



THE SHIPPING SURVEY AND DECK CARGO EMERGENCY REGULATIONS 1943

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 31st day of August, 1943

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Emergency Regulations Act, 1939, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

1. These regulations may be cited as the Shipping Survey and Deck Cargo Emergency Regulations, 1943.

2. In these regulations, unless the context otherwise requires,—

“The Act” means the Shipping and Seamen Act, 1908* :

“Cargo-ship” means any steamship that is not for the time being employed in carrying passengers other than members of any of His Majesty’s Forces or of the Forces of any Power friendly to His Majesty, or seamen who are being repatriated or who are being carried for any purpose connected with the present war :

“Classification certificate”, in relation to any cargo-ship, means a classification certificate granted in respect of that ship by Lloyd’s or any other corporation or association for the survey and registry of ships approved for the purposes of these regulations by the Minister of Marine :

“Seaman” means any person usually employed or engaged in any capacity on board any ship :

Expressions defined in the Act have the meanings so defined.

PART I.—SURVEY OF CARGO-SHIPS

3. (1) Subject to the provisions of this Part of these regulations, and notwithstanding anything to the contrary in Part IV of the Act or in any regulations made under the Act, any cargo-ship in respect of which a classification certificate is for the time being in force may ply or proceed to sea or on any voyage without the owner or the master of the ship having a certificate of survey under the said Part IV, and, subject as aforesaid, the owner and the master shall not be required to comply with the provisions of the said Part IV.

(2) Where, by virtue of the foregoing provisions of this regulation, any cargo-ship plies or proceeds to sea or on any voyage without a certificate of survey being issued in respect of the ship, the owner of

* See Reprint of Statutes, Vol. VIII, page 249.

the ship shall, at least once in every year during which the classification certificate continues in force, cause a survey to be made by a Surveyor of—

- (a) The external part of the hull of the ship, the tailshafts, propellers, rudder, and underwater fittings :
- (b) The life-saving and fire-extinguishing appliances :
- (c) The compasses and other navigational equipment :
- (d) The boilers :
- (e) The steering-gear :
- (f) The cargo gear :
- (g) The propelling and other machinery, while it is being operated.

(3) Every survey of a cargo-ship made under this regulation in any year shall be made either wholly at such one time during the year as the Chief Surveyor of Ships appoints in respect of that ship or partly at such one time and partly at such other times as the Chief Surveyor of Ships so appoints.

4. Any Surveyor may from time to time inspect any cargo-ship in respect of which, by virtue of this Part of these regulations, no certificate of survey has been issued under Part IV of the Act, whether or not that ship is then at sea.

5. (1) Every Surveyor who makes a survey or an inspection of any cargo-ship under this Part of these regulations shall, as soon as practicable thereafter, report the result of the survey or inspection to the Minister or to such person as the Minister directs.

(2) Where a report is made under this regulation the Minister or any person authorized by him in that behalf may, by notice given to the master or owner of the ship, or to the agent of the owner,—

- (a) Direct that the ship shall not ply or proceed to sea or on any voyage until, to the satisfaction of a Surveyor, the ship is made seaworthy and sufficient for the service intended, and such additional equipment is supplied, or, as the case may be, such rearrangement of the loading of the ship is made, as the Surveyor considers necessary ; or
- (b) Direct that the ship shall be surveyed under Part IV of the Act.

(3) Where any direction under paragraph (b) of the last preceding subclause is given in respect of any ship, then, until such time as the Minister or a person authorized by him in that behalf otherwise directs, the provisions of Regulation 3 hereof shall cease to apply with respect to the ship and all the provisions of Part IV of the Act shall apply accordingly.

6. For every survey or inspection of any cargo-ship under this Part of these regulations there shall be payable by the owner of the ship such fees as the Minister from time to time directs.

7. The provisions of this Part of these regulations are in addition to and not in derogation of the provisions of section 185 of the Act.

PART II.—DECK CARGO

8. While this Part of these regulations continues in force the provisions of this Part shall, notwithstanding anything contained in any regulations made under section 223 of the Act, apply with respect to the issue, pursuant to that section, of all licenses for the carriage of deck cargo on any ship.

9. (1) Upon the application in writing of the owner or master of any ship, any Superintendent may, in accordance with the provisions of this Part of these regulations, issue a license for the carriage of deck cargo on that ship.

(2) Upon receiving an application for a license under this regulation the Superintendent shall cause the ship to be inspected by a Surveyor, who shall report the result of the inspection to the Superintendent.

(3) In making a report under the last preceding subclause the Surveyor shall specify the nature and amount of deck cargo for the carriage of which a license should, in his opinion, be issued, and may, having regard to the nature of the deck cargo as aforesaid, the stability and seaworthiness of the ship, and the necessity for safe and convenient access by passengers (if any) and crew to all parts of the ship, specify where the deck cargo is to be stowed, the method of stowage to be used, and the measures to be taken to secure the deck cargo.

(4) Upon receiving the report of the Surveyor the Superintendent may refuse to issue a license or may, upon the conditions (if any) as to the stowage and securing of the deck cargo so specified by the Surveyor, issue a license for the carriage on the ship of the amount of deck cargo so specified by the Surveyor, or of such less amount as the Superintendent thinks fit.

(5) Every license issued under this regulation shall be in such form as may from time to time be prescribed by the Minister.

10. (1) Any license issued in respect of any ship under this Part of these regulations may be general or may be limited to a specified voyage or specified voyages to be undertaken by the ship, or to a specified period or specified periods.

(2) Where a license is issued in respect of any ship under this Part of these regulations, any Superintendent may at any time, if after an inspection of the ship by a Surveyor he thinks fit so to do, revoke the license, or vary it by a subsequent license.

11. There shall be payable by the owner of every ship in respect of which a license is issued under this Part of these regulations such fee, not exceeding £2, as the Minister from time to time directs.

PART III.—MISCELLANEOUS

12. For the purposes of any survey or inspection under these regulations every Surveyor shall have all the powers conferred upon Surveyors by section 16 of the Act, and the provisions of that section shall apply accordingly.

13. (1) Any notice required to be given to any person for the purposes of these regulations may be given in writing or by telegraph or any other means of communication, and if in writing may be given—

(a) By causing it to be delivered to that person, or to be left at his usual or last known place of abode or business or at the address specified by him in any document received from him by the Minister or other person by whom the notice is being given, or to be posted in a letter addressed to him at that place of abode or business or at that address; or

(b) If the notice is being given to the master of a ship, by leaving the notice for him on board that ship with the person being or appearing to be in command or charge of the ship.

(2) If any such notice is sent to any person by registered letter it shall be deemed to have been delivered to him when it would have been delivered in the ordinary course of post, and in proving the delivery it shall be sufficient to prove that the letter was properly addressed and posted.

(3) Any notice required to be given to any person for the purposes of these regulations shall be sufficient—

- (a) If it purports to be given by or on behalf of the Minister or any person authorized in that behalf, and is authenticated by the signature or name of the Minister or of any person purporting to be authorized to give it :
- (b) If it is addressed to the person to be bound thereby by his description (as master, owner, or as the case requires) and the name of the ship to be affected, notwithstanding that that person is not named in the notice.

(4) Any notice to the master or owner of any ship shall be binding on every person subsequently acting as master or owner of that ship respectively to whom the notice is known or according to the regular routine of command or management ought to be known.

(5) Every notice under these regulations shall take effect when it is given, or at such later time as may be specified in that behalf in the notice.

(6) Any notice given under these regulations may be at any time varied or revoked by a subsequent notice.

14. Every person commits an offence against these regulations who—

- (a) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of these regulations or of any direction, license, restriction, requirement, or condition given, issued, or imposed under these regulations :
- (b) With intent to deceive, makes any false or misleading statement or any material omission in any communication with or application to the Minister or any other person (whether in writing or otherwise) for the purposes of these regulations :
- (c) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under these regulations.

15. Every person who commits an offence against these regulations shall be liable on summary conviction—

- (a) In the case of an individual, to a fine not exceeding £50 and (if the offence is a continuing one) to a further fine not exceeding £5 for every day during which the offence continues :
- (b) In the case of a company or other corporation, to a fine not exceeding £200 and (if the offence is a continuing one) to a further fine not exceeding £20 for every day during which the offence continues.

16. Where any provision of these regulations or of any direction, license, restriction, requirement, or condition given, issued, or imposed under these regulations is contravened or not complied with in the case of any ship, the master and the owner of the ship, and the agent of the owner, shall each be deemed to have committed an offence against these regulations :

Provided that in any proceedings that by virtue of this regulation are taken against any person in respect of a contravention of or non-compliance with any such provision on the part of another person it shall be a defence for the defendant to prove that the contravention occurred without his knowledge and that he exercised all due diligence to secure compliance with the provision.

C. A. JEFFERY,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette* : 2nd day of September, 1943.
These regulations are administered in the Marine Department.