

S.I. No. 275/2011 — European Communities (Ship Inspection and Survey Organisations) Regulations 2011.

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*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 17th June, 2011.*

I, LEO VARADKAR, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009¹ and for the purpose of giving full effect to Regulation (EC) No. 391/2009 of the European Parliament and of the Council of 23 April 2009², hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Ship Inspection and Survey Organisations) Regulations 2011.

(2) These Regulations shall come into operation on 17 June 2011.

Interpretation

2. (1) In these Regulations—

“authorisation” means an authorisation granted under Regulation 4 or granted or continued under the Regulations of 2003;

“authorised officer” means an officer of the Minister appointed under Regulation 8;

“Commission” means the European Commission;

“Directive” means Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009¹;

“EC Regulation” means Regulation (EC) No. 391/2009 of the European Parliament and of the Council of 23 April 2009²;

“Irish ship” means a ship entitled to wear the national colours (within the meaning of section 9 of the Mercantile Marine Act 1955 (No. 29 of 1955));

“Minister” means Minister for Transport, Tourism and Sport;

“recognised organisation” means an organisation recognised in accordance with the EC Regulation;

“Regulations of 2003” means the European Communities (Ship Inspection and Survey

Organisations) Regulations 2003 (S.I. No. 301 of 2003);

“surveyor of ships” means a person appointed under section 724 of the Merchant Shipping Act 1894 to be a surveyor of ships.

(2) A word or expression that is used in these Regulations and is also used in the Directive and the EC Regulation has the same meaning in these Regulations that it has in the Directive and the EC Regulation.

Requirements for recognition

3. (1) Where the Minister proposes to grant an authorisation to an organisation that is not yet recognised, he or she may for the purpose of submitting a request for recognition to the Commission under Article 3 of the EC Regulation, require the organisation to give the Minister—

(a) such information as he or she considers necessary for evidence that the organisation complies with the minimum criteria set out in Annex I to the EC Regulation, and

(b) an undertaking that it shall comply with Articles 8(4), 9, 10 and 11 of the EC Regulation.

(2) An authorised officer may carry out an assessment of an organisation for which a request for authorisation has been received by the Minister in order to verify that the requirements specified in paragraph (1) have been complied with.

(3) An authorised officer may for the purposes of paragraph (2)—

(a) request an organisation to give such information to the officer as he or she decides, or

(b) enter at any reasonable time any premises or place of business of an organisation and carry out such inspection of any documents or records, in whatever form kept, he or she finds there and require any relevant person there to provide him or her with information relevant for the purposes of the request for authorisation.

Authorisation of recognised organisation

4. (1) The Minister may grant an authorisation to a recognised organisation to carry out, in whole or in part, inspections and surveys of Irish ships related to statutory certificates including those for the assessment of compliance with Article 11 of the Directive and, where appropriate, to issue or renew the related statutory certificates.

(2) An authorisation may apply generally or for a particular purpose, provision of law or ship.

(3) A recognised organisation shall comply with the relevant provisions of the Directive, the EC Regulation and any authorisation.

(4) A person who is not a recognised organisation or a surveyor of ships shall not undertake any of the tasks referred to in paragraph (1).

(5) A person who contravenes paragraph (4) is guilty of an offence.

(6) A recognised organisation may only undertake any of the tasks referred to in paragraph (1) if it is authorised under that paragraph to carry out the task.

(7) A recognised organisation which contravenes paragraph (6) is guilty of an offence.

Minister may give direction

5. (1) Where the Minister considers that a recognised organisation is failing to comply with the relevant provisions of the Directive, the EC Regulation or any authorisation, he or she may give a direction to the organisation concerned to so comply, in accordance with the terms of the direction.

(2) A direction shall be in writing, addressed to the organisation concerned and may be given in any of the following ways:

- (a) by delivering it to the organisation,
- (b) by leaving it at the address at which the organisation normally carries on business,
- (c) by sending it by post in a pre-paid registered letter to the address at which the organisation normally carries on business, or
- (d) if an address for the service of directions has been furnished by the organisation, by leaving it at, or sending it by pre-paid registered post to that address.

(3) A document purporting to be direction given by the Minister under these Regulations and to be signed by him or her, or an officer of the Minister on his or her behalf, shall be received in evidence and deemed to be such a direction without further proof, unless the contrary is shown.

(4) A recognised organisation that fails, without reasonable excuse, to comply with a direction given to it under paragraph (1) is guilty of an offence.

Suspension or withdrawal of authorisation and withdrawal of recognition

6. (1) Where the Minister considers that a recognised organisation holding an authorisation can no longer carry out the tasks specified in the authorisation, he or she may suspend or withdraw, in whole or in part, the authorisation in accordance with Article 8 of the Directive.

(2) Where an authorisation has been suspended or withdrawn under paragraph (1), the organisation concerned shall not carry out the specified tasks while the suspension or withdrawal is in force.

(3) Where recognition of an organisation has been withdrawn by the Commission under Article 7 of the EC Regulation, the organisation concerned shall not carry out any task specified in the authorisation while the withdrawal is in force.

(4) An organisation that contravenes paragraph (2) or (3) is guilty of an offence.

Compliance by Irish ships

7. (1) An Irish ship that falls within the scope of the international conventions shall be designed, constructed, equipped and maintained in accordance with the rules and procedures relating to hull, machinery and electrical and control installation requirements of a recognised organisation authorised under Regulation 4.

(2) Where an Irish ship referred to in paragraph (1) fails to comply with the requirements of that paragraph, the owner, operator and master of the ship concerned are each guilty of an offence.

Authorised officers

8. (1) The Minister may appoint such and so many of his or her officers to be authorised officers for the purpose of these Regulations, the Directive and the EC Regulation.

(2) An authorised officer shall—

- (a) be given a warrant of his or her appointment, and
- (b) when exercising a power conferred on an authorised officer under these Regulations, if requested by any person affected, produce the warrant or a copy of it to that person for inspection.

(3) For the purpose of ensuring that these Regulations, the Directive, the EC Regulation and any authorisation are being complied with, an authorised officer may—

- (a) at all reasonable times, enter any place or premises or board any Irish ship where he or she has reason to believe an inspection or survey of an Irish ship is taking place or

there is documentation or information relating to such an inspection or survey,

(b) require any person there and involved in the inspection or survey to produce to the officer such documents, records (in whatever form kept) or certificates or answer such questions relating to the inspection or survey, that the officer requires,

(c) take copies of or extracts from any such documents, records or certificates,

(d) carry out such inspection or survey, as the officer considers necessary, of the ship.

(4) A person who—

(a) obstructs or impedes an authorised officer in the exercise of his or her duties under this Regulation or Regulation 3(3), or

(b) fails to comply with a requirement made of him or her by an authorised officer under this Regulation or Regulation 3(3),

is guilty of an offence.

Offences and penalties

9. (1) Proceedings for an offence under these Regulations may be brought and prosecuted by the Minister.

(2) A person who is guilty of an offence under these Regulations is liable, on summary conviction, to a class A fine.

(3) Where an offence is committed under these Regulations by a body corporate and is proved to have been so committed with the consent, connivance or approval of or to have been attributable to the neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person, as well as the body corporate, commits an offence and is liable to be proceeded against and punished as if he or she committed the first-mentioned offence.

Revocation

10. The Regulations of 2003 are revoked.

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11. (1) Notwithstanding Regulation 10, an authorisation granted or continued under the Regulations of 2003 that is in force immediately before the making of these Regulations continues.

(2) These Regulations apply to an authorisation referred to in paragraph (1).



GIVEN under my Official Seal,

14 June 2011.

LEO VARADKAR,

Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations give effect to Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations, and full effect to Regulation (EC) No. 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations.

The Directive and the Regulation are a recast of a previous Council Directive 94/57/EC of 22 November 1994, as amended, on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations. The proposals are intended to improve the quality of the work of recognised organisations authorised to carry out ship inspection and certification tasks on behalf of Member States. These Regulations come into operation on 17th June 2011.

The European Communities (Ship Inspection and Survey Organisations) Regulations 2003 (S.I. No. 301 of 2003) as amended by the European Communities (Ship Inspection and Survey Organisations) (Amendment) Regulations 2003 (S.I. No. 638 of 2003) are now revoked.

1 OJ No. L 131, 28.5.2009, p. 47.

2 OJ No. L 131, 28.5.2009, p. 11.

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