



FALKLAND ISLANDS

Maritime (Port State Control) Regulations 2021

(No. 12 OF 2021)

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FALKLAND ISLANDS

Maritime (Port State Control) Regulations 2021

(made: 30 July 2021)
(commencement: in accordance with regulation 2)
(published: 3 August 2021)

IN EXERCISE of my powers under section 42(j) of the Harbours and Ports Ordinance 2017 and sections 84 and 85 of the Maritime Ordinance 2017 and on the advice of Executive Council I make the following regulations —

1. Title

These regulations are the Maritime (Port State Control) Regulations 2021.

2. Commencement

These Regulations come into force on a day appointed by the Governor by notice published in the *Gazette*.

3. Interpretation

(1) In these regulations unless the context otherwise requires —

“**Authority**” means the Falkland Islands Maritime Authority referred to in section 4 of the Harbours and Ports Ordinance 2017;

“**certificate**” means a document that is required to be carried on a ship to confirm compliance with the certification requirements of the Conventions;

“**clear grounds**” means grounds referred to in regulation 8(3);

“**competent authority**” means —

- (a) in relation to the Falkland Islands, the Authority; and
- (b) in relation to any other State, anybody designated as such by the State in relation to the relevant function or if none, the State in question;

“Conventions” means —

- (a) the International Convention on Load Lines, 1966 (LL 66);
- (b) the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- (c) the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocols of 1978 and 1997 relating thereto (MARPOL 73/78);
- (d) the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72); and
- (e) the International Convention on Tonnage Measurement of Ships, 1969 (ITC 69);

“Convention enactments” means —

- (a) the Ordinance;
- (b) regulations made under the Ordinance which implement the Conventions; and
- (c) United Kingdom statutory instruments which implement the Conventions and which apply to the Falkland Islands by virtue of the Law Revision and Publication Ordinance 2017;

“complaint” means any information or report submitted by any person or organisation with a legitimate interest in the safety of the ship, including an interest in safety or health hazards to its crew, on-board living and working conditions and the prevention of pollution;

“deficiency” means a condition which does not comply with the requirements of the relevant convention;

“Falkland Islands waters” has the same meaning as given in section 2 of the Ordinance;

“fishing vessel” has the same meaning as given in section 2 of the Ordinance;

“flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly;

“IMO” means the International Maritime Organisation;

“initial inspection” means an inspection to conduct checks referred to in regulation 7;

“inspector” means a person appointed or authorised under the Ordinance to undertake inspections required by these Regulations;

“inspection” means a visit on board a ship by an inspector to conduct an initial or a more detailed inspection in order to check compliance with the relevant Conventions;

“more detailed inspection” means an inspection referred to in regulation 8;

“Ordinance” means the Maritime Ordinance 2017;

“**owner**” includes, in relation to a ship, any operator, manager, charterer or agent of the ship;

“**passenger**” means any person carried on a ship except —

- (a) a person employed or engaged in any capacity on board the ship on the business of that ship; and
- (b) a child under one year of age;

“**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 (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;

“**recognised organisation**” means a classification company or other private body carrying out statutory tasks on behalf of the flag administration concerned;

“**repair yard**” means the repair yard in or closest to the port of detention or the port where the ship was authorised to proceed for rectification of deficiencies;

“**ship**” means a sea-going vessel to which one or more of the Conventions applies and includes a hovercraft, a mobile offshore drilling unit, a passenger submersible craft and a high-speed craft;

“**ship/port interface**” means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons or goods or the provision of port services to or from the ship;

“**statutory certificate**” means a certificate issued by or on behalf of a flag administration in accordance with the Conventions;

“**stoppage of an operation**” means a formal prohibition against a ship from continuing an operation due to an identified deficiency or deficiencies which, singly or together, render the continuation of such operation hazardous;

“**substandard ship**” means a ship whose hull, machinery, equipment or operational safety is substantially below the standards required by the relevant convention or whose crew is not in conformance with the safe manning document.

(2) References in these Regulations to the Falkland Islands include Falkland Islands waters.

4. Application and general provisions

(1) Subject to subregulation (2), these Regulations apply to a ship and its crew calling at a port or anchorage in the Falkland Islands to engage in a ship/port interface.

(2) These regulations do not apply to —

- (a) a Falkland Islands ship except as provided in regulation 21;
- (b) a British ship;
- (c) a fishing vessel;
- (d) a warship;
- (e) a naval auxiliary;
- (f) a wooden ship of primitive build;
- (g) a government ship used for non-commercial purposes;
- (h) a pleasure vessel;
- (i) a ship not propelled by mechanical means.

(3) An inspection in the Falkland Islands of a ship, while not in a port, is considered an inspection for the purposes of these Regulations.

(4) These Regulations do not prejudice the additional requirements of the Conventions concerning notification and reporting procedures related to port state control.

(5) The functions of an inspector under these Regulations are without prejudice to the powers to inspect a ship which is not a Falkland Islands ship under —

- (a) the Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019; and

- (b) the Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019.

5. Inspection of ships below 500 gross tonnage

An inspector must, when exercising functions in respect of a ship below 500 gross tonnage —

- (a) to the extent that a Convention applies to the ship, apply the requirements of that Convention;
- (b) to the extent that a Convention does not apply to the ship take such action as may be necessary to ensure that the ship is not clearly hazardous to safety, health or the environment.

6. Records of inspections

The Authority must maintain a record of inspections conducted in the Falkland Islands.

7. Initial inspection

(1) An initial inspection is the minimum inspection that an inspector must carry out on a ship that is inspected.

(2) An initial inspection involves checking —

- (a) the validity of every relevant certificate and document which are required to be carried on board the ship in accordance with Conventions;
- (b) the overall condition of the ship, including the engine room; and
- (c) that the master and crew are familiar with the essential procedures and operations relating to the safety of the ship.

(3) If —

- (a) after an initial inspection has been carried out in any IMO member state, deficiencies to be rectified in the ship's next port of call have been recorded in a port state inspection database; and
- (b) that next port of call is in the Falkland Islands,

the inspector must, if carrying out an inspection of that ship, also verify that outstanding deficiencies have been rectified.

8. More detailed inspection

(1) A more detailed inspection must be carried out when there are clear grounds for believing, after an initial inspection, that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention.

(2) A more detailed inspection involves an in-depth examination of the ship, its equipment and crew as a whole or parts thereof covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures.

(3) Clear grounds to conduct a more detailed inspection include but are not limited to —

- (a) the absence of principal equipment or arrangements required by the relevant Conventions;
- (b) evidence from a review of the ship's certificates that a certificate or certificates are clearly invalid;
- (c) evidence that documentation required by the relevant Conventions is not on board, is incomplete, is not maintained or is falsely maintained;
- (d) evidence from the inspector's general impressions and observations that serious hull or structural deterioration or deficiencies exist that may place at risk the structural, watertight or weathertight integrity of the ship;
- (e) evidence from the inspector's general impressions or observations that serious deficiencies exist in the safety, pollution prevention systems or weathertight integrity of the ship;
- (f) information or evidence that the master or crew is not familiar with essential shipboard operations relating to the safety of ships or the prevention of pollution, or that such operations have not been carried out;
- (g) indications that key crew members may not be able to communicate with each other or with other persons on board;
- (h) the emission of false distress alerts not followed by proper cancellation procedures; or
- (i) receipt of a report or complaint containing information that a ship appears to be substandard.

9. Reports of inspection and deficiencies to master

(1) On completion of an inspection, the inspector must prepare a report in the form set out in Schedule 1 and a copy must be provided to the ship's master.

(2) Any deficiencies confirmed or revealed by an inspection must be recorded on a form as set out in Schedule 2 and a copy must be provided to the ship's master.

10. Inspectors

(1) An inspector must carry out inspections under these Regulations.

(2) An inspector and any person assisting an inspector must not —

- (a) have any commercial interest either in the port or anchorage where the inspection takes place or in the ships inspected; or

- (b) be employed by, or undertake work on behalf of a recognised organisation.

11. Rectification and detention

(1) A ship's owner must satisfy the Authority that any deficiencies which are confirmed or revealed by an inspection, are or will be rectified in accordance with the Conventions.

(2) Where such deficiencies are clearly hazardous to safety, health or the environment, the inspector may —

- (a) detain the ship after issuing a notice of detention in the form set out in Schedule 4 using powers of detention in Convention enactments as appropriate; or
- (b) require the stoppage of the operation in the course of which the deficiencies have been revealed, by issuing a prohibition notice under section 244 of the Ordinance in the form set out in Schedule 3.

(3) A detention notice issued in the circumstances described in subregulation (2) may —

- (a) include a direction that the ship must remain in a particular place, or must move to a particular anchorage or berth; and
- (b) specify circumstances when the master of the ship may move that ship from a specified place for reasons of safety or prevention of pollution.

(4) Measures imposed by an inspector in the circumstances described in subregulation (2) must not be lifted until the Authority has established that the ship can, subject to any necessary conditions, proceed to sea or the operation be resumed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(5) Where —

- (a) a ship is detained under a Convention enactment; or
- (b) the master of a ship is served with a notice of detention under a Convention enactment;

section 268 of the Ordinance (enforcing detention of ship) has effect in relation to that ship as if any reference to proceeding to sea were a reference to proceeding contrary to the detention notice and references to sending or taking to sea were construed accordingly.

(6) Without prejudice to any other requirement in the Convention enactments, when exercising professional judgement as to whether or not a ship should be detained, the inspector must apply the guidelines set out in Schedule 5.

(7) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the inspector may, in addition to detaining the ship, suspend the inspection of that ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

(8) If a ship is detained following an inspection, the Governor must immediately inform, in writing —

- (a) the ship's flag administration;
- (b) the Consul of the State of the flag administration; or
- (c) the nearest diplomatic representative of the State of the flag administration.

(9) The written information referred to in subregulation (8) must set out all the circumstances relating to the decision to detain the ship and must include the report of inspection.

(10) Where subregulation (8) applies, the Authority must notify all relevant —

- (a) surveyors of ships appointed under section 238 of the Ordinance; or
- (b) recognised organisations;

responsible for the issue of classification certificates or statutory certificates which are required under the relevant Conventions.

(11) When carrying out an inspection under these Regulations, the inspector must make all possible efforts to avoid a ship being unduly detained or delayed.

(12) The risk of port congestion must not be a consideration in a decision to detain a ship or to release a ship from detention.

12. Power to permit prohibited ships to enter port

(1) Notwithstanding regulation 16, the Authority may allow a ship access to a specific port or anchorage in the Falkland Islands in the following circumstances —

- (a) force majeure;
- (b) overriding safety considerations;
- (c) the need to reduce or minimise the risk of pollution; or
- (d) the need to have deficiencies rectified.

(2) Before allowing a ship access to a port or anchorage in the Falkland Islands, the Authority must be satisfied that adequate measures to ensure safe entry have been implemented by the owner or master of the ship.

13. Reference to arbitration

(1) This regulation applies where —

- (a) a detention notice is issued under regulation 11(2)(a); or
- (b) a prohibition notice is issued under regulation 11(2)(b).

(2) The owner or master of a ship in respect of which the notice is issued may within 21 days from the service of the notice request the reference to a single arbitrator, appointed by agreement of the parties, of any question as to whether a matter falling within subregulation (3) constituted a valid basis for the notice.

(3) The matters are that —

(a) any matter did not constitute a valid basis for the inspector's opinion that led to the issue of the notice; and

(b) there were no clear grounds for the inspector to form that opinion.

(4) A request for a reference of a notice to arbitration must be in the form set out in Schedule 6.

(5) A person is not qualified for appointment as an arbitrator under this regulation unless they meet the requirements of sections 93(6) and 93(7) of the Ordinance.

(6) In connection with a reference under this regulation, an arbitrator has the powers conferred on an inspector by section 241 of the Ordinance.

(7) The reference of a notice to arbitration under this regulation does not operate to suspend the operation of the notice unless, on the application of the owner or the master, the arbitrator determines that the notice should be suspended pending the determination of the arbitration.

14. Arbitration

(1) Where on a reference of a notice under regulation 13, the arbitrator decides that in all the circumstances a matter falling within regulation 13(3) did not constitute a valid basis for the notice, the arbitrator must —

(a) cancel the notice; or

(b) affirm it with such modifications as the arbitrator may in the circumstances think fit.

(2) In any case other than one described in subregulation (1), the arbitrator must affirm the notice in its original form.

(3) In determining a reference on a detention notice, the arbitrator may have regard to any matter not specified in the notice which appears to the arbitrator to be relevant as to whether the ship was or was not liable to be detained.

(4) The arbitrator must include in their decision in relation to a reference on a detention notice a finding whether there was or was not a valid basis for the detention of the ship.

15. Compensation for unjustified detention

(1) If on a reference under regulation 13 relating to a detention notice, the arbitrator decides that the owner or master has proved —

(a) that the matter complained of did not constitute a valid basis for the inspector's opinion; and

(b) that there were no clear grounds for the issue of the detention notice,

the arbitrator may award the owner of the ship such compensation in respect of any loss suffered in consequence of, or as the case may be, the detention of the ship, as the arbitrator thinks fit.

(2) Any compensation awarded under this regulation is payable out of the Consolidated Fund.

16. Prohibition on detained ships requiring repair, from entering port

(1) A ship which falls within subregulation (2) and proceeds to sea from any port or anchorage in any IMO Member State —

(a) without complying with the conditions determined by the competent authority of the IMO Member State in the port of inspection; or

(b) without calling into the indicated repair yard,

must not enter any port or anchorage within the Falkland Islands, until the owner has provided evidence to the satisfaction of the competent authority referred to in subregulation (1)(a), that the ship fully complies with all applicable requirements of the Conventions.

(2) A ship falls within this regulation if it —

(a) was detained in a port in a IMO Member State after an inspection revealed deficiencies clearly hazardous to safety, health or the environment; or

(b) was so detained and was allowed by the competent authority of the IMO Member State to proceed to the appropriate repair yard nearest to the port of detention.

17. Power to permit detained ship to proceed to repair yard

(1) Where deficiencies referred to in regulation 11(2) cannot be rectified in the port of inspection, an inspector may allow the ship to proceed without delay to the appropriate repair yard nearest to the port of detention, as chosen by the master and authorities concerned, where follow-up action can be taken, provided the conditions determined by the competent authority of the flag administration and agreed to by the inspector, are complied with.

(2) Such conditions must ensure that the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

18. Complaints

(1) If a complaint relating to a ship is submitted to the Authority, the Authority must determine whether it is justified as quickly as possible.

(2) If the complaint is determined to be justified, the Authority must —

(a) inform the complainant of that conclusion and of any follow-up action taken with regard to the complaint;

(b) ensure that anyone directly concerned about that complaint can make their views known;

- (c) take such action as the Authority considers necessary; and
 - (d) inform the flag administration of the complaint and action taken.
- (3) If the complaint is determined not to be justified, the Authority must inform the complainant, of the reasons for this conclusion.
- (4) The identity of the complainant must not be revealed to the master or owner of the ship concerned, by the Authority or by an inspector.
- (5) An inspector interviewing any members of the crew of the ship, concerning the complaint must —
- (a) ensure confidentiality during such interviews; and
 - (b) report on such interviews to the Authority.

19. Costs

- (1) If a ship is detained pursuant to a Convention enactment for deficiencies in relation to the requirements of a Convention warranting the detention of the ship —
- (a) all costs of inspections which confirm or reveal deficiencies in relation to the requirements of a Convention warranting the detention of the ship; and
 - (b) all costs relating to the detention in port or anchorage;
- are recoverable from the owner or their representative in the Falkland Islands.

(2) Any detention made pursuant to these Regulations or a Convention enactment, for deficiencies referred to in subregulation (1) must not be lifted until any fees payable under the Merchant Shipping (Fees) Regulations 2018 (SI 2018/1104), in respect of an inspection leading to it or arising from it and any other costs payable under subregulation (1) have been paid, or the person to whom they are due has been provided with sufficient security for them.

20. Offences

- (1) Subject to regulation 17, the owner or the master of a ship who contravenes a notice of detention or prohibition notice issued under regulation 11(2), each commits an offence and is liable on conviction to imprisonment not exceeding two years, or, a fine, or both.
- (2) Where a ship —
- (a) enters a port or anchorage in breach of regulation 16; or
 - (b) is permitted to leave a port pursuant to regulation 17(1) but fails to proceed to the repair yard specified;

the owner and master each commit an offence and are liable on conviction to imprisonment not exceeding two years or a fine, or both.

(3) A person who obstructs an inspector or any person assisting the inspector in the performance of the inspector's duties, commits an offence and is liable on conviction, to a fine not exceeding level 4 on the scale of fines under Schedule 7 to the Ordinance.

(4) It is a defence for a person charged under this regulation, to prove that they took all reasonable steps to avoid committing the offence.

21. Familiarity of crew with operational procedures

(1) Ships, when in a port in the Falkland Islands, and in the case of Falkland Islands ships, when elsewhere, are subject to inspection for the purpose of checking that the master and crew are familiar with essential procedures and operations relating to the safety of the ship.

(2) Section 240 of the Ordinance (powers to inspect ships and their equipment, etc.) applies in relation to a ship in a port in the Falkland Islands as if, in subsection (1), after "articles on board", there were inserted "the familiarity of the crew with essential procedures and operations relating to the safety of the ship".

SCHEDULE 1 – Form of Report of Inspection

regulation 9(1)

REPORT OF INSPECTION *issued under the Maritime (Port State Control) Regulations 2021*

Falkland Islands Maritime Authority, Directorate of Emergency Services, Ross Road, Stanley, FIQQ 1ZZ, +500 27230

SHIP PARTICULARS	Name	Flag	Type
Call Sign		MMSI Number	IMO Number
Gross tonnage		Deadweight	Year of build
Classification Society		ISM Company	Date of release from detention ^a

INSPECTION PARTICULARS	Date	Place	Type
			Initial Inspection <input type="checkbox"/> More Detailed Inspection <input type="checkbox"/>

RELEVANT CERTIFICATES						
Certificate Title	Issuing Authority	Date of Issue	Date of Expiry	Date of Survey	Surveying Authority	Country
Safety Construction						
Safety Equipment						
Safety Radio						
IOPP						
Load Line						
ISM Document of Compliance						
ISM Safety Management						
International Ship Security						
Tonnage						
International Ballast Water Management						

DEFICIENCIES	<input type="checkbox"/> No <input type="checkbox"/> Yes (see attached Form B)	SHIP DETAINED	<input type="checkbox"/> No <input type="checkbox"/> Yes ^b	SUPPORTING DOCUMENTATION	<input type="checkbox"/> No <input type="checkbox"/> Yes
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Owner Details	Name of Master			Signature ^c	
Issuing Office	Telephone	Email	Name (Authorised PSCO)	Signature	

a To be completed in the event of a detention

b Masters and companies are advised that detailed information on a detention may be subject to future publication

c This report must be retained on board for a period of two years and must be available for consultation by Port State Control officers at all times

SCHEDULE 2 – Form of Report of Deficiencies

regulation 9(2)

REPORT OF DEFICIENCIES *issued under the Maritime (Port State Control) Regulations 2021*

Falkland Islands Maritime Authority, Directorate of Emergency Services, Ross Road, Stanley, FIQQ 1ZZ, +500 27230

Name of Ship		IMO Number		Date of Report		Place of Inspection	
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DEFICIENCIES FOUND AND FOLLOW UP ACTIONS				
#	Description of Deficiency ^a	Convention ^b	Action Code ^c	ISM-related
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

Name(s) of duly authorised PSCO(s) of reporting authority	Signature	Visit date

^a This inspection was not a full survey and deficiencies listed may not be exhaustive. In the event of a detention, it is recommended that a full survey is carried out and all deficiencies are rectified before an application for re-inspection is made

b To be completed in the event of a detention

c **00** – Recommendation only; **10** – Deficiency rectified; **15** – Rectify deficiency at next port; **16** – Rectify deficiency within 14 days; **17** – Rectify deficiency before departure; **18** – Rectify deficiency within 3 months; **30** – Detainable deficiency; **99** – as specified

SCHEDULE 3 – Form of Prohibition Notice

regulation 11(2)(b)

PROHIBITION NOTICE

issued under the Maritime (Port State Control) Regulations 2021 and section 244 of the Maritime Ordinance 2017

Name and address of person on whom this Notice is served (the person in control of the ship) To

Trading as(*)

Inspector’s full name

Inspector’s official address of

Official telephone

Activities subject to prohibition

1. I hereby give you notice that I am of the opinion that the following activities, namely:

which are (*) being carried out / likely to be carried out (*) by you / under your control aboard:

Name of Ship

Official Number

involve, or will involve, a risk, of (*) serious personal injury / serious pollution of navigable waters.

2. (*) I am further of the opinion that the said matters involve contraventions of the following statutory provisions:

Statutory provisions contravened

The reasons for my opinion are:

Reasons for opinion that statutory provisions have been contravened

and I hereby direct that the said activities must not be carried on by you or under your control (*) immediately / after:

Date and Time

(*) and / or the ship must not go to sea

(*) unless the said matters specified in paragraph 1, and the contraventions specified in paragraph 2 (if any), have been remedied

(*) I also direct that the matters and / or contraventions must be remedied in the manner stated in the schedule which forms part of the Notice.

(*) Delete as necessary

(Signature)

(Date of Issue)

Being an Inspector referred to under section 240 of the Maritime Ordinance 2017 and entitled to issue this Notice.

NOTES

1. If this Notice does not have immediate effect, you can ask the Inspector who issued the Notice either:

- (a) to withdraw it; or
- (b) to change the date or time after which the activities mentioned in the Notice must stop.

You must ask him to do so before the time and date specified on the face of this document. Such a request will not constitute a request for arbitration - see Note 4 below. (section 245(3) (a) and (b) of the Maritime Ordinance 2017)

2. If you do not stop the activities which the Notice tells you to stop, you may be liable to prosecution. (section 248 of the Maritime Ordinance 2017)

3. This Notice does not remove liability for failing to comply with any legal requirement, including any failure which caused the Inspector to give you this Notice.

4. You can ask for this Notice to be taken to arbitration. The arbitrator can decide:

- (a) whether the matters mentioned in this Notice by the Inspector were a valid basis for the Inspector's opinion; and
- (b) whether what the Inspector directed you to do in the Schedule to the Notice is reasonable.

To refer this Notice to an arbitrator, you, as the person mentioned at the head of this Notice, should write to the Inspector giving:

- (a) your official address;
- (b) the date of the Notice and the name and official number of the ship concerned;
- (c) a statement of what you disagree with, and of why you disagree.

This written request will constitute a Notice of Reference. (section 246(1) of the Maritime Ordinance 2017)

5. Time Limit - a Notice of Reference must be sent to the Inspector within 21 days of the date of service of the Prohibition Notice. It is advisable to get a receipt for the Notice of Reference, or to send it in the post by recorded delivery. (Section 246(1) of the Maritime Ordinance 2017)

6. You have to do what this Prohibition Notice tells you to do until, and unless, the arbitrator decides otherwise. If this Notice does not tell you to do something immediately you can ask the Inspector to cancel or change the Prohibition Notice at the same time that you ask for the Notice to be referred to an arbitrator. If the arbitrator says that the Inspector's opinion was invalid or not based on reasonable grounds, or that any directions included in the Prohibition Notice were unreasonable, the arbitrator may cancel or modify the Notice. In such a case, and where the Notice specifically required the ship should not depart, the arbitrator may additionally award compensation in respect of any loss suffered as a consequence of the service of the Notice or the directions if contained. The conduct of arbitration will be governed by the relevant rules of law on arbitration in the Falkland Islands, as appropriate. The arbitrator's decision is binding on all parties.

Ship Name:

Official Number:

Schedule to Prohibition Notice – Directions as to the measures to be taken to remedy matters or contraventions in this Notice

SCHEDULE 4 – Form of Notice of detention of a ship for failure to comply with international convention

regulation 11(2)(a)

NOTICE OF THE DETENTION OF A SHIP FOR FAILURE TO COMPLY WITH INTERNATIONAL CONVENTION
issued under the Maritime (Port State Control) Regulations 2021

Ship's Details

Name of Ship

--

Port and Country of Registry

--

IMO / Official Number / Letters *

--

Where Lying

--

I _____, the detaining officer, in exercise of power contained in the legislation listed below, detain this ship because of deficiencies in connection with an International Convention which have been identified by an inspection of a ship and which are clearly hazardous to safety, health or the environment.

The ship is prohibited from going to sea or on a voyage until released by an officer of the Falkland Islands Maritime Authority.

If applicable, the customs officer will withhold clearance until the customs officer receives advice from me that the ship has been released (section 268(9) of the Maritime Ordinance 2017).

The power to detain the vessel is contained in:
(eg section 92 of the Maritime Ordinance 2017)

The deficiencies concern the matters listed below:

*Delete as necessary

Statutory Requirement and/or Convention Requirement	Ship does not comply because
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Direction to ship. (Under section 268 of the Maritime Ordinance 2017, if applicable, the detention notice may include a direction that the ship shall remain in a particular place or move to a particular anchorage or berth. It may also specify circumstances when the master may move the ship from a specified place for reasons of safety or prevention of pollution.)

Signature	 (Detaining Officer)	Name	 	Official Stamp
Marine Office	 	Date	 	
Telephone	 	Fax	 	

THERE IS A RIGHT OF APPEAL AGAINST THIS DETENTION NOTICE. Advice on the appeals procedure is contained in a leaflet entitled “Arbitration on Detention of Merchant Ships and Fishing Vessels” (FIMA F1704) which is available from the Detaining Officer.

ANNEX TO THE NOTICE OF THE DETENTION OF A SHIP FOR FAILURE TO COMPLY WITH INTERNATIONAL CONVENTIONS

Name of ship:

Flag of ship:

Type of ship:

Call sign:

IMO number:

Class Society:

**Place of
inspection:**

**Date of
inspection:**

- Vessel detained.** The flag administration or a recognised organisation acting on its behalf shall be invited by the Master to carry out verification of correction of the noted deficiencies. This verification shall be complemented by one or more of the under mentioned surveys.
- Inspection Suspended.** The inspection has been suspended. The inspection has not been completed and shall be resumed when the vessel is re-visited after rectification of the deficiencies initially identified.
- Master to invite flag administration or recognised organisation to confirm rectification of identified deficiencies.
- Repairs / Tests to be carried out under supervision of, and with approval of the flag administration or recognised organisation. Report to be made available to the Inspecting Officer before re-inspection.
- The flag administration or the recognised organisation acting on its behalf shall be invited by the master to carry out a full Safety Equipment survey. Their final survey report shall be forwarded to the Inspecting Officer before a re-inspection will be carried out.
- The flag administration or the recognised organisation acting on its behalf shall be invited by the master to carry out a full Safety Construction survey. Their final survey report shall be forwarded to the Inspecting Officer before a re-inspection will be carried out.
- The flag administration or the recognised organisation acting on its behalf shall be invited by the master to carry out a full Load Line survey. Their final survey report shall be forwarded to the Inspecting Officer before a re-inspection will be carried out.
- The flag administration or the recognised organisation acting on its behalf shall be invited by the master to carry out a full IOPP survey. Their final survey report shall be forwarded to the Inspecting Officer before a re-inspection will be carried out.
- An approved radio surveyor shall carry out an inspection of the radio installation to verify compliance with the relevant SOLAS and ITU regulations. Any deficiencies found shall be rectified before a re-inspection will be carried out.
- Due to the nature, number and extent of the noted deficiencies, the flag administration or a recognised organisation acting on its behalf shall be invited by the master to carry out an additional verification ISM audit before a re-inspection will be carried out.
- Other (Please give details)

Name of Master:

Signature:

Name of Inspecting Officer:

Signature:

SCHEDULE 5 – Guidelines for the detention of ships

regulation 11(6)

GUIDELINES FOR THE DETENTION OF SHIPS *issued under the Maritime (Port State Control) Regulations 2021*

1. Introduction

(1) When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention, the inspector should assess whether —

- (a) the ship has relevant, valid documentation; and
- (b) the ship has the crew required in the minimum safe manning document.

(2) During inspection, the inspector should further assess whether the ship and/or crew, throughout its forthcoming voyage, is able to —

- (a) navigate safely;
- (b) safely handle, carry and monitor the condition of the cargo;
- (c) operate the engine-room safely;
- (d) maintain proper propulsion and steering;
- (e) fight fires effectively in any part of the ship if necessary;
- (f) abandon ship speedily and safely and effect rescue if necessary;
- (g) prevent pollution of the environment;
- (h) maintain adequate stability;
- (i) maintain adequate watertight integrity;
- (j) communicate in distress situations if necessary; and
- (k) provide safe and healthy conditions on board.

(3) If the result of any of these assessments is negative, taking into account all deficiencies found, the ship should be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship. Ships which are unsafe to proceed to sea should be detained upon the first inspection, irrespective of the time the ship will stay in port.

2. General

The lack of valid certificates as required by the relevant conventions may warrant the detention of ships. However, ships flying the flag of States not a Party to a convention or not having implemented another relevant instrument, are not entitled to carry the certificates provided for by the convention or other relevant instrument. Therefore, absence of the required certificates should not by itself constitute a reason to detain these ships; however, in applying the “no more favourable treatment” clause in the convention, substantial compliance with the provisions and criteria specified in this Guidance must be required before the ship sails.

3. Detainable deficiencies

To assist the inspector in the use of these Guidelines, there follows a list of deficiencies, grouped under relevant conventions and/or codes, which are considered to be of such a serious nature that they may warrant the detention of the ship involved. This list is not considered exhaustive but is intended to give examples of relevant items.

Areas under the SOLAS Convention

- 1 Failure of proper operation of propulsion and other essential machinery, as well as electrical installations.
- 2 Insufficient cleanliness of engine-room, excess amount of oily-water mixture in bilges, insulation of piping including exhaust pipes in engine-room contaminated by oil, and improper operation of bilge pumping arrangements.
- 3 Failure of the proper operation of emergency generator, lighting, batteries and switches.
- 4 Failure of proper operation of the main and auxiliary steering gear.
- 5 Absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching and recovery arrangements (see also MSC.1/Circ.1490/Rev.1).
- 6 Absence, non-compliance or substantial deterioration to the extent that it cannot comply with its intended use of fire detection system, fire alarms, fire-fighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers and quick-closing devices.
- 7 Absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers.
- 8 Absence, non-compliance or serious deterioration of lights, shapes or sound signals.
- 9 Absence or failure of the proper operation of the radio equipment for distress and safety communication.
- 10 Absence or failure of the proper operation of navigation equipment, taking the relevant provisions of SOLAS regulation V/16.2 into account.

- 11 Absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that electronic charts may be used as a substitute for the charts.
- 12 Absence of non-sparking exhaust ventilation for cargo pump-rooms.
- 13 Serious deficiency in any operational requirements.
- 14 Number, composition or certification of crew not corresponding with safe manning document.
- 15 Non-implementation or failure to carry out the enhanced survey programme in accordance with SOLAS regulation XI-1/2 and the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (2011 ESP Code), as amended.
- 16 Absence or failure of a voyage data recorder (VDR), when its use is compulsory.

Areas under the IBC Code

- 1 Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information.
- 2 Missing or damaged high-pressure safety devices.
- 3 Electrical installations not intrinsically safe or not corresponding to the Code requirements.
- 4 Sources of ignition in hazardous locations.
- 5 Contravention of special requirements.
- 6 Exceeding of maximum allowable cargo quantity per tank.
- 7 Insufficient heat protection for sensitive products.
- 8 Pressure alarms for cargo tanks not operable.
- 9 Transport of substances to be inhibited without valid inhibitor certificate.

Areas under the IGC Code

- 1 Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information.
- 2 Missing closing devices for accommodations or service spaces.
- 3 Bulkhead not gastight.
- 4 Defective air locks.

- 5 Missing or defective quick-closing valves.
- 6 Missing or defective safety valves.
- 7 Electrical installations not intrinsically safe or not corresponding to the Code requirements.
- 8 Ventilators in cargo area not operable.
- 9 Pressure alarms for cargo tanks not operable.
- 10 Gas detection plant and/or toxic gas detection plant defective.
- 11 Transport of substances to be inhibited without valid inhibitor certificate.

Areas under the Load Lines Convention

- 1 Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless properly authorised temporary repairs for a voyage to a port for permanent repairs have been carried out.
- 2 A recognised case of insufficient stability.
- 3 The absence of sufficient and reliable information, in an approved form, which by rapid and simple means enables the master to arrange for the loading and ballasting of the ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure is avoided.
- 4 Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight/weathertight doors.
- 5 Overloading.
- 6 Absence of, or impossibility to read, draught marks and/or Load Line marks.

Areas under the MARPOL Convention, Annex I

- 1 Absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements.
- 2 Remaining capacity of slop and/or sludge tank insufficient for the intended voyage.
- 3 Oil Record Book not available.
- 4 Unauthorised discharge bypass fitted.
- 5 Failure to meet the requirements of regulation 20.4 or alternative requirements specified in regulation 20.7.

Areas under the MARPOL Convention, Annex II

- 1 Absence of P and A Manual.
- 2 Cargo is not categorised.
- 3 No Cargo Record Book available.
- 4 Unauthorised discharge bypass fitted.

Areas under the MARPOL Convention, Annex IV

- 1 Absence of valid International Sewage Pollution Prevention Certificate.
- 2 Sewage treatment plant not approved and certified by the flag administration.
- 3 Ship's personnel not familiar with disposal/discharge requirements of sewage.

Areas under the MARPOL Convention, Annex V

- 1 Absence of the garbage management plan.
- 2 No garbage record book available.
- 3 Ship's personnel not familiar with disposal/discharge requirements of garbage management plan.

Areas under the MARPOL Convention, Annex VI

- 1 Absence of valid IAPP Certificate and where relevant EIAPP Certificates and Technical Files.
- 2 A marine diesel engine, with a power output of more than 130 kW, which is installed on board a ship constructed on or after 1 January 2000, or a marine diesel engine having undergone a major conversion on or after 1 January 2000, which does not comply with the NOX Technical Code 2008.
- 3 The sulphur content of any fuel oil used on board ships exceeds the following limits:
 - (a) 3.5% m/m on and after 1 January 2012; and
 - (b) 0.5% m/m on and after 1 January 2020.
- 4 The sulphur content of any fuel used on board exceeds 0.1% m/m on and after 1 January 2015 while operating within a SOX emission control area, and respectively, as per the provisions of regulation 14.
- 5 An incinerator installed on board the ship on or after 1 January 2000 does not comply with requirements contained in appendix IV to the Annex, or the standard specifications for shipboard incinerators developed by the Organisation (resolution MEPC.244(66)).

- 6 Ship's personnel are not familiar with essential procedures regarding the operation of air pollution prevention equipment.
- 7 Absence of valid IEEC (International Energy Efficiency Certificate).
- 8 Absence of Ship Energy Efficiency Management Plan (SEEMP) specific for the ship (this may form part of the ship's Safety Management System (SMS)).
9. Areas which may not warrant a detention, but where, for example, cargo operations have to be suspended.
10. Failure of the proper operation (or maintenance) of inert gas systems, cargo related gear or machinery should be considered sufficient grounds to stop cargo operation.

SCHEDULE 6 – Form of Notice of reference of a detention or prohibition notice to an arbitrator

regulation 13(4)

NOTICE OF REFERENCE OF A DETENTION OR PROHIBITION NOTICE TO AN ARBITRATOR

issued under the Maritime (Port State Control) Regulations 2021 and sections 93 and 244 of the Maritime Ordinance 2017

1. YOUR DETAILS

Full Name (or Title of Company or Organisation)

Full Address (or if a Company or Organisation, Registered Office)

Telephone

Email/Fax

Full Address / Registered Office in the Falkland Islands, or representative's address, for the service of letters and documents, if different from 1 above.

Telephone:

Email/Fax:

Please note: that if an address is entered here all communications will be sent to this address only.

2. THE DETAILS OF THE NOTICE YOU ARE APPEALING AGAINST

Is it a Detention notice?

Yes

Is it a Prohibition notice?

Yes (Tick one box only)

Date of Notice:

Day

Month

Year

Name(s) / I.M.O. number and / or official number(s) of the vessel(s) concerned.

3. PLEASE WRITE HERE THE MATTERS IN THE NOTICE WHICH YOU WISH TO APPEAL AGAINST TO AN ARBITRATOR

4. PLEASE GIVE DETAILED REASONS FOR YOUR APPEAL TO AN ARBITRATOR

Signature

Name

Company
title / status

Date