
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

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(1) 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(2).

(1) 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.

(2) 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).