

Regulation No. 142/2004
on the approval of classification societies and the rules and standards for ship inspection
and inspection bodies

Article 1

Objectives and purpose

This regulation establishes measures to be followed concerning the inspection, survey and certification of ships for compliance with the international conventions on safety at sea and prevention of marine pollution, while furthering the objective of freedom to provide services. This includes the development and implementation of safety requirements for hull, machinery and electrical and control installations of ships falling under the scope of the international conventions.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (a) ship: a ship falling within the scope of the international conventions;
- (b) ships that fly the Icelandic flag: ships registered on the Icelandic ship registry and flying the flag of Iceland in accordance with the Act on Registration of Ships No. 115/1985, as amended;
- (c) inspections and surveys: inspections and surveys required under the International Conventions;
- (d) International Conventions: the 1974 International Convention for the Safety of Life at Sea (SOLAS), the 1966 International Convention on Load Lines and the 1973/78 International Convention on the Prevention of Pollution from Ships, and Protocols and amendments thereto, together with related rules and which are binding in all Member States and in force according to their latest version;
- (e) organisation: classification society or other private entity carrying out a safety assessment for the Icelandic Transport Authority;
- (f) recognised organisation: organisation which has been recognized in accordance with Article 4;
- (g) authorization: an act whereby the Icelandic Transport Authority grants an authorization or delegates powers to a recognized organization;
- (h) certificate: a certificate issued by or on behalf of Iceland in accordance with the International Conventions;
- (i) class certificate: a document issued by a classification society indicating that the construction of a ship and its machinery for specific uses or operations complies with the provisions and rules laid down by the classification society and publicly disclosed;
- (j) Cargo Ship Safety Radio Certificate: certificate provided for in amended international rules on radio communications pursuant to the Convention on the Safety of Life at Sea (SOLAS 74/78), approved by the International Maritime Organization;

- k) location: the place of the registered office, central administration or principal place of business of an organization.

Article 3

International Conventions and the application of permits according to them

The Icelandic Transport Authority shall assure an appropriate enforcement of the provisions of the International Conventions, in particular with regard to the inspection and survey of ships and the issue of certificates and exemption certificates

Where for the purpose of paragraph 1 the Icelandic Transport Authority decides with respect to ships flying its flag:

- i. to authorise an organisation to undertake fully or in part inspections and surveys related to statutory certificates and, where appropriate, to issue or renew the related certificates; or
- ii. to rely upon organizations to undertake fully or in part the inspections and surveys referred to in sub-paragraph i); it shall entrust these duties only to recognised organisations.

In any case, the Icelandic Transport Authority shall, in all cases, approve the first issue of the exemption certificates.

However, for the cargo ship safety radio certificate these duties may be entrusted to a private body recognised by the Icelandic Transport Authority or the Post and Telecommunication Administration and having sufficient expertise and qualified personnel to carry out specified safety assessment work on radio-communication on its behalf.

This Article does not concern the certification of specific items of marine equipment.

Article 4

Recognition of organizations

The EU Commission recognizes organizations in accordance with Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations, as amended.

Article 5

Operating license of organizations

The Icelandic Transport Authority authorizes recognized organizations to carry out ship inspection and inspection in Iceland.

In applying Article 3(2)(i), the Icelandic Transport Authority shall in principle not refuse to authorize any of the recognized organizations located in the European Economic Area to undertake such functions, subject to the provisions of Articles 6 and 9. However, they may restrict the number of organizations they authorize in accordance with their needs provided there are transparent and objective grounds for so doing.

The authorization requirement is that the provisions of this Regulation are met, and in addition the recognized organization shall:

- (a) have an office located in Iceland,
- (b) have at least one inspector who works for the company and has a permanent office in Iceland,
- (c) be a full member of the International Association of Classification Societies (IACS).

Article 6

Icelandic Transport Authority agreements with organizations (classification societies)

If the Icelandic Transport Authority decides to do as described in paragraph 2 of Article 3 the organization shall cooperate with the organizations concerned. Such cooperation shall be based on a formal written agreement on equal terms, which includes at least:

- (a) the provisions set out in Appendix II of IMO Resolution A.739(18) on guidelines for the authorisation of organisations acting on behalf of the administration, while drawing inspiration from the Annexes, Appendices and Attachment to IMO MSC/Circular 710 and MEPC/Circular 307 on a model agreement for the authorisation of recognised organisations acting on behalf of the administration;
- (b) the following provisions concerning financial liability:
 - i. if liability arising out of any marine casualty is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss of or damage to property or personal injury or death, which is proved in that court of law to have been caused by a wilful act or omission or gross negligence of the recognised organisation, its bodies, employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to financial compensation from the recognised organisation to the extent that that loss, damage, injury or death was, as decided by that court, caused by the recognised organisation;
 - ii. if liability arising out of any marine casualty is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for personal injury or death, which is proved in that court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to financial compensation from the recognised organisation to the extent that that personal injury or death was, as decided by that court, caused by the recognised organisation;
 - iii. if liability arising out of any marine casualty is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss of or damage to property, which is proved in that court of law to

have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to financial compensation from the recognised organisation, to the extent that that loss or damage was, as decided by that court, caused by the recognised organisation;

- (c) the duties the organisations are undertaking on its behalf, as referred to in Article 9(1);
- (d) the possibility for random and detailed inspections of ships;
- (e) provisions for a periodical audit by the administration or by an impartial external body appointed by the administration into provisions for compulsory reporting of essential information about their classed fleet, and changes, suspensions and withdrawals of class, as referred to in Article 11.

Article 7

Withdrawal of authorization

The European Commission repeals the authorization of those recognized organizations referred to in Article 4 if they no longer meet the requirements laid down in the Annex, or if their performance, in terms of safety and pollution prevention, does not comply with the requirements referred to in paragraph 2.

Article 8

Withdrawal of operating license

Notwithstanding the criteria set out in the Annex to this Regulation, the Icelandic Transport Authority may decide to revoke a license if it considers that a recognized organization no longer may be authorized to perform on its behalf the tasks specified in Article 3. The Icelandic Transport Authority shall notify the EFTA Surveillance Authority, the European Commission and the other EEA States of such decision without delay and give reasons for it.

Article 9

Supervision of recognized organizations

The Icelandic Transport Authority shall ensure that recognized organizations operating in Iceland on its behalf, within the meaning of paragraph 2 Article 3, carry out the functions referred to in that Article. The Icelandic Transport Authority shall conduct such supervision at least every two years and the Minister of Transport shall submit to the EEA States and the EU Commission a report on the outcome of this supervision by 31 March of the year following the end of the supervision period.

Furthermore, the Icelandic Transport Authority shall ensure that each vessel flying the flag of Iceland is constructed and maintained in accordance with Icelandic requirements or in accordance with the requirements of the recognized organization for the hull, engine, electrical and control equipment.

The Icelandic Transport Authority may use rules which it considers to be equivalent to the rules of a recognized organization, provided that it notifies the EFTA Surveillance Authority (ESA)

without delay, in accordance with the procedure laid down in Directive 98/34/EC, cf. Decision of the EEA Joint Committee No. 146/99 and that neither the EU nor any other EEA State contradicts the rules and that it will not be confirmed in accordance with the procedure referred to in paragraph 2 Article 7 of Directive 2001/105/EC that these rules are not equivalent.

Article 10

Notification obligation in connection with port State control

In exercising their inspection rights and obligations as port States, the Icelandic Transport Authority shall report to other Member States and the EU Commission if they find that valid statutory certificates have been issued by recognised organisations acting on behalf of a flag State to a ship which does not fulfil the relevant requirements of the International Conventions, or in the event of any failure of a ship carrying a valid class certificate and relating to items covered by that certificate. Only cases of ships representing a serious threat to safety and the environment or showing evidence of particularly negligent behaviour of the recognised organisations shall be reported for the purposes of this Article. The recognised organisation concerned shall be advised of the case at the time of the initial inspection so that it can take appropriate follow-up action immediately.

Article 11

Recognised organisations shall consult each other at regular intervals in order that their technical standards are always equivalent to their implementation, in accordance with the provisions of the IMO Resolution A.847 (20) on Guidelines for Flag State Support for the Implementation of the International Maritime Organization's Legal Procedures.

The recognized organizations shall demonstrate willingness to cooperate with port State control administrations when a ship of their class is concerned, in particular, in order to facilitate the rectification of reported deficiencies or other discrepancies.

Recognised organisations shall provide the Icelandic Transport Authority with all relevant information on their classified fleet, transfers between organizations, changes, cancellations and extensions of ships from a category, regardless of the flag they fly. Information about transfers between organizations, changes, cancellations and extensions of ships from the category, including details of all incomplete inspections and recommendations, classification conditions, operating conditions or restrictions issued for vessels they have classified shall - irrespective of the flag of the ship - shall be submitted to the Sirenac Information System and published on the websites of these recognized organizations if such websites exist.

The recognised organisations shall not issue statutory certificates to a ship, irrespective of its flag, which has been declassified or is changing class for safety reasons, before giving the opportunity to the competent administration of the flag State to give its opinion within a reasonable time as to whether a full inspection is necessary.

When transferring a ship from one organization to another, the losing organization shall provide the gaining organization with all information on inspections and recommendations that have been delayed and are overdue, on the conditions of class, operating conditions or restrictions

issued with regard to the ship. In cases of transfer the losing organisation shall provide the gaining organisation with the complete history file of the ship. New certificates for the ship can be issued by the gaining organisation only after all overdue surveys have been satisfactorily completed and all overdue recommendations or conditions of class previously issued in respect of the ship have been completed as specified by the losing organisation. Prior to the issue of the certificates, the gaining organisation must advise the losing organisation of the date of issue of the certificates and confirm the date, place and action taken to satisfy each overdue survey, overdue recommendation and overdue condition of class. The recognised organisations shall cooperate with each other in properly implementing the provisions of this paragraph.

Article 12
Legal powers

This Regulation is based on Article 10 of the Ship Survey Act No. 47/2003 for the implementation of Directive No. 94/57/EC referred to in paragraph 55b of Annex 13 to the Agreement on the European Economic Area, as amended by Decision of the EEA Joint Committee No. 30/1995, as amended by Directive 97/58/EC, cf. Decision of the EEA Joint Committee No. 33/98 and Directive 2001/105/EC, cf. Decision of the EEA Joint Committee 56/02.

Article 13
Entry into force

This regulation enters into force immediately.

The Ministry of Transport and Communications, 5 February, 2004.

Sturla Böðvarsson.

Ragnhildur Hjaltadóttir.

ANNEX

Minimum criteria for organizations referred to in Article 3

A. General minimum criteria.

1. The recognized organization must be able to document extensive experience in assessing the design and construction of merchant ships.
2. The organization should have in its class a fleet of at least 1 000 ocean-going vessels (over 100 GRT) totalling no less than 5 million GRT.
3. The organization must employ a technical staff commensurate with the number of vessels classed. As a minimum, 100 exclusive special inspectors needed to meet the requirements in paragraph 2.
4. The organization should have comprehensive rules and regulations for the design, construction and periodic survey of merchant ships, published and continually upgraded and improved through research and development programmes.
5. The organisation shall publish its register of ships on an annual basis or maintained in an electronic database accessible to the public.
6. The organization should not be controlled by have commercial interests, or by others engaged commercially in the manufacture, equipping, repair or operation of ships. The recognised organisation is not substantially dependent on a single commercial enterprise for its revenue. The recognised organisation does not carry out class or statutory work if it is identical to or has business, personal or family links to the shipowner or operator. This incompatibility shall also apply to surveyors employed by the recognised organisation.
7. The Organisation shall operate in accordance with the provisions set out in the Annex to IMO Resolution A.789(19) on specifications on the survey and certification functions of recognised organisations acting on behalf of the administration, in so far as they cover matters falling within the scope of this Regulation.

B. Specific minimum criteria

1. The organization is established with:
 - (a) a significant technical, managerial, support and research staff commensurate to the tasks and to the vessels classed, catering also for capability - developing and upholding rules and regulations;
 - (b) world-wide coverage by its exclusive technical staff or through exclusive technical staff of other recognized organizations.
2. The organization is governed by a code of ethics.
3. The organization is managed and administered in such a way as to ensure the confidentiality of information required by the administration.

4. The recognised organisation must provide relevant information to the administration, to the Commission and to interested parties.

5. The recognised organization's management has defined and documented its policy and objectives for, and commitment to, quality and has ensured that this policy is understood, implemented and maintained at all levels in the organization The Agency's strategy shall address safety, pollution prevention objectives and indicators of performance.

6. The organization has developed, implemented and maintains an effective internal quality system based on appropriate parts of internationally recognized quality standards and in compliance with EN 45004 (inspection bodies) and with EN 29001, as interpreted by the IACS Quality System Certification Scheme Requirements, and which, inter alia, ensures that.:

- (a) the organization's rules and regulations are established and maintained in a systematic manner;
- (b) its rules and regulations are complied with and an internal system to measure the quality of service in relation to these rules and regulations and put in place;
- (c) the requirements of the statutory work for which the organisation is authorised are satisfied and an internal system to measure the quality of service in relation to compliance with the international conventions is put in place;
- (d) the responsibilities, powers and interrelation of personnel whose work affects the quality of the recognised organisation's services are defined and documented;
- (e) all work is carried out under controlled conditions;
- (f) a supervisory system is in place which monitors the actions and work carried out by surveyors and technical and administrative staff employed directly by the organization
- (g) statutory work, which the organisation is authorized to undertake, is only carried out by specific inspectors of the organization or special inspectors of other recognized organizations; surveyors have an extensive knowledge of the particular type of ship on which they carry out their work as relevant to the particular survey to be carried out and of the relevant applicable requirements;
- h) a system for qualification of surveyors is put in place and continuous updating of their knowledge is implemented;
- i) records are maintained, demonstrating achievement of the required standards in the items covered by the services performed, as well as the effective operation of the quality system;
- j) a comprehensive system of planned and documented internal audits of the quality related activities is maintained in all locations;
- k) the statutory surveys and inspections required by the harmonised system of survey and certification for which the recognised organisation is authorised are carried out in accordance with the provision set out in the Annex and Appendix to IMO Resolution A.746(18) on survey guidelines under the harmonised system of survey and certification;

- l) clear and direct lines of responsibility and control are established between the central and the regional offices the company and between the recognised organisations and their surveyors.

7. The organization must demonstrate ability:

- (a) to develop and keep updated a full and adequate set of own rules and regulations on hull, machinery and electrical and control equipment having the quality of internationally recognized technical standards on the basis of which SOLAS Convention and Passenger Ship Safety Certificates (as regards adequacy of ship structure and essential shipboard machinery systems) and Load Line Certificates (as regards adequacy of ship strength) can be issued;
- (b) to carry out all inspections and surveys required by the international conventions for the issue of certificates, including the means of assessing, through the use of qualified professional staff, the application and maintenance of the safety management system, both shore-based and on board ships, intended to be covered in the certification in accordance with the provisions set out in the Annex to IMO Resolution A.788(19) on guidelines on implementation of the international safety management (ISM Code by administrations.

8. The quality control system of the organisation shall be certified by an independent inspector approved by the Icelandic Transport Authority.

9. The organization should allow participation in the development of its rules and/or regulations by representatives of the Icelandic Transport Authority and other parties concerned.