
STATUTORY INSTRUMENTS

2024 No. 509

The Merchant Shipping (Anti-Fouling Systems) Regulations 2024

PART 3

Surveys and certification

Arbitration

11.—(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out for the purposes of regulation 7 (AFS-Certificates: ships of 400 gross tonnage and above), the applicant may serve a written notice on the responsible person within 21 days 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) a 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 of competency as—
 - (i) a Class 1 Deck Officer; or
 - (ii) a Class 1 Marine Engineer Officer;
- (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 experience of—
 - (i) shipping matters;
 - (ii) the fishing industry; or
 - (iii) 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 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 appointment by agreement between the parties is to be construed as a reference to appointment by such agreement or, in default of agreement, appointment by a sheriff.

(7) The rules for arbitration set out in Merchant Shipping Notice No. 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—

“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;

“qualified person” means—

- (a) a person who satisfies the judicial-appointment eligibility condition on a 7-year basis within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007(2);
- (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 Court of Judicature of Northern Ireland of at least 7 years’ standing;

“responsible person” means the Certifying Authority responsible under regulation 7(5) (surveys and certification) for the issue or endorsement of the AFS-Certificate.

(1) Merchant Shipping Notice 1613 No. M.1613 is available on <https://www.gov.uk/government/collections/merchant-shipping-notice-1613> and in hard copy 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).

(2) 2007 c. 15. There are amendments to the Act but none is relevant.