



## Instruction to RO

### Nr. 15 Reporting and procedure for exemptions, equivalence or non-compliance

*Date of entry into force: 01 May 2017*

#### 1 Introduction

Chapter 2 of the Agreement arranges specific requirements on interpretations, equivalents and exemptions. As final approval of equivalent arrangements, exemptions (or temporary non-compliance) is the prerogative of the Administration, there was a need to further specify the details on these issues in case of existing ships, flagging in and new building.

Furthermore, chapter 2 of the Agreement regulates procedures if an existing ship is found to be *substantially not in accordance with* the particulars of its certificates or to be such that the ship is not fit for navigation without danger to the ship, those on board, those ashore, to other ships, or to the marine environment. The RO surveyor concerned shall immediately make sure that the necessary measures are taken to rectify the defects before departure. If such rectifying measures are not taken, RO shall, after consultation with the Administration, withdraw the certificate involved on behalf of the Administration. If temporarily, the requirements of an applicable instrument cannot be met under particular circumstances, RO shall consult the Administration prior to specifying such measures or supplementary equipment as may be available to permit the ship to proceed to a suitable port where permanent repairs or rectification can be effected or replacement equipment fitted.

This Instruction to the Recognized Organizations provides a detailed procedure and conditions on the approval and issuance of exemptions or short-term certificates and equivalents, the requirements for reporting on this matter and describes the interpretation on the wording “substantially not in accordance with”.

#### 2 Items to be considered substantially not in accordance with its certificates

In Annex I the MAC stipulates an illustrative list (non-exhaustive<sup>(1)</sup>) of items to be considered as *substantially not in accordance with* its certificates. This list indicates items to be reported to MAC and dealt with before the ship is allowed to proceed to sea.

#### 3 Dealing with deviations

The way the deviation of its statutory requirements is dealt with as described in chapter 2.

##### 3.1 Deviation where the issuance of an exemptions is mandatory

Several International Conventions require mandatory issuance of exemption certificates for certain provisions.

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<sup>1</sup> List is based on IMO Resolution A.787(19), as amended by A.882(21). The list is illustrative and for a complete overview reference is made to the latest amendments and related international instruments.



## **SOLAS 1974**

IMO Circular SLS.14/Circ.115, as amended (Annex II) provides a list of the provisions of the 1974 SOLAS Convention, as amended thereto, where an exemption certificate should be issued if the Administration grants an exemption.

### **MARPOL 73/78**

- MARPOL, Annex I – Regulation 3                      Impracticability due to constructional features
- MARPOL, Annex II – Regulation 4.3                      Relaxation due to certain cargoes or trade
- MARPOL, Annex II – Regulation 4.4.5                      Relaxation ballasting and tank washing

### **Load Line 1966**

- Load Line, Article 6(3.1)                      Voyage between near neighbouring ports
- Load Line, Article 6(3.2)                      Features of a novel kind

### **HSC Code**

- HSC Code, Paragraph 14.3.3                      Exemptions individual craft

### **COLREG 1972**

- Colreg, Rule 38                      Lights and sound signal appliances

For all abovementioned provisions an exemption certificate shall be issued and it is not possible to issue a short-term certificate.

### *3.2      Equivalents (as mentioned in the regulatory framework)*

If an equivalent arrangement is requested or foreseen, MAC will (according to the information and the procedure under paragraph 4) review the founded proposal preferably in a format specified by the IMO. If approved, MAC will, according to the procedure as mentioned in SOLAS, Chapter I – regulation 5 (or other relevant instrument), submit the equivalent arrangement via its policy department and the Netherlands to the IMO/EU. The IMO/EU will then circulate such particulars to the other Contracting Governments as a circular.

The equivalent arrangement should be recorded in the related certificate and a copy of the arrangement should be attached to the certificate (in case the equivalent arrangement concerns an SLS circular, it suffices to reference the Circular in the certificate, although a copy may be attached).

### *3.3      Other deviations*

- ISM/ISPS

According to article 2.4.2 of the Agreement, a major non-conformity (ISM) or a major non-conformity/major failure as referenced in IACS PR24 (ISPS) should be reported to MAC immediately. MAC will determine, on a case-by-case basis, the procedures to be followed.

- Other statutory items

Deviations from statutory instruments, other than ISM/ISPS or mentioned under 3.1, may be documented by an exemption, short-term certificate, conditional certificate or by an outstanding recommendation/condition/statutory deficiency issued (up to the Recognised Organisation). In case of



an exemption from national requirements where a separate exemption certificate is not required, the exemption may be incorporated in the related certificate cross-referencing the related article.

- Class items

As indicated in article 2.6 of Annex II to the Agreement, the RO shall inform the Administration without delay if a ship has been declassified, class suspended or withdrawn and in case of suspension of the relevant class notation (including changes to class notations that have an effect on statutory items, e.g. change of unmanned machinery space notation).

#### 4 Procedure to be followed

If the ship does not comply with the Curaçao applicable rules and regulations, the RO shall:

*A) For conditions found substantially not in accordance with its certificates or other need for an exemption, equivalent arrangement or similar course of action:*

1. Require the ship owner (or ship yard with new building) to submit a well-founded proposal to the RO for consideration;
2. Process the request and make any necessary plan approvals etc. before forwarding its well founded recommendation including all relevant documentation calculations etc. and suggested conditions to the Administration;
3. Submit the well-founded proposal (including any recommendation for issuance of an exemption, equivalent arrangement, short term certificate etc.) accepted by the RO for approval to MAC via the Netherlands branch office of the RO making use of the form<sup>(2)</sup> contained in Annex IV<sup>(3)</sup>; and
4. Act on MAC instruction.

For reporting the class items, mentioned under 3.2, the form contained in Annex III should also be used.

*B) For deviations found substantially in accordance with its certificates:*

1. Verify that the minor deficiency (such deviations do not need to be reported to MAC) is corrected within a suitable time period specified by the RO.

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<sup>2</sup> if the RO has a standard form for reporting deviations already in place, that form may be used for reporting under the condition that it includes the minimum information as requested in the form in Annex III.

<sup>3</sup> issue an exemption or short-term certificate without prior consultation of the Maritime Authority of Curaçao in those cases where the deviation is found outside of MAC's office hours, but inform the Maritime Authority of Curaçao of the action taken providing the information contained in Annex III.



## Annex I – List of items to be considered as substantially not in accordance with its certificates

### 1.1. General

The lack of valid certificates and documents as required by the relevant instruments.

### 1.2. Areas under SOLAS

1. Failure of the proper operation of propulsion and other essential machinery, as well as electrical installations.
2. Insufficient cleanliness of engine room, excessive amount of oily-water mixtures in bilges, insulation of piping, including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements.
3. Failure of the proper operation of emergency generator, lighting, batteries and switches.
4. Failure of the proper operation of the main and auxiliary steering gear.
5. Absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching arrangements.
6. Absence, non-compliance or substantial deterioration of fire detection system, fire alarms, firefighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use.
7. Absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers.
8. Absence, non-compliance or serious deterioration of lights, shapes or sound signals.
9. Absence or failure of the proper operation of the radio equipment for distress and safety communication.
10. Absence or failure of the proper operation of navigation equipment, taking the provisions of SOLAS 74, Regulation V/16.2 into account.
11. Absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that a type approved electronic chart display and information system (ECDIS) operating on official data may be used as a substitute for the charts.
12. Absence of non-sparking exhaust ventilation for cargo pump rooms.
13. Serious deficiency in the operational requirements.
14. Number, composition or certification of crew not corresponding with the safe manning document (*reference is made to Instruction to RO no.11 – Manning*).

### 1.3. Areas under the IBC Code

1. Missing or damaged high-pressure safety devices.
2. Electrical installations not intrinsically safe or not corresponding to code requirements.
3. Sources of ignition in hazardous locations.
4. Contraventions of special requirements in Chapter 15 of the Code.
5. Exceeding of maximum allowable cargo quantity per tank.
6. Insufficient heat protection for sensitive products.

### 1.4. Areas under the IGC Code

1. Missing closing devices for accommodation or service spaces.
2. Bulkhead not gastight.
3. Defective air locks.



4. Missing or defective quick-closing valves.
5. Missing or defective safety valves.
6. Electrical installations not intrinsically safe or not corresponding to code requirements.
7. Ventilators in cargo area not operable.
8. Pressure alarms for cargo tanks not operable.
9. Gas detection plant and/or toxic gas detection plant defective.

#### **1.5. Areas under Load Line Convention**

1. Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out.
2. The absence of an approved trim and stability booklet and, where applicable, an approved loading manual.
3. Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors.
4. Absence of draft mark or draft mark impossible to read.

#### **1.6. Areas under MARPOL 73/78, Annex I**

1. Absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements.
2. Remaining capacity of slop and/or sludge tank insufficient for the intended voyage.
3. Oil Record Book not available.
4. Unauthorised discharge bypass fitted.
5. CAS Final Survey report file missing or not in conformity with Regulation 20.6 of MARPOL 73/78.

#### **1.7. Areas under MARPOL 73/78, Annex II**

1. Absence of the P&A Manual.
2. No cargo record book available.
3. Unauthorised discharge bypass fitted.

#### **1.8. Areas under MARPOL 73/78, Annex IV**

1. A sewage treatment plant is not of an approved type in accordance with the standards and test methods developed by an Organisation.
2. Systems fitted to comminute and disinfect sewage is not of an approved type.
3. A pipeline for the discharge of sewage to a reception facility, fitted with a standard shore connection is not fitted.

#### **1.9. Areas under MARPOL 73/78, Annex VI**

1. Absence of Approved Technical File.
2. Absence of Record Book of Engine Parameters.
3. (Modifications to) Applicable engines not shown in the Approved Technical File.
4. Applicable engine components have not been replaced with approved spare parts.



5. Lack of or invalid records of the changeover to and from low sulphur fuel during transit through a SOx Emission Control Areas.
6. Absence of instruction manual for the operation of the incinerator, where applicable.
7. Lack of bunker delivery notes, or relevant documentation in the event the supplier did not provide a bunker delivery note.
8. An incinerator installed on board the ship on or after 1 January 2000 does not comply with requirements contained in appendix IV to the Annex, or the standard specifications for shipboard incinerators developed by the Organisation (resolutions MEPC.76(40) and MEPC.93(45)).
9. the master or crew are not familiar with essential procedures

**1.10 Areas which may not warrant a detention, but where, e.g. cargo operations have to be suspended.**

Failure of the proper operation (or maintenance) of inert gas system, cargo-related gear or machinery are considered sufficient grounds for stopping cargo operation.



## Annex II – SLS.14/Circ.115, as amended



SLS.14/Circ.115, as amended

### INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974

#### Issue of Exemption Certificates under the 1974 SOLAS Convention and Amendments thereto

1. At its sixty-second session (24 to 28 May 1993), the Maritime Safety Committee considered Circular SLS. 14/Circ.54 on the Issue of Exemption Certificates under the 1974 SOLAS Convention, as amended, noting that, under the provisions of regulation I/12(a)(vi) thereof, the Administration is required to issue an Exemption Certificate when an exemption is granted to a ship under, and in accordance with, the provisions of that Convention.
2. The Committee also noted that in various SOLAS regulations the words "exemptions", "relaxations", "dispensations" and "waivers" are used with apparently no intended difference in their meaning.
3. Having considered the matter, the Committee agreed that an Exemption Certificate should be issued when:
  1. the conditions under which an exemption (relaxation, etc.) can be granted are of a general nature and open to interpretations;
  2. there are no clear alternative conditions under which an exemption (relaxation etc.) can be granted;
  3. the information concerning the exemption is not contained in other available documents such as special trade passenger ship certificates, stability information, document of authorization for the carriage of grain, etc.;
  4. the information concerning an exemption is necessary for the application of the Convention by the Administration or the port State authorities when the ship is in service.
4. Annexed to this circular is a list of the regulations contained in the 1974 SOLAS Convention and its Amendments, where an Exemption Certificate should be issued when the Administration grants dispensations, relaxations, waivers or exemptions.



5. Exemption certificates should indicate the conditions on which exemption is granted.
6. It should be noted that particulars on exemptions granted under regulation I/4(b), regulation II-1/25-1.3 (1990 May amendments) and regulation IV/3 (1988 GMDSS amendments) should be communicated to the Organisation by the Administration concerned. In other cases, particulars on exemptions granted are not required to be communicated to the Organisation.
7. When an Exemption Certificate is issued, port State authorities should interpret this as meaning that the ship complies with the provisions of the Convention.
8. Port State authorities are requested to check, whenever possible, with the Administration of the flag State should there be any doubt whether an exemption has been granted.
9. This circular supersedes SLS.14/Circ.54.
10. The Committee invites all SOLAS Contracting Governments to take note and adopt the procedure as prescribed above.



**ANNEX**

**LIST OF PROVISIONS OF THE 1974 SOLAS CONVENTION AND AMENDMENTS  
 THERETO WHERE AN EXEMPTION CERTIFICATE SHOULD BE ISSUED IF  
 THE ADMINISTRATION GRANTS AN EXEMPTION ETC.**

Chapter I (1974 SOLAS Convention)

| <i>Regulation</i> | <i>Subject</i>                               |
|-------------------|--|
| 4 (a)             | Ship on single international voyage          |
| 4 (b)<br>kind     | Ship which embodies features of a novel kind |

Chapter II-1 (1974 SOLAS Convention/Amendments)

| <i>Regulation</i>                                 | <i>Subject</i>   |
|---|--|
| 1(c)/1.4(81) <sup>4</sup>                         | Sheltered nature and conditions of voyage                          |
| -/11.9(89) <sup>5</sup>                           | Stern tubes  |
| -/12-1.4(89)<br>tankers                           | Double bottoms in cargo ships other than tankers                   |
| -/20-1.3 (88 October)                             | Closure of cargo loading doors                                     |
| -/25-1.3(90 May)<br>ships                         | Subdivision and damage stability of cargo ships                    |
| -/25-9.1(90 May)<br>internal decks in cargo ships | Openings in watertight bulkheads and internal decks in cargo ships |
| -/25-10.4(90 May)                                 | External openings in cargo ships                                   |
| -/53.2.1(81)                                      | Stand-by generator (dispensation)                                  |

Chapter II-2 (1974 SOLAS Convention/Amendments)

| <i>Regulation</i> | <i>Subject</i> |
|-------------------|----------------|
|-------------------|----------------|

<sup>4</sup> 1(c)/1.4(81) means regulation I(c) of chapter II-1 of the 1974 SOLAS Convention and regulation II-1/1.4 of the 1981 SOLAS Amendments.

<sup>5</sup> Dash (-) means that there was no corresponding regulation previous to adoption of the amendment.



|  |  |
|--|--|
| 1(e)/1.4.1(81)/1.4.1 (00 Nov)                        | Sheltered nature and conditions of voyage    |
| -/4.3.4.3(81)/10.2.1.2.2.2 (00 Nov)                  | Remote starting of fire pumps                |
| 48(a)(i)/28.1.1(81)/13.3.2.1.1 (00 Nov)              | One means of escape (dispensation)           |
| 32(a)(iii)/40.2(81)/40.2(89)/7.6 (00 Nov)<br>voyages | Fire detection or alarm system on short      |
| -/45.1.3(81)/13.3.3.6 (00 Nov)                       | One means of escape (dispensation)           |
| -/53.1.3(96)/10.7.1.4 (00 Nov)                       | Fire protection arrangements in cargo spaces |
| -/60.4.2(81)/-<br>dwt                                | Inert gas systems, tankers less than 40,000  |

Chapter III (1974 SOLAS Convention/Amendments)

**Regulation**

**Subject**

|   |  |
|---|--|
| 3(a)/2.1(83)/2.1 (96 May)<br>voyage               | Sheltered nature and conditions of the                       |
| 11(b)/41.8.32(83)/LSA Code, paragraph 4.4.8.32    | Equipment of lifeboats                                       |
| -/21.4.2.2(83)/22.4.1.2 (96 May)                  | Thermal protective aids                                      |
| -/27.3.2.3(83)/32.3.2.3 (96 May)/ 32.3.2 (04 May) | Immersion suits  |
| -/27.3.3.3(83)/32.3.3.3 (96 May)/32.3.2 (04 May)  | Immersion suits  |
| 35(a)(i)/-  | Liferafts for cargo ships on limited voyages                 |
| -/7.3 (96 May)                                    | Protective clothing for rescue boat crews and<br>MES parties |

Chapter IV (1974 SOLAS Convention/Amendments)

**Regulation**

**Subject**

|                   |  |
|-------------------|--|
| -/3.2.1 and 3.2.2 | Partial or conditional exemption from the<br>requirements for radio equipment<br>(regulations 7 to 11) and, in exceptional<br>circumstances, an exemption for a single<br>voyage outside the sea area or sea areas for<br>which the ship is equipped |
|-------------------|--|



-/14.2(88 GMDSS)

Equipment fitted prior to February 1992

Chapter V (1974 SOLAS Convention/Amendments)

*Regulation*

*Subject*

12(b)/12(p)(81)/12(p)(88 GMDSS)

Radiodirection-finding apparatus for ships of less than 5,000 gross tonnage (81)/Radio direction-finding apparatus (88 GMDSS)

-/12(j)(iii)(81)

Automatic radar plotting aid

-/12(u)(81)

Regulation 12, partial or conditional, depending on voyage



**Annex III – Report concerning non compliance**

The Recognised Organisation shall send this form [expertise@maritimecuracao.org](mailto:expertise@maritimecuracao.org) accompanied by a request from the owner/operator/shipyard.

Recognised Organisations' Netherlands Branch Office: [Select RO]

Name contact person:

Telephone number:

Name vessel:

IMO number:

Call sign: (if no IMO number)

Official number: (if no IMO number nor Call sign)

Class ID:

Proposal originating from:  Ship owner / operator  
 Classification Society  
 Shipyard

Vessel currently under survey by:

Curaçao Flag State Control

Port State Control

Other Local Authorities

Recognised Organisation

New building

Change of flag  Conversion

In service

Class suspended

Class withdrawn

Not applicable, specify other:

Concerning Following Certificate(s)

(incl. detailed reference to relevant Instrument (Class or Statutory):

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Proposal Recognised Organisation with respect to above mentioned certificates:

Full term

Issuance of Short-term/Conditional Certificate, valid until: .

Issuance Exemption, as described under 3.1, valid until: .

Request for equivalent arrangement, as described under 3.2.



- Issuance Exemption or other, as described under 3.3, valid until: .
- Condition of Class/Recommendation or Memorandum or Statutory Deficiency, valid until: .
- Other, specify:

Well-founded proposal (describe deficiency, reason why it can not be corrected immediately, and reason for duration of temporary non-compliance or exemption):

Additional Conditions:

Additional information attached:

- no                       yes, number documents

Relation with other Statutory Certificates, issued by the Maritime Authority of Curaçao. Additional action / instruction by Flagstate is required. (e.g. UMS suspended which means that Minimum Safe Manning Document is no longer valid)

- Other remarks, please specify below:

Note:

If a reaction by the Maritime Authority of Curaçao is urgently required, the Recognised Organisations' Netherlands branch Office must contact MAC by telephone +5999-5647000.