flag administration in writing.

(8) If it is not possible to inform the ship’s flag administration in accordance with paragraph (7), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

(9) For the purposes of paragraphs (7) and (8), “flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

**Review of the Regulations**

22.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before [DATE].

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(a) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Convention are implemented in other countries which are subject to the obligations.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph 1(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Transport

We consent to the making of these Regulations

Date

*Name*  
*Name*  
Two of the Lords Commissioners of Her Majesty’s Treasury

---

(a) 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12) and Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement the requirements of Chapter XIV in the Annex to the Convention for the Safety of Life at Sea, 1974 (“the Convention”), which incorporates the safety related requirements for ships in the International Code for Ships Operating in Polar Waters (“the Polar Code”). They apply, with certain limited exceptions, to United Kingdom ships operating in, or intending to operate in, polar waters (regulation 3). They also apply to non-United Kingdom ships which commence a voyage from, or end a voyage in, a port in the United Kingdom, and as part of that voyage operate in, or intend to operate in, polar waters.

All the safety-related provisions of the Polar Code, except for chapter 12 in part 1-A of the Polar Code (manning and training), are implemented by these Regulations; chapter 12 is implemented by the Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2015 (S.I. 2015/782). The requirements for ships operating in polar waters are contained in regulation 10 and the certification requirements for ships operating in polar waters are contained in regulation 11. The majority of these requirements are incorporated into the Regulations by direct reference to the requirements in the Polar Code. Future amendments to the referenced Polar Code and other Convention requirements will be automatically incorporated into the Regulations pursuant to the ambulatory reference provision in regulation 4.

The Regulations provide for the granting of exemptions (regulation 5), approval of equivalents (regulation 6) and alternative design and arrangements for United Kingdom ships (regulation 7). The Secretary of State may also approve matters contained in the Polar Code requiring the approval of the Administration (regulation 8). Regulations 12 to 17 contain provisions relating to the survey and certification procedure for a Polar Ship Certificate, including the particular responsibilities of the owner and master (regulation 13). Regulation 18 provides for an arbitration procedure where there is a dispute in relation to a survey carried out in respect of a United Kingdom ship.

The Regulations also provide for offences and penalties in the event of a contravention of the requirements of the Regulations (regulation 19). Regulation 20 provides a power for a surveyor to verify a non-United Kingdom ship’s certificate for operation in polar waters. In cases of non-compliance with the Regulations, a ship may also be detained (regulation 21).

Regulation 22 requires the Secretary of State to review the operation and effect of these Regulations and publish a report before [DATE] and at intervals not exceeding 5 years after that. Following a review, it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or to be amended or revoked. A further instrument would be needed to amend or revoke the Regulations.

Marine Guidance Note 637 also provides guidance on how the Secretary of State will exercise discretion where the Polar Code permits this. Marine Guidance Note 637 is available from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton SO15 1EG (telephone 020 3817 2000 and email [infoline@mca.gov.uk](mailto:infoline@mca.gov.uk)) <https://www.gov.uk/topic/ships-cargoes/m-notices>. Merchant Shipping Notice M.1613 is also available at the same link and from the MCA.

The Convention and its Protocol of 1988 may be obtained in copy from the International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR and both are available on the Foreign and Commonwealth Office (FCO) treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>). The text of the IMO Resolutions amending the Convention and Protocol may be obtained from the IMO or found in Marine

Information Note XXX(M), or on the FCO treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>).

Future amendments to the Convention and to the Protocol may be obtained in copy from the IMO and, after coming into force in the United Kingdom, found on the Foreign and Commonwealth Office (FCO) treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/>). Until such publication is made on the FCO treaties database, an amendment will be available from the MCA and on <https://www.gov.uk>. An amendment will be publicised in advance of its in-force date by means of a Parliamentary Statement to both Houses of Parliament and by way of a Marine Guidance Note, which will be available in copy from the MCA and on <https://www.gov.uk>.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

An Explanatory Memorandum is published alongside the instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).