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STATUTORY INSTRUMENTS

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**1996 No. 2908**

**MERCHANT SHIPPING**

**The Merchant Shipping (Ship Inspection  
and Survey Organisations) Regulations 1996**

<i>Made</i>	- - - -	<i>19th November 1996</i>
<i>Laid before Parliament</i>		<i>26th November 1996</i>
<i>Coming into force</i>	- -	<i>31st December 1996</i>

Whereas the Secretary of State is a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to measures relating to maritime transport;

And whereas, in so far as the following Regulations are made in the exercise of powers conferred by section 85 of the Merchant Shipping Act 1995<sup>(3)</sup> the Secretary of State for Transport has in pursuance of subsection (4) of section 86 of that Act consulted persons he considers will be affected as mentioned in that subsection;

Now, therefore, the Secretary of State for Transport, in exercise of the powers conferred by the said section 2(2) of the European Communities Act 1972, and sections 85(1)(a), (3), (5) and (7) and 86(1) of the Merchant Shipping Act 1995 and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Merchant Shipping (Ship Inspection and Survey Organisations) Regulations 1996 and shall come into force on 31st December 1996.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“authorised organisation” means a recognised organisation authorised by written agreements with the MSA pursuant to article 3.2, 5 and 6 of the Council Directive to perform duties referred to in article 3.2(i) and (ii);

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(1) S.I.1994/757.  
(2) 1972 c. 68.  
(3) 1995 c. 21.

“Council Directive” means Council Directive [94/57/EC](#) of 22 November 1994<sup>(4)</sup> on common rules and standards of ship inspection and survey organisations and for the relevant activities of maritime administrations;

“international conventions” means

the International Convention on Load Lines 1966<sup>(5)</sup>;

the International Convention for the Prevention of Pollution from Ships 1973<sup>(6)</sup> and the Protocol of 1978<sup>(7)</sup> relating thereto;

the International Convention for the Safety of Life at Sea, 1974<sup>(8)</sup> and the Protocol of 1978 relating thereto<sup>(9)</sup>;

together with the amendments to these Conventions and related Codes of mandatory status, in force on 22 November 1994;

“MSA” means the Marine Safety Agency, an executive agency of the Department of Transport;

“Merchant Shipping Notice” means a Notice described as such, issued by the MSA, and reference to Merchant Shipping Notice No. M 1672 includes reference to any Merchant Shipping Notice amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time;

“port state control administration” means the competent administration of a member State for the purposes of Council Directive [95/21/EC](#)<sup>(10)</sup> concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the member states, of international standards for ship safety, pollution prevention and shipboard living and working conditions (Port State Control);

“recognised organisation” means an organisation recognised by a member State or a State party to the EEA Agreement pursuant to article 4 of the Council Directive;

“ship” means a ship falling within the scope of the international conventions;

“ship of their class” in relation to a recognised organisation, means a ship of which that organisation has certified compliance with its rules;

“United Kingdom ship” has the meaning given by section 85(2) of the Merchant Shipping Act 1995.

### **Local representation of authorised organisations**

3. The agreement in which the MSA and an organisation it authorises pursuant to article 3 of the Council Directive setting out their working relationship shall contain a requirement that the organisation has local representation in the United Kingdom.

### **Reciprocity of authorisation of classification societies**

4.—(1) The MSA may refuse to authorise a recognised organisation located in a State outside the European Community if that State does not provide reciprocal recognition and authorisation for recognised organisations which are located in the European Community.

(2) Notwithstanding that a recognised organisation located in a State outside the European Community has been authorised by the MSA, the MSA may withdraw that authorisation if that

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(4) OJ No. L319, 12.12.94, p. 20.

(5) Cmnd 3070.

(6) Cmnd 5748.

(7) Cmnd 7347.

(8) Cmnd 7824.

(9) Cmnd 8277.

(10) OJ No. L157, 7.7.95, p. 1.

State has failed to grant a reciprocal authorisation for a recognised organisation which the United Kingdom has requested that third State to authorise.

(3) 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.

#### **Duties of authorised organisations**

5.—(1) In performing functions for which they are authorised under the Merchant Shipping Act 1995 and instruments made, or having effect, pursuant to it relating to any United Kingdom ship, authorised organisations shall ensure that the relevant requirements of one of the approved standards listed in Merchant Shipping Notice M. 1672 are applied.

(2) Without prejudice to any requirements of a statutory instrument as to the issue of certificates, authorised organisations shall not issue certificates to a United Kingdom ship declassified or changing class for safety reasons before consulting the MSA to determine whether a full inspection is necessary.

(3) Where an authorised organisation fails to comply with this regulation it shall be guilty of an offence, and liable on summary conviction, to a fine not exceeding the statutory maximum or, on conviction on indictment, to a fine.

#### **Duties of recognised organisations**

6.—(1) Recognised organisations shall consult with each other periodically with a view to maintaining equivalence of their technical standards and the implementation thereof. They shall provide the European Commission with periodic reports on fundamental progress in standards.

(2) Recognised organisations shall demonstrate willingness to co-operate with port state control administrations when a ship of their class is concerned, in particular, in order to facilitate the rectification of reported deficiencies or other discrepancies.

(3) Recognised organisations shall provide all relevant information to the MSA about changes of class or declassing of vessels.

4. Where a recognised organisation fails to comply with any provision of this regulation it shall be guilty of an offence, and liable on summary conviction to a fine not exceeding level 1 on the standard scale in respect of non-compliance with a provision of paragraph (1) or (2), or in respect of non-compliance with a provision of paragraph (3), to a fine not exceeding level 3 on the standard scale.

#### **Withdrawal of recognition**

7.—(1) Where the United Kingdom is requested, in accordance with the article 9 of the Council Directive, to withdraw the recognition of recognised organisations, the MSA may do so notwithstanding anything contained in any agreement between the MSA and that organisation if it is satisfied that the organisation no longer fulfils the criteria set out in the Annex to the Council Directive.

(2) Where recognition is withdrawn, in accordance with paragraph (1) above, from an organisation, that organisation shall cease to be authorised to perform any function under the Merchant Shipping Act 1995 or any instrument made pursuant to it, notwithstanding anything in that Act or any such instrument, until recognition is restored.

#### **Defence**

8. It shall be a defence for an organisation charged with an offence under these Regulations to prove that all reasonable steps were taken to ensure that the regulation in question was complied with.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Signed by authority of the Secretary of State for Transport

Department of Transport  
19th November 1996

*Goschen*  
Parliamentary Under Secretary of State,

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## EXPLANATORY NOTE

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

These Regulations implement, in part, Council Directive [94/57/EC](#), on common rules and standards for ship inspection and survey organisations. The Regulations provide for local representation of organisations the Marine Safety Agency authorises pursuant to the Council Directive, provides for reciprocity of authorisation of recognised organisations and lays down duties of authorised organisations and recognised organisations. The Regulations also provide for withdrawal of recognition from organisations where the United Kingdom is satisfied the organisation no longer fulfils the criteria set out in a Directive required for recognition.

Merchant Shipping Notices may be obtained from Eros Marketing Support Services Ltd, Unit B, Imber Court Trading Estate, Orchard Lane, East Molesley, Surrey, KT8 0BN.

The international Conventions, Protocols, amendments and Codes referred to in regulation 2(1) can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1 7SR.