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Date: 28 May 2021

Marine Instruction (4 / 2021)

SPECIFIC INSTRUCTIONS TO RECOGNIZED ORGANIZATIONS

Applicable to: Recognized Organizations and Flag State Surveyors

- Reference:**
- (a) Notification (3/2015) National Guidance for the Implementation of IMO Instruments
 - (b) Notification (10/2017) The role of Recognized Organizations (ROs) in ensuring compliance with IMO Mandatory Instruments and National Legislation
 - (c) IMO Resolution A.1070 (28) IMO Instruments Implementation Code (III Code)
 - (d) IMO Resolutions MEPC.237 (65) and MSC.349 (92) The Code for Recognized Organizations (RO Code)

Summary

This Marine Instruction provides specific instructions to Recognized Organizations delegated authority by the Department of Marine Administration (DMA) to perform statutory certification and services on its behalf related to be undertaken when a ship is unfit to proceed to sea without danger to the ship or persons on board, or presenting unreasonable threat of harm to the marine environment.

1. With the requirements of Notification (3/2015) regarding the National Guidance for the implementation of IMO Instruments and Notification (10/2017) regarding the role of Recognized Organizations (ROs) in ensuring compliance with IMO Mandatory Instruments and National Legislation, the Department of Marine Administration (DMA) issues specific instructions to be followed by Recognized Organizations (ROs) and flag State Surveyors in conducting the surveys, inspections and audits, issuing of certificates and documents, marking of ships and other statutory work required under IMO Instruments or the national legislation.
2. The specific instructions are issued detailing actions to be followed in the event that a ship is found unfit to proceed to sea without danger to the ship or persons on board, or is found to

present an unreasonable threat of harm to the marine environment under the paragraph 18 'Delegation of authority' of the Implementation of IMO Instrument Code (III Code).

3. This Marine Instruction for specific instructions to ROs hereby attached in Appendix should be read in conjunction with Marine Instruction (5/2021): Instructions to Recognized Organizations.



Dr. Ko Ko Naing

Director General (Acting)

Specific Instructions to Recognized Organizations

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Authority of Recognized Organizations (ROs) to require repairs

2. As per the provisions of Regulation 6 (b) of SOLAS Chapter I, Regulation 6.3.2 of MARPOL Annex I, Regulation 8.2.3 of MARPOL Annex II, Regulation 4.4 of MARPOL Annex IV, Regulation 5 of MARPOL Annex VI, and Regulation 5.1.4.7(c) of MLC, surveyors of ROs are authorized to require repairs to a ship and/or rectification of deficiencies identified during surveys. In addition, such surveyors are authorized to carry out inspections and surveys if requested to do so by the appropriate authorities of a port State (see paragraph 5 of this instruction “Notifying to the Administration”).

Use of service suppliers

3. The ROs may utilize service suppliers approved by the Department of Marine Administration (DMA) or ROs to assist in making decisions affecting statutory surveys and certification.

Change of Flag

4. No. 28: Procedure for Change of flag of International Association of Classification (IACS) and Myanmar Registration of Ship Act are to be followed, except where otherwise advised by the DMA.

When the DMA is not attending for a flag-in survey, the ROs are obliged to complete and return the RO Instructions for Change of Flag – Merchant Ships.

Notifying to the Administration

5. The notification requirements are as follows:

(a) Ship unfit to proceed to sea

As per the provisions of Regulation 6(c) of SOLAS Chapter I, Regulation 6.3.3 of MARPOL Annex I, Regulation 8.2.5 of MARPOL Annex II, Regulation 4.5 of MARPOL Annex IV, Regulation 5.3.3 of MARPOL Annex VI, and Regulation 5.1.4.7(c) of MLC, in cases where the condition of a ship or its equipment does not correspond substantially with the particulars of the relevant statutory certificate, or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, or presents an unreasonable threat of harm to the marine environment, the attending inspector or surveyor has to ensure that corrective action has been taken and shall notify the DMA immediately.

If such corrective action has not been taken, the relevant certificate may be withdrawn in consultation immediately with the DMA and, if the ship is in the port of another Party, the appropriate authorities of the State are to be notified without delay.

If such a nature of major deficiencies, the inspector or surveyor considers that, may pose a grave risk to the safe operation of ship and person onboard, security and marine environment; and the ship should not be allowed to proceed to sea, the Master and/or Owners must take the immediate action to rectify as requested by the inspector or surveyor.

Statutory certificate(s) may not be reinstated until the required corrective action, which may be equivalent to those required to remove a PSC detention, has been accomplished to the satisfaction of both the DMA and the ROs.

For the purposes of these requirements, such cases include:

- Where serious deficiencies (major deficiencies) are identified during any inspection or survey or visit to a ship or receive notice of such deficiencies, the guidance on detainable deficiencies given in Section 3 of Appendix 2 of the IMO Procedures for Port State Control 2017 (Assembly Resolution A.1119(30)) and IACS Recommendation 98 are to be used as an illustrative list of deficiencies which are considered as serious;
- In case all major deficiencies found during inspections or surveys are not rectified completely for unavoidable reasons, the ROs are obliged to inform the DMA the details of the circumstances involved (owner's proposal of temporary repairs or owner's schedule of permanent repairs for said deficiencies, etc.) and a full set of the survey report with necessary explanations.
- Failure to complete any class or statutory survey, audit or inspection within due date; and
- Where any proposed condition of class, statutory memorandum or equivalent remark, issued in conjunction with serious deficiencies, prevents the completion of survey.

(b) Suspension and withdrawal of Class

The DMA shall be notified of any suspension and/or withdrawal of Class. In any case where Class is withdrawn from a ship in service and where an inspector or surveyor attends the ship, the ROs are authorized to remove from the ship all statutory certification that has been issued by, or on behalf of the DMA, concurrent with the removal of Class certificates.

(c) Changes affecting details of Registry or Classification

The DMA shall be notified of any changes, which affect the Certificate of Registry or Class Certificate, including:

- Building details, e.g. ship being rebuilt, re-measured or undergoing major conversion;
- Ship or vessel type;
- Propulsion and engine details (e.g. total power, means of propulsion, type of engines);
- Ship dimensions (length, breadth, depth);
- Number of persons being accommodated;
- Tonnage (Gross, Net); and
- Equipment fitted or removed to affect a major modification.

Changes in Class notation are also to report to the DMA.

(d) Forms / Records / Reports / Certificates

Copies of short or Full-term international Convention certificates and associated reports issued on behalf of the DMA are not to forward to other offices unless specifically requested, with the exception of the following documents:

- Any statutory certificate issued which has an associated exemption, extension or equivalent arrangement, together with details of the affected item(s);
- ISPS Code certification (Interim and Full-term ISSC);
- ISM Code certification (Interim and Full-term SMC); and
- MLC 2006 certification (Maritime Labour Certificate).

Copies of the above documents may be forwarded by either e-mail or hard copy.

Hard copies of the following document only are to be sent to the DMA:

- Certificate of Survey for new buildings

Ships not compliant with statutory requirements

6. In cases where the condition of a ship or its equipment does not correspond substantially with the particulars of the relevant statutory certificate, the inspector or surveyor or ROs are required to follow the provisions of paragraph 5(a) “Ship unfit to proceed to sea”.

In instances where, temporarily, the requirements of an applicable instrument cannot be met under particular circumstances, the surveyor has to specify such measures or supplementary equipment as may be available to permit the vessel to proceed to a suitable port where permanent repairs or rectifications can be carried out or replacement equipment fitted. For urgent cases, the attending surveyor may contact the Director General for authorization to issue a restricted certificate.

Any exemption or equivalent arrangement that has been agreed for a specific ship will apply only to that ship for the period of time agreed. Exemptions and equivalents agreed under the above-mentioned process do not apply to other ships, unless specifically authorized by the DMA, and should not be repeated or extended for the same ship without prior the agreement of the DMA.

Certification issued in conjunction with an exemption, extension or equivalent arrangement will be as agreed with the DMA, taking account of the relevant Conventions or Code requirements and in accordance with the procedural systems operated by individual ROs.

Extension, Dispensation, Equivalence or Exemptions

7. When extension, dispensation, equivalence or exemptions from the requirements of applicable instruments is necessary, ROs are required to obtain the approval from the DMA in compliance with Directive (4/2018) regarding the Application of Extension, Dispensation, Equivalence or Exemptions.

In instances where, temporarily, the requirement of an applicable instrument cannot be met under particular circumstances, ROs are obliged to inform the DMA such measures or supplementary equipment.

Extension, dispensation, equivalence or exemptions may be issued with the date of expiry which complies with the requirements of specific time frame for corrective action.

Extension, dispensation, equivalence or exemptions issued for Myanmar flagged ship or specific ships may be available in the IMO Global Integrated Shipping Information System (GISIS) in the Myanmar section (<https://gis.imo.org/Public/SURCERT/Default.aspx>).

ROs are required to follow the procedures for relevant certificates as stated below;

(a) Exemption Certificates

- (i) The DMA may grant specific exemption from the provisions of a convention to an individual ship, if the ship complies with the conditions established by such convention.
- (ii) When an exemption is granted to a ship under and in accordance with the provisions of an International Convention, an Exemption Certificate may be issued in addition to the certificates requested by those conventions.
- (iii) A request for an exemption certificate is to be submitted to the DMA by the ship-owner, ship manager, ship operator, legal representative or ROs.
- (iv) The request is to be made for a particular ship separately which include

the following:

- (aa) copy of the Provisional/Permanent Certificate of Registry, (if any);
 - (bb) copy of the relevant Full-term statutory certificate and its attached forms and/or supplements; and
 - (cc) application for Exemption Certificate properly filled out.
- (v) Where Exemption Certificate is requested for the first time, the issuing of such certificate is the right of the DMA; it means that RO(s) will not issue Interim Exemption Certificates without authorization of the DMA.
 - (vi) In cases where there is the loss or damage of a renewal or the original full Exemption Certificate previously issued by the DMA, RO(s) may issue a provisional Exemption Certificate which validity will not exceed thirty (30) days. During this time frame, users must apply for the Full-term Exemption Certificate.

(b) Conditional Certificates

- (i) Where the condition of a ship or its equipment does not comply with the requirements of an international convention, the DMA may authorize the RO which has issued the ship's statutory certificate, to issue a Conditional Certificate, provided that the ship is fit to proceed to sea without harm to the ship, persons on board, or without presenting unreasonable threat of harm to the marine environment, allowing the ship to proceed to a port where the necessary repairs may be carried out.
- (ii) The RO should ensure that the corrective action is taken and should notify the DMA at the extent possible. Evidence of the corrective actions taken, may include, but are not limited to: survey reports, re-issued certificate, or a formal notification in written. If such corrective action is not taken before the expiration date of the Conditional Certificate, the Certificate is to be withdrawn and the RO is required to notify immediately to the DMA.
- (iii) Where a certificate loses its validity due to overdue annual or intermediate endorsements, an authorization to issue a Conditional Certificate may be requested to the DMA, as a transitional measure until the correspondent revalidation surveys are carried out and new certificates is issued.
- (iv) The request for authorization to issue Conditional Certificates may be sent to the DMA in cases where considered necessary by the shipowner, ship manager ship operator or legal representatives or the ROs.

- (v) The request is to be made for each individual ship separately which must include:
 - (aa) Reasons to issue a Conditional Certificate
 - (bb) Copy of the current statutory certificate, available onboard, relevant to the Conditional Certificate.
 - (vi) The validity of a Conditional Certificate may not exceed ninety (90) days. The DMA will not authorize the extension or re-issuance of such Conditional Certificates, and the extensions of statutory certificates exceeding ninety (90) days.
- (c) Interim Certificates
- (i) When a ship or Company has been found to comply with all the requirements of an international convention or code and the additional requirements of the DMA, after the correspondent surveys or audits (initial or renewal), the RO may issue an Interim Certificate, as a transitional measure until the correspondent Full-term Certificate is issued and placed on board.

The validity of Interim Certificate may not exceed the term provided in relevant IMO conventions.
 - (ii) Issuing certificates by virtue of the ISPS Code and the MLC 2006 may not concern.

Unified Interpretations of Convention requirements

8. All IMO interpretations, guidance and recommendations (as amended), relevant technical standards of the ROs, including IACS Unified Requirements recognized by the DMA, may be considered mandatory unless otherwise on a vessel specific basis, ROs may refer to the relevant IMO guidance or recommendations on their plan appraisal letters.

Interpretation of Statutory Requirements

9. The DMA has normally issued guidance on the application of mandatory and non-mandatory technical standards on the website (<https://dma.gov.mm>).

In the absence of the DMA, direction, guidance contained in IMO Resolutions and Circulars should be considered to issue by the ROs. In the absence of either flag State or IMO guidance, relevant technical standards of the RO, including IACS Unified Requirements, Procedural Requirements, all International Association of Classification Societies (IACS)'s Unified Interpretations of Convention Requirements as published annually should be considered.

Approval and Endorsement of Statutory Documents

10. All statutory documents which are required to be carried on board ships must be “approved by the DMA”.

Certifications for compliance with the requirements of Conventions not in Force or not Ratified by Myanmar

11. Where Myanmar ship is surveyed and found to comply with a convention that is either not in force or has not been ratified by Myanmar, a Document/ Statement of Compliance may be issued by ROs on behalf of the DMA. This certification is subject to the same annual/ intermediate endorsement as a Convention certificate.

When the subject Convention is both in force and ratified by Myanmar, the Document/Statement of Compliance may be replaced directly with a Convention Certificate, without survey, with the expiry date being not later than that on the existing Document of Compliance.

Maintenance of conditions after survey

12. Whenever an accident occurs to a ship or a defect is discovered which affects:

- the safety and integrity of the ship; or,
- the efficiency or completeness of its equipment covered by Conventions,

The master or company shall report the details of the accident or defect to the DMA and ROs those are responsible for issuing the relevant certificates without delay.

If the ship is in or proceeding to the port of another Contracting Government, the master or company is also required to report details of the accident or defect to the appropriate authorities of the port State.

Survey which unable to carry out

13. In case where RO is unable to carry out a particular survey, the other RO delegated by the DMA is allowed to do with the written permission of the DMA, Myanmar.

Remote inspection techniques

14. When an RO surveyor is not necessary to attend a ship to undertake verification of some survey items under certain circumstance, ROs is required to submit the DMA detailing their proposed use of remote inspection techniques.

The DMA has no objection to ROs undertaking surveys by Remote inspection techniques provided a documented procedure followed by ROs, a synopsis of which has been submitted to the DMA for approval. This Remote inspection will not be allowed to use clarification of Port State Control detention items and survey items for issuing statutory certificates.

Statutory equipment requiring type-approval

15. Statutory equipment requiring type-approval must be accompanied by a type approval certificate issued:

- by an RO which is a member of IACS or
- to be followed as refer in Type-approval, Directive 10/2020

Equipment which has been certified under (2014/90/EU) Marine Equipment Directive (MED) is acceptable to be used on the DMA registered vessels, although, it is not a mandatory requirement that equipment has been certified under the MED.

Procedure for responding port state control detention

16. In case of port State control detention of a Myanmar flagged Ship;

The stated procedure as below is required to follow by the ROs:

- (a) the company is required to immediately notify the DMA by means of a facsimile or an email when a Myanmar flagged ship is detained by a port State control officer(s) and invite the ROs.
- (b) the RO visiting on board is obliged to assist in clearing up the deficiencies, unless otherwise advised by the DMA, and to make initial report to the DMA. If the port State control officer(s) and RO surveyor consider they pose a grave risk to the safety, security and environmental operation of the ship and persons onboard and the ship should not be allowed to proceed the sea with such deficiencies, the Master and/or Owner must take the immediate actions accordingly.

The initial report to the DMA may include:

- a full copy of the PSC Report (Form A and B);
- a copy of the detention notice;
- confirmation of notification to the RO as applicable; and
- advice of actions taken or planned to rectify all deficiencies at the earliest opportunity.