
STATUTORY INSTRUMENTS

2022 No. 737

The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022

PART 6

Survey and certification of ships

Interpretation of Part 6

22. In this Part—

- (a) “additional survey” means a survey carried out under regulation 32(3) (additional surveys of United Kingdom ships);
- (b) “anniversary date” means the day and the month of each year which correspond to the date of expiry of a relevant IBWM Certificate;
- (c) “annual survey” means a survey by a surveyor to verify that the structure, equipment, systems, fitting, arrangements, material and processes associated with a ship’s ballast water management plan—
 - (i) have been maintained to conform with these Regulations; and
 - (ii) remain satisfactory for the service for which the ship is intended;
- (d) “commissioning test” means a test conducted to validate the installation of a ballast water management system which meets the requirements of section 9 of Merchant Shipping Notice MSN 1908 (M+F);
- (e) “endorsement” in relation to an IBWM Certificate means an endorsement in the form specified in Schedule 2 to Merchant Shipping Notice MSN 1908 (M+F), and “endorse” and “endorsed” are to be construed accordingly;
- (f) “initial survey” means a survey by a surveyor completed before a ship is put in service or before an IBWM Certificate is first issued in respect of that ship to verify that—
 - (i) there is on board the ship an approved ballast water management plan; and
 - (ii) the structure, equipment, systems, fittings, arrangements, material and processes associated with the ship’s ballast water management plan fully comply with the requirements of Part 3 (ballast water management) and Part 5 (equipment);
- (g) “intermediate survey” means a survey by a surveyor to verify that the equipment, associated systems and processes for a ship’s ballast water management fully comply with the requirements of Part 3 (ballast water management) and Part 5 (equipment) and are in good working order;
- (h) “renewal survey” means a survey by a surveyor to verify that—
 - (i) there is on board a ship an approved ballast water management plan; and

- (ii) the structure, equipment, systems, fittings, arrangements, material and processes associated with the ship's ballast water management plan fully comply with the requirements of Part 3 (ballast water management) and Part 5 (equipment).

Prohibition on United Kingdom ships proceeding to sea without an IBWM Certificate

23. Subject to regulation 40(2) (general provisions on detention) a United Kingdom ship to which this regulation applies must not—

- (a) proceed to sea; or
- (b) if it is already at sea, remain at sea,

unless an IBWM Certificate has been issued in respect of the ship which is still valid.

Prohibition on non-United Kingdom ships proceeding to sea without an IBWM Certificate or appropriate documentation

24. A ship other than a United Kingdom ship must not proceed to sea from a port in the United Kingdom unless—

- (a) a Contracting State has issued, and where appropriate endorsed, an IBWM Certificate in respect of that ship and that Certificate and, where appropriate that endorsement, is still valid;
- (b) the Government of a State which is not a Contracting State has issued, and where appropriate endorsed, a Certificate in respect of that ship which is deemed by the Certifying Authority to have the same force as an IBWM Certificate issued in accordance with the requirements of the Convention and that Certificate and, where appropriate, that endorsement, is still valid;
- (c) documentation has been issued in respect of that ship which is still valid and shows that a surveyor of ships—
 - (i) has carried out an initial survey of the ship; and
 - (ii) is satisfied that the ship can proceed to sea without presenting a threat of harm to the environment, human health, property or resources; or
- (d) it has been permitted to proceed pursuant to regulation 40(2) (general provisions on detention).

Surveys of United Kingdom ships

25. A United Kingdom ship to which this regulation applies must be subjected to—

- (a) an initial survey, which must be completed before the ship is put in service or before an IBWM Certificate is first issued in respect of that ship;
- (b) a renewal survey, which must be completed before a subsequent IBWM Certificate is issued;
- (c) an intermediate survey—
 - (i) in the period beginning three months before, and ending three months after, the second anniversary date of the issue of an IBWM certificate; or
 - (ii) in the period beginning three months before, and ending three months after, the third anniversary date of the issue of an IBWM certificate, and
- (d) an annual survey which must be completed in the period beginning three months before, and ending three months after, the anniversary date of the issue of an IBWM certificate,

except where an intermediate survey described in sub-paragraph (c) has been completed within that period.

Issue of IBWM Certificates by a Certifying Authority in respect of United Kingdom ships

26.—(1) A Certifying Authority must issue an IBWM Certificate in respect of a United Kingdom ship where—

- (a) that Certifying Authority has been notified by a surveyor that the surveyor has carried out an initial or renewal survey;
 - (b) the notification described in paragraph (a) includes confirmation that, at the date of that survey, the surveyor is satisfied that—
 - (i) there is on board the ship an approved ballast water management plan;
 - (ii) the structure, equipment, systems, fittings, arrangements, material and processes associated with the ship's ballast water management plan fully comply with the requirements of Part 3 (ballast water management) and Part 5 (equipment); and
 - (iii) any ballast water management system which has not previously been subject to a survey under these Regulations—
 - (aa) has been installed in accordance with the requirements of section 8 of Merchant Shipping Notice MSN 1908 (M+F); and
 - (bb) has been subject to a commissioning test which shows that it processes any ballast water or sediments such that they meet the standard in regulation 13 (ballast water and sediment treatment standard); and
 - (c) any fee due under the Merchant Shipping (Fees) Regulations 2018⁽¹⁾ has been paid to that Certifying Authority.
- (2) An IBWM Certificate issued under this regulation must be in English.

Endorsement of IBWM Certificates by a Certifying Authority in respect of United Kingdom ships

27.—(1) A Certifying Authority must endorse an IBWM Certificate in respect of a United Kingdom ship where that Certifying Authority has been notified by a surveyor that the surveyor has carried out—

- (a) an intermediate survey, and the notification includes confirmation that—
 - (i) the survey took place in accordance with regulation 25 (surveys of United Kingdom ships); and
 - (ii) at the date of the survey, the surveyor was satisfied that the equipment, associated systems and processes for the ship's ballast water management fully comply with the requirements of Part 3 (ballast water management) and Part 5 (equipment) and are in good working order; or
- (b) an annual survey, and the notification includes confirmation that—
 - (i) the survey took place in accordance with regulation 25 (surveys of United Kingdom ships); and
 - (ii) that, at the date of the survey, the surveyor was satisfied the structure, equipment, systems, fittings, arrangements, material and processes associated with the ship's ballast water management plan—

(1) [S.I. 2018/1104](#), to which there are amendments not relevant to these Regulations.

- (aa) have been maintained to conform with these Regulations so as to ensure that the ship, in all respects, remains fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources; and
- (bb) remain satisfactory for the service for which the ship is intended.

(2) Where—

- (a) an annual survey is completed before the beginning of the period specified in regulation 25(d) (surveys of United Kingdom ships); or
- (b) an intermediate survey is completed before the beginning of the period specified in regulation 25(c)(i) or (ii) (surveys of United Kingdom ships),

the anniversary date shown on the relevant IBWM Certificate must be amended by an endorsement on the IBWM Certificate by the surveyor undertaking the survey to a date not more than three months later than the date on which the survey referred to in sub-paragraph (a) or (b) was completed.

(3) Where the anniversary date on an IBWM Certificate is amended in accordance with paragraph (2)—

- (a) the subsequent annual or intermediate survey must be completed at the intervals prescribed in regulation 25 (surveys of United Kingdom ships) using the new anniversary date; and
- (b) the date of expiry of the IBWM Certificate may remain unchanged provided that one or more annual or intermediate surveys, as the case may be, are completed so that the maximum intervals between the surveys as prescribed in regulation 25 (surveys of United Kingdom ships) are not exceeded.

Duration and validity of an IBWM Certificate

28.—(1) An IBWM Certificate issued in respect of a United Kingdom ship is valid from the date of completion of the initial or renewal survey which immediately preceded the issue of the Certificate.

(2) Subject to paragraphs (4) to (6) and regulations 29 (extension of periods of validity of IBWM Certificates by a Certifying Authority) and 30 (extension of periods of validity of IBWM Certificates by a surveyor), an IBWM Certificate issued in respect of a United Kingdom ship is valid for such period as is specified in the Certificate, not exceeding five years beginning with—

- (a) the date specified in paragraph (1);
- (b) the date of expiry of the previous IBWM Certificate where the renewal survey is completed—
 - (i) within three months before the expiry of that IBWM Certificate; or
 - (ii) after the date of expiry of that IBWM Certificate; or
- (c) the original date of expiry of the previous IBWM Certificate, where a new IBWM Certificate has been issued in respect of a ship referred to in regulation 29(1)(b) or (3) (extension of periods of validity of IBWM Certificates by a Certifying Authority).

(3) Paragraph (4) applies where, following a renewal survey, an IBWM Certificate is issued in respect of—

- (a) a ship to which paragraph (2)(b)(ii) applies; or
- (b) a ship referred to in regulation 29(1)(b) or (3) (extension of periods of validity of IBWM Certificates by a Certifying Authority).

(4) In the circumstances described in paragraph (5) the Secretary of State may direct a Certifying Authority that the new IBWM Certificate is to be valid for such a period as is specified in the Certificate, not exceeding five years beginning with the date of completion of the renewal survey in question.

- (5) The circumstances are where the owner of the ship—
 - (a) submits a request to the Secretary of State for a direction in paragraph (4);
 - (b) satisfies the Secretary of State that the owner is justified in making such a request; and
 - (c) complies with any reasonable additional survey requirements which the Secretary of State may impose.
- (6) An IBWM Certificate issued in respect of a United Kingdom ship ceases to be valid—
 - (a) upon the ship being transferred to the flag of a foreign State;
 - (b) if a survey under regulation 25 (surveys of United Kingdom ships) is not completed in accordance with the requirements of these Regulations;
 - (c) upon the ship proceeding to sea when—
 - (i) regulation 32 (additional surveys of United Kingdom ships) applies to the ship; but
 - (ii) the requirements of regulation 32(3) have not been complied with;
 - (d) if the relevant IBWM Certificate is not endorsed following an intermediate or annual survey;
 - (e) for so long as the IBWM Certificate is suspended pursuant to regulation 35(3) (procedure to be adopted when a ship is deficient);
 - (f) upon the IBWM Certificate being cancelled by the Secretary of State under regulation 37 (miscellaneous provisions relating to IBWM Certificates);
 - (g) subject to regulation 30 (extension of periods of validity of IBWM Certificates by a surveyor), upon a new IBWM Certificate being issued in respect of the ship; or
 - (h) upon the date of expiry of the IBWM Certificate.
- (7) In this regulation and regulation 30 (extension of periods of validity of IBWM Certificates by a surveyor) “the original date of expiry” means the date on which a relevant IBWM Certificate would have expired but for any extension of its period of validity.

Extension of periods of validity of IBWM Certificates by a Certifying Authority

29.—(1) The Certifying Authority that issued an IBWM Certificate in respect of a United Kingdom ship may extend the period of validity of that Certificate—

- (a) to a maximum period of five years provided that—
 - (i) the remaining period of validity for that Certificate prior to the extension is less than five years; and
 - (ii) any surveys required under regulation 25(c) (surveys of United Kingdom ships) have been carried out; and
 - (b) for a period not exceeding three months if—
 - (i) a renewal survey has not been completed before the date of expiry of that Certificate;
 - (ii) at the date of expiry, the ship is not in the port in which the survey is to be carried out; and
 - (iii) it appears to the Certifying Authority that it is proper and reasonable to do so solely for the purpose of enabling that ship to proceed to the port in which the survey is to be carried out.
- (2) Where the period of validity of an IBWM Certificate has been extended under paragraph (1) (b), the ship in question must not leave the port of survey until a new IBWM Certificate has been issued in respect of that ship.

(3) Subject to paragraph (4), the Certifying Authority that issued an IBWM Certificate in respect of a United Kingdom ship engaged solely on short voyages may extend the period of validity of that Certificate for a period not exceeding one month.

(4) A Certifying Authority must not extend the period of validity of an IBWM Certificate under paragraph (3) if the period of validity of that Certificate has already been extended under—

- (a) paragraph (1)(a) or (b); or
- (b) regulation 30 (extension of periods of validity of IBWM Certificates by a surveyor).

(5) Where the period of validity of an IBWM Certificate is extended under paragraph (1) or (3), the issuing Certifying Authority must endorse the IBWM Certificate.

(6) In this regulation “short voyage” means a voyage which—

- (a) does not exceed 1,000 nautical miles between the last port of call in the country in which the voyage begins and the last port of call in the voyage before beginning any return voyage; and
- (b) on any return voyage does not exceed 1,000 nautical miles between the port of call in which the ship begins its return voyage and the first port of call in the country in which the voyage began,

and for the purposes of this definition no account is to be taken of any deviation by a ship from its intended voyage due solely to stress of weather, or any other circumstances that neither the master, nor the owner, nor the charterer if any, of the ship could have prevented or forestalled(2).

Extension of periods of validity of IBWM Certificates by a surveyor

30.—(1) A surveyor may extend the period of validity of an IBWM Certificate issued in respect of a United Kingdom ship by endorsing that Certificate if—

- (a) a renewal survey has been completed by the surveyor;
- (b) the surveyor is satisfied of the matters in regulation 26(1)(b) (issue of IBWM Certificates by a Certifying Authority in respect of United Kingdom ships); and
- (c) a new IBWM Certificate cannot be issued or placed on board the ship before the date on which the existing IBWM Certificate is due to expire.

(2) Where an IBWM Certificate has been endorsed under paragraph (1), that Certificate is valid for such further period as is specified in the Certificate, not exceeding five months beginning with the original date of expiry of the Certificate.

Responsibilities of the owner and the master

31.—(1) The owner and the master of a ship must ensure that the condition of the ship and its equipment, systems and processes are maintained to conform—

- (a) in the case of a United Kingdom ship, or any ship surveyed in accordance with these Regulations, with the provisions of these Regulations; or
- (b) in the case of any other ship, with the requirements of the Convention,

so as to ensure that the ship, in all respects, remains fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources.

(2) The owner and the master of a ship must ensure that, after any survey of the ship required by these Regulations has been completed, no change, except by way of direct replacement, is made to

(2) The definition of “short voyage” derives from IMO Resolution A.1104(29). Resolutions of the IMO can be obtained from the IMO Library at 4 Albert Embankment, London SE1 7SR and www.imo.org/en/MediaCentre/Pages/Default.aspx; email: media@imo.org; telephone: 020 7587 3134. They will also be made available via the Foreign and Commonwealth Office treaties database (<https://treaties.fco.gov.uk/responsive/app/consolidatedSearch/#home>).

the structure, equipment, fittings, arrangements or materials associated with the ship's ballast water management plan and covered by the survey, without the approval of—

- (a) the Certifying Authority who appointed the surveyor to carry out the survey;
 - (b) the Secretary of State, where the relevant survey was carried out and the relevant IBWM Certificate was issued by a Contracting State other than the United Kingdom following a request made by the Secretary of State pursuant to regulation 33 (issue or endorsement of IBWM Certificates by another Contracting State); or
 - (c) the administration of the ship's flag State, where the ship is not a United Kingdom ship.
- (3) Whenever—
- (a) an accident occurs to a ship; or
 - (b) a defect is discovered in a ship,

which substantially affects the ability of the ship to conduct ballast water management in accordance with Part 2 (discharge of ballast water and sediments) and Part 3 (ballast water management), the owner, demise charterer or master of the ship must comply with the requirements of paragraph (4).

- (4) The requirements are that—
- (a) the accident or defect is reported at the earliest opportunity to the Certifying Authority that issued the IBWM Certificate in respect of the ship;
 - (b) in the case of a United Kingdom ship in a port outside the United Kingdom the accident or defect is immediately reported to the appropriate maritime authorities in the country in which the port is situated;
 - (c) in the case of any other ship in a port in the United Kingdom, the accident or defect is reported to the Secretary of State.
- (5) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph (4)(a), the Certifying Authority—
- (a) must cause an investigation to be initiated to determine whether or not an additional survey is necessary; and
 - (b) must, if it considers that an additional survey is necessary, cause that survey to be carried out.

(6) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph 4(a) and the ship in question is a United Kingdom ship and in a port outside the United Kingdom, the Certifying Authority must take all appropriate steps to ascertain that the requirement in paragraph 4(b) has been complied with.

(7) In paragraph (2) “direct replacement” means the direct replacement of equipment and fittings with equipment and fittings that conform with the relevant requirements which apply to that ship.

Additional surveys of United Kingdom ships

- 32.—**(1) This regulation applies to a United Kingdom ship where—
- (a) a repair resulting from an investigation referred to in regulation 31(5) (responsibilities of the owner and the master) has been made to the ship; or
 - (b) a change, replacement or significant repair has been made to the structure, equipment, systems, fittings, arrangements or material necessary to achieve full compliance with Part 2 (discharge of ballast water and sediments), Part 3 (ballast water management) and Part 5 (equipment).
- (2) A ship to which this regulation applies must not—
- (a) proceed to sea; or

- (b) if it is already at sea, remain at sea,
unless the requirements set out in paragraph (3) are met.
- (3) The requirements are that—
- (a) a survey has been carried out in respect of the ship;
 - (b) at the date of the survey the surveyor is satisfied that—
 - (i) the change, replacement or significant repair has been made effectively; and
 - (ii) the ship complies in all respects with the requirements of these Regulations; and
 - (c) the surveyor has issued a report expressing the satisfaction required by sub-paragraph (b).
- (4) Where a survey of a ship under paragraph (3) results from the installation of a new ballast water management system, in order to be satisfied that the change or replacement has been made effectively the surveyor must verify that it—
- (a) has been installed in accordance with the requirements of section 8 of Merchant Shipping Notice MSN 1908 (M+F); and
 - (b) has been subject to a commissioning test which shows that it processes any ballast water or sediments such that they meet the standard in regulation 13 (ballast water and sediment treatment standard).
- (5) In the case of a dispute as to whether a repair effected or intended to be effected in respect of a ship is a significant repair for the purposes of paragraph (1)(b), the owner or master of a ship may serve a written request upon the Secretary of State seeking advice⁽³⁾.
- (6) A repair is not to be regarded as being a significant repair for the purposes of this regulation unless the Secretary of State advises to the contrary within 21 days of receipt of a request under paragraph (5).

Issue or endorsement of IBWM Certificates by another Contracting State

- 33.**—(1) The Secretary of State may request a Contracting State to survey a United Kingdom ship and, if the Contracting State is satisfied that the ship complies with the requirements of the Convention, to—
- (a) issue or authorise the issue of an IBWM Certificate in respect of that ship; or
 - (b) endorse, or authorise the endorsement of, an existing IBWM Certificate,
- in accordance with the Convention.
- (2) Where an IBWM Certificate is issued pursuant to paragraph (1)—
- (a) the Secretary of State is to be treated as the Certifying Authority in relation to it; and
 - (b) any reference in these Regulations to the Certifying Authority who issued the Certificate is to be treated as a reference to the Secretary of State.

Issue or endorsement of IBWM Certificates in respect of non-United Kingdom ships

- 34.**—(1) The Secretary of State, when requested to do so by a Contracting State other than the United Kingdom, may cause a survey to be carried out in respect of a ship which flies the flag of that Contracting State.
- (2) If a survey has been carried out as described in paragraph (1) and is an initial or renewal survey, the Secretary of State must issue, or authorise the issue of, an IBWM Certificate where—

(3) The process for requesting this advice from the Secretary of State can be found in Marine Guidance Note MGN 675 (M+F). Copies of MGN 675 (M+F) can be obtained free of charge at www.gov.uk or in hard copy from the Maritime and Coastguard Agency of Spring Place, 105 Commercial Road, Southampton SO15 1EG.

- (a) a surveyor has notified a Certifying Authority that, at the date of that survey, they are satisfied of the matters referred to in regulation 26(1)(b) (issue of IBWM Certificates by a Certifying Authority in respect of United Kingdom ships); and
 - (b) any fee due under the Merchant Shipping (Fees) Regulations 2018 has been paid.
- (3) If a survey has been carried out as described in paragraph (1) and is an intermediate or annual survey, the Secretary of State must endorse, or authorise the endorsement of, an IBWM Certificate where—
- (a) a surveyor has notified a Certifying Authority that, at the date of that survey, they are satisfied of the matters referred to in regulation 27(1)(a) or (b) (endorsement of IBWM Certificates by a Certifying Authority in respect of United Kingdom ships) as appropriate; and
 - (b) any fee due under the Merchant Shipping (Fees) Regulations 2018 has been paid.
- (4) An IBWM Certificate issued or endorsed under paragraphs (2) or (3)—
- (a) must contain a statement that it has been issued or endorsed at the request of the Contracting State which made the request referred to in paragraph (1); and
 - (b) has the same effect as if it had been issued or endorsed by the Contracting State which made the request referred to in paragraph (1).
- (5) The Secretary of State must, as soon as possible after the completion of a survey carried out under paragraph (1), send to the Contracting State which made the request a copy of—
- (a) the IBWM Certificate issued or endorsed pursuant to paragraphs (2) or (3); and
 - (b) the report of the survey.

Procedure to be adopted when a ship is deficient

35.—(1) This regulation applies where a surveyor determines that a ship's ballast water management—

- (a) does not conform to the particulars of the IBWM Certificate, if any, issued in respect of that ship; or
 - (b) is such that the ship is not fit to proceed to sea without presenting a threat of harm to the environment, human health, property or resources.
- (2) In the circumstances described in paragraph (1) the surveyor must immediately—
- (a) advise the owner or the master of the corrective action which, in the opinion of the surveyor, is required within a specific timeframe; and
 - (b) where the ship has a valid IBWM Certificate, notify the Certifying Authority that issued the Certificate that the owner or the master has been so advised.
- (3) Where—
- (a) an IBWM Certificate has been issued in respect of a United Kingdom ship and is still valid; and
 - (b) the corrective action advised in accordance with paragraph (2)(a) is not taken within the time specified by the surveyor,

the Certifying Authority must suspend the validity of that Certificate until that corrective action has been taken.

(4) Where a Certifying Authority suspends the validity of the IBWM Certificate issued in respect of a ship it must immediately give notice of such suspension—

- (a) to the owner of the ship; and

- (b) where the ship is in a port outside the United Kingdom, to the appropriate maritime authorities of the country in which the port is situated.
- (5) Where the owner of the ship is given notice of the suspension, that owner must notify the master of the ship of the suspension.
- (6) In the application of paragraphs (1) and (2) to a ship which is not a United Kingdom ship—
 - (a) “the Certifying Authority” means the appropriate maritime authorities of the ship’s flag State or a diplomatic representative of that State; and
 - (b) “surveyor” includes a person authorised by that flag State to survey the ship.

Arbitration

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

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

(2) Subject to paragraph (3), an arbitrator referred to in paragraph (1) must be appointed by agreement between the applicant and the responsible person.

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

- (a) one party, after giving written notice to the other party; or
- (b) the parties jointly,

but this paragraph does not apply in relation to Scotland.

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

- (a) a person who holds a certificate to act as—
 - (i) a master or chief mate on a seagoing ship of 3,000 gross tonnage or more, in accordance with Regulation II/2 of Chapter 2 of the Annex to STCW; or
 - (ii) a chief engineer officer or second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more, in accordance with Regulation III/2 of Chapter 3 of the Annex to STCW;
- (b) a person who holds a certificate of competency equivalent to a certificate referred to in sub-paragraph (a);
- (c) a naval architect;
- (d) a qualified person;
- (e) a person with special experience of shipping matters, or of activities carried on in ports; or
- (f) 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 (powers of inspectors in relation to premises and ships) of the 1995 Act.

(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 (1) to a single arbitrator 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(4) apply unless alternative procedures are agreed between the applicant and the responsible person before the commencement of arbitration proceedings.

(8) In this regulation—

- (a) “applicant” means a person who makes an application for arbitration required by these Regulations;
- (b) “qualified person” means—
 - (i) a person who satisfies the judicial appointment eligibility condition on a seven-year basis;
 - (ii) a person who is an advocate or solicitor in Scotland of at least seven years’ standing; or
 - (iii) a person who is a member of the Bar of Northern Ireland or a solicitor of the Court of Judicature of Northern Ireland of at least seven years’ standing;
- (c) “responsible person” means—
 - (i) the Certifying Authority responsible under regulation 26 (issue of IBWM Certificates by a Certifying Authority in respect of United Kingdom ships) or 33 (issue or endorsement of IBWM Certificates by another Contracting State) for the issue of the IBWM Certificate in connection with which a survey required by these Regulations is carried out; or
 - (ii) in the case of a dispute relating to an additional survey, the Certifying Authority which issued the IBWM Certificate in respect of the ship; and
- (d) “STCW” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978(5).

Miscellaneous provisions relating to IBWM Certificates

37.—(1) The Secretary of State may cancel an IBWM Certificate issued in respect of a United Kingdom ship where there is reason to believe that—

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

(2) The Secretary of State may direct the surrender of an IBWM Certificate issued to a United Kingdom ship where that Certificate has expired, been suspended or been cancelled.

(3) A direction given by the Secretary of State under paragraph (2) may specify that an IBWM Certificate must be surrendered within such time and in such manner as the Secretary of State may direct.

(4) In relation to a ship, no person may—

- (a) intentionally alter an IBWM Certificate, unless permitted to do so under these Regulations;

(4) Merchant Shipping Notices are published by the Maritime and Coastguard Agency (“MCA”). Copies of MSN M.1613 can be obtained free of charge at www.gov.uk or in hard copy from the MCA of Spring Place, 105 Commercial Road, Southampton SO15 1EG.

(5) This Convention (“STCW”) was originally published in Cmnd. 7543 and subsequently in Cmnd. 9266. An electronic copy of Cmnd. 9266 can be found at <https://treaties.fco.gov.uk/awweb/pdfopener?md=1&did=68238>. The Annex to STCW was replaced in full in 2010 following a conference of the parties to STCW held in Manila, The Philippines. STCW has since been amended by IMO Resolutions MSC.396(95) and MSC.416(97). STCW is available from IMO Publishing, 4 Albert Embankment, London SE1 7SR; www.imo.org/publications; email: sales@imo.org; telephone: 0207 735 7611. IMO Resolutions are available from the IMO Library, also of 4 Albert Embankment, London SE1 7SR. A hard copy of Cmnd. 9266 is available for inspection free of charge but by appointment at the Parliamentary Archives, Houses of Parliament, London, SW1A 0PW (catalogue number: HL/PO/JO/10/11/2230/2631).

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

- (b) intentionally make a false IBWM Certificate;
 - (c) in connection with any survey required by these Regulations, knowingly or recklessly furnish false information;
 - (d) with intent to deceive, use, lend or allow to be used by another person, an IBWM Certificate;
 - (e) fail to surrender an IBWM Certificate when required to do so pursuant to paragraph (2); or
 - (f) in Scotland, forge an IBWM Certificate.
- (5) The owner and the master of a ship, in respect of which an IBWM Certificate has been issued, must ensure that the IBWM Certificate is readily available on board the ship for examination at all times, except where it has been surrendered pursuant to paragraph (2).
- (6) Where a United Kingdom ship is transferred to the flag of another Contracting State, and within three months after the date of transfer that Contracting State so requests, the Secretary of State must send that Contracting State—
- (a) a copy of the IBWM Certificate issued in respect of that ship before its transfer; and
 - (b) where available, a copy of the report of the most recent survey required by these Regulations in respect of that ship.