



STATUTORY INSTRUMENTS.

S.I. No. 260 of 2011

EUROPEAN COMMUNITIES (MERCHANT SHIPPING) (COMPLIANCE
WITH FLAG STATE REQUIREMENTS) REGULATIONS 2011

(Prn. A11/0918)

**EUROPEAN COMMUNITIES (MERCHANT SHIPPING) (COMPLIANCE
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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 2009/21/EC of the European Parliament and of the Council of 23 April 2009¹, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Communities (Merchant Shipping) (Compliance with Flag State Requirements) Regulations 2011.
- (2) These Regulations shall come into operation on 17 June 2011.

Interpretation.

2. (1) In these Regulations, unless the context otherwise requires—

“Directive” means Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009¹;

“IMO” means the International Maritime Organisation;

“IMO audit” means an audit conducted in accordance with the provisions of Resolution A.974(24) adopted by the IMO Assembly on 1 December 2005;

“IMO conventions” means the conventions for which the IMO is the depositary and to which the State is a party;

“Marine Survey Office” means that part of the Department of Transport, Tourism and Sport that is known by that name;

“recognised organisation” means an organisation authorised by the Minister for Transport, Tourism and Sport under the European Communities (Ship Inspection and Survey Organisations) Regulations 2003 (S.I. No. 301 of 2003) to carry out surveys or inspections;

“ship” means a ship or craft flying the Irish flag falling within the scope of the relevant IMO Conventions, and for which a certificate is required.

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

¹OJ No. L131, 28.5.2009, p.132.

Competent authority.

3. The competent authority in the State for the purposes of these Regulations and the Directive is the Marine Survey Office.

Conditions for allowing ship to operate.

4. (1) Before allowing a ship which has been granted the right to fly the Irish flag to operate, the Marine Survey Office shall ensure that—

- (a) the ship complies with the applicable international rules and regulations;
- (b) the safety records of the ship are verified by all reasonable means, and
- (c) where applicable and if necessary, the former flag state is consulted in order to establish whether any outstanding deficiencies or safety issues identified by that state remain unresolved.

(2) Whenever another flag state requests information concerning a ship which was previously flying the Irish flag, the Marine Survey Office shall promptly provide details of outstanding deficiencies and any other relevant safety-related information to the requesting flag state.

Where ship is detained by port state.

5. When the Marine Survey Office is informed that a ship has been detained by a port state, it shall, according to the procedures it has established to this effect, ensure that the ship is brought into compliance with the relevant IMO conventions.

Accompanying measures.

6. In respect of ships granted the right to fly the Irish flag, and for the purposes of these Regulations and the Directive, the Marine Survey Office shall ensure that, at a minimum, the following information is kept and is readily accessible in relation to each ship:

- (a) particulars of the ship (name, IMO number, etc.);
- (b) dates of surveys, including additional and supplementary surveys, if any, and audits;
- (c) identification of the recognised organisations involved in the certification and classification of the ship;
- (d) identification of the competent authority of the state that has inspected the ship under port state control provisions and the dates of the inspections;
- (e) the outcome of any port state control inspections, including a record of any detentions of the ship by a port state or deficiencies found in relation to the ship;
- (f) information on marine casualties;

- (g) identification of any ships which have ceased to fly the flag of the State during the previous 12 months.

IMO audit.

7. The Minister for Transport, Tourism and Sport shall ensure that an IMO audit is carried out pursuant to Article 7 of the Directive.

Quality management system.

8. (1) The Marine Survey Office shall, by 17 June 2012, develop, implement and maintain a quality management system for the operational parts of the State's flag state-related activities.

(2) The system developed under paragraph (1) shall be certified in accordance with the applicable international quality standards.

(3) If the State appears—

(a) on the black list, or

(b) for 2 consecutive years, on the grey list,

as published in the annual report of the Paris Memorandum of Understanding (Paris MOU), the Marine Survey Office shall ensure that a report on the State's performance is provided to the European Commission no later than 4 months after the publication of the Paris MOU annual report.

(4) The report under paragraph (3) shall identify and analyse the main reasons for the lack of compliance that led to the detentions and the deficiencies resulting in black or grey status.



GIVEN under my Official Seal,
1 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 come into force on 17 June 2011 to transpose EU Directive No. 2009/21/EC. The purpose of the Directive is to ensure that Member States discharge their obligations as flag states and to enhance safety and prevent pollution from ships flying the Irish flag that come within the scope of certain conventions of the International Maritime Organisation.

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