



Merchant Shipping Directorate



Code of Ethics and Conduct for Appointed Surveyors

CODE OF ETHICS AND CONDUCT FOR APPOINTED SURVEYORS

The main purpose of this Code is to provide guidance for the individual conduct of Appointed Surveyors, in terms of Article 367 of the Merchant Shipping Act, Chapter 234 of the Laws of Malta, towards their relationship with the Authority for Transport in Malta, hereinafter referred to as the Authority, their clients and other interested parties.

The Code defines a set of principles which have the underlying objective of ensuring a high level of correctness by all Appointed Surveyors in order to protect the esteemed reputation associated with the Maltese Administration.

PART ONE

GENERAL PRINCIPLES

CONDUCT OF APPOINTED SURVEYORS

Rule 1

The Appointed Surveyor must always adhere to the provisions and requirements detailed in Article 367 of the Merchant Shipping Act and other responsibilities concerning:-

1. Classes of Appointed Surveyors;
2. Knowledge;
3. Qualifications;
4. Surveying Experience;
5. Third Party Liability Insurance;
6. Duration of Appointment;
7. Conduct;
8. Supervision.

Rule 2

The Appointed Surveyor shall safeguard the following values:

1. own independence and integrity in faithfully serving the clients, associates and fellow surveyors;
2. promote the principles of quality, safety and protection of people, property and the environment;
3. act in the best interests of the Authority;
4. own good repute or of the surveyors' profession;
5. aim for a high standard of work;
6. abide by the individual obligations towards the Authority.

Rule 3

In all that is entrusted to them, the Appointed Surveyors have the duty to:

1. properly perform services only in their areas of competence and in an efficient and effective manner;
2. keep up to-date and adhere at all times to the rules, regulations and instructions issued, or as may be issued from time to time by the Government of Malta, the Authority, IMO etc;
3. continue their professional development throughout their careers;
4. disseminate professional knowledge in a truthful and objective manner for the benefit of the profession;
5. reject any assignment that would create a potential conflict of interest;
6. display the highest standards of integrity and professional competence.

Rule 4

In all aspects of their work, the Appointed Surveyors shall exercise utmost diligence and shall adhere to the highest standard of integrity in the execution of their duties.

Rule 5

Appointed Surveyors shall only engage in such work for which they are adequately and officially qualified either through qualifications or experience gathered in the related line of work. If necessary and with the consent of the Authority, on a case by case basis, the Appointed Surveyors may engage experts and knowledgeable third parties, in order to assist in part of their assignment requiring specific expertise or specialisation. It is ultimately the responsibility of the individual Appointed Surveyor to ensure that nominated experts are competent and professional and are only delegated specialised tasks.

Rule 6

Appointed Surveyors shall not accept any commission, gratuity or remuneration for work performed other than that agreed to and authorised by the client.

Rule 7

In the performance of their duties the Appointed Surveyors shall not allow their professional decision to be influenced by personal or any other unrelated interests.

Rule 8

The Appointed Surveyor shall be in breach of this Code of Ethics and Conduct whenever he conducts himself abusively or negligently or in a manner repugnant to the decorum, dignity or honour of his/her profession, or in such manner as could seriously affect the trust conferred on him by his/her profession.

PART TWO

RELATIONSHIP WITH THE CLIENT

CHAPTER I : OBTAINING INSTRUCTIONS

Rule 1

Fundamental to the relationship which exists between the Appointed Surveyor and the client is that a surveyor shall provide objective advice to the client free from any external or adverse pressures or interests which would otherwise impact negatively the surveyor's professional independence or the fiduciary relationship with the Authority and/or with the client.

CHAPTER II : TAKING INSTRUCTIONS

Rule 1

The Appointed Surveyor reports directly to the Authority and is generally free to decide whether to accept instructions from any particular client.

Rule 2

The Appointed Surveyor must not act, or where relevant, must cease acting further where any instructions would involve a breach of law or a breach of this Code of Ethics and Conduct.

Rule 3

The Appointed Surveyor must not act or continue to act in circumstances where the Authority's best interest cannot be represented with competence or diligence.

Rule 4

In cases where instructions are received from a third party purporting to represent a client, the Appointed Surveyor shall immediately seek direct confirmation from the client. In case of doubt, the Appointed Surveyor must meet with the client or take the necessary steps to verify the instructions.

Rule 5

The Appointed Surveyor must not act, or must decline to act further, where there is a conflict of interest between:

1. the Appointed Surveyor and the client or prospective client;
2. an existing client and a prospective client.

Rule 6

The Appointed Surveyor must decline to act where he or she, his or her partner, employer, employee, spouse, ascendant in the direct line hold some office or appointment which may lead to a conflict of interest. Nor may the Appointed

Surveyor give the impression that he or she is able to make use of any connection for the advantage of the client.

Rule 7

The Appointed Surveyor must not accept instructions to act in a matter where another Appointed Surveyor is acting for the client in respect of the same matter, unless he is sure that the first ship surveyor has been remunerated according to law.

Notwithstanding the above, the second Appointed Surveyor may act in urgent exceptional circumstances where the interests of the client would otherwise be seriously prejudiced, in which case he must inform the first surveyor.

CHAPTER III : DUTIES OWED TO THE CLIENT

Rule 1

The Appointed Surveyor who is provided his/her services to a client is bound to carry out those duties with diligence and exercise all possible care and skill.

Rule 2

The Appointed Surveyor shall safeguard the confidentiality of the client's business and affairs.

Rule 3

The Appointed Surveyor must not terminate his or her agreement with the client without giving reasonable notice according to the circumstances.

Rule 4

On termination of the agreement the Appointed Surveyor shall, subject to any privilege and/or right of retention, deliver to the client all papers and property to which the client is entitled and account for any funds of the client that may be held by the surveyor.

CHAPTER IV : PROFESSIONAL FEES

Rule 1

The Appointed Surveyor may, at the outset of the agreement and at reasonable times prior to the termination of the same, require the client to make a payment or payments on account of fees, costs and disbursements to be incurred.

Rule 2

The Appointed Surveyor's fee shall be reasonable and may be established either by the surveyor himself or by agreement between the surveyor and the client. The factors to be considered in determining the reasonableness of a fee (whether agreed or otherwise) *inter alia*, include the following:

1. the time required, the novelty and difficulty of the issues involved, and the dedication requisite to perform the service properly;
2. the responsibility undertaken, with particular reference to the amount involved;
3. the time limitations imposed by the client or the circumstances;
4. the experience, reputation and ability of the surveyor performing the services;
5. the likelihood that the acceptance of the particular agreement will preclude the acceptance of other agreements by the surveyor.

Appointed Surveyors shall not engage in price reductions which are not based on the above criteria and which have the sole objective to compete with other Appointed Surveyors.

Rule 3

The Appointed Surveyor shall render a bill of costs to a client within a reasonable time of completion of a particular service to which the bill relates.

Rule 4

The Appointed Surveyor's bill of costs should contain sufficient information to identify the service to which it relates, the date when the services were rendered and the inclusion of any taxation (such as VAT).

CHAPTER V : CONFLICT OF INTERESTS

Rule 1

The Appointed Surveyor should not accept to render a service and to act for two or more clients where there is a conflict or likelihood of a conflict between the interests of those clients.

Rule 2

If an Appointed Surveyor has acquired relevant knowledge/information concerning a former client during the course of acting for that client, the surveyor must not utilise the knowledge/information acquired in an unlawful and unfair manner.

Rule 3

The Appointed Surveyor must not act where the surveyor's interests conflict with the interests of the Authority and/or of a client.

CHAPTER VI : CONFIDENTIALITY

Rule 1

The Appointed Surveyor, including any and all of his/her staff is obliged to respect the confidentiality of the clients' business, regardless of the source of information on such business.

Rule 2

Unless the client explicitly permits disclosure or waiver, complete confidentiality of the client's business shall be respected at all times.

Rule 3

The duty to keep the client's matters confidential, can be overridden in certain exceptional circumstances and shall include those cases in which an Appointed Surveyor is required to disclose confidential information in terms of law; and those cases in which such disclosure is essential for the surveyor to defend himself in any proceedings taken against him by or on the complaint of a client or a former client in which event the disclosure shall be limited to what is indispensable for the surveyor to defend himself.

Rule 4

The Appointed Surveyor must not make any profit by the use of confidential information obtained in the exercise of his or her profession for his or her own purposes or the purposes of third parties.

Rule 5

Relationships with media organisations are characterised by correctness, spirit of collaboration and respect for the right of information. These relationships are the exclusive duty of the appropriate departments within the Authority to which this task has been expressly delegated.

The Appointed Surveyor shall not release to journalists or other public media, even if contacted, any statements or communications regarding the Authority or any clients, unless specifically agreed and authorised by the Authority.

PART THREE

OBLIGATIONS TO OTHERS

CHAPTER I : RELATIONS WITH THIRD PARTIES

Rule 1

Appointed Surveyors must not act, whether in their professional capacity or otherwise, towards anyone in any way which is fraudulent, deceitful or otherwise contrary to the proper exercise of the profession as surveyors. Nor must surveyors use their position as surveyors to take unfair advantage either for themselves or any other person.

CHAPTER II : RELATIONS WITH THE AUTHORITY

Rule 1

The Appointed Surveyor is to obtain prior authorization from the Merchant Shipping Directorate of the Authority prior to commencing any survey onboard Malta flagged ships or yachts and/or before issuing any certificates on behalf of the Government of Malta. Such authorisation requests shall be made using the appropriate form contained in Annex A.

Rule 2

The underlying spirit of the appointment issued by the Authority is that the Appointed Surveyors should all work towards the best interest of the Authority whilst maintaining a climate of mutual co-operation and respect towards each other.

The Appointed Surveyors are obliged to report any serious breach of conduct on the part of another Appointed Surveyor in a transparent manner. Reports shall be communicated to the interested parties and investigated by the Authority.

Rule 3

While interpretations of the applicable instruments, as well as the determination of equivalents or the acceptance of alternatives to the requirements of the applicable instruments are the prerogative of the Authority, the Appointed Surveyor may use his/her professional judgement to interpret technical requirements of applicable standards and equivalents within the limits of these standards, subject to the approval and acceptance by the Authority.

In issuing certificates or performing statutory functions on behalf of the Authority, the interpretations by the Authority of the provisions of applicable standards shall prevail. In the absence of any specific interpretation, the Appointed Surveyor shall consult the Authority.

Exemptions, equivalents, alternative designs and arrangements must be accepted and approved, by the Authority prior to issuance.

Rule 4

The Authority shall be granted access to all plans and documents including stability information and reports on surveys, on the basis of which certificates are issued or endorsed by the Appointed Surveyor on behalf of the Authority. Access to any relevant computer records shall be made available by the surveyor to the Authority upon request.

Rule 5

The Appointed Surveyor shall issue any relevant certificates and reports without undue delay and shall utilise the standard certificate templates/forms and guidelines provided by the Authority.

Rule 6

The Appointed Surveyor shall immediately notify the Authority of any Maltese registered ship or yacht when:

- statutory surveys and/or recommendations are overdue;
- the vessel is being detained by Port State Control;
- the vessel has suffered a casualty and a casualty notification report has not been sent to the Authority as per law;
- certificates have expired;
- serious deficiencies have been found onboard.

Rule 7

The Appointed Surveyor shall fully co-operate and provide the necessary assistance should the surveyor be audited or be requested information as part of the Administration's Appointed Surveyors Oversight Programme.

Rule 8

For the purpose of representation on electronic or printed promotional and technical material, business cards, websites etc. the Appointed Surveyor shall strictly only use the official title of '*Appointed Surveyor, Government of Malta*' and/or make only use of the official Malta Flag Logo in the format prescribed by the Authority.

Rule 9

The Authority reserves the right to immediately terminate the appointment and authorisation granted to an Appointed Surveyor should the surveyor be found to be in breach of Article 367 of the Merchant Shipping Act and/or of this Code of Ethics and Conduct or should the surveyor refuse to co-operate in relation to the Appointed Surveyor Oversight Programme.

Annex A

Request for Authorisation for surveying and certification of ships in terms of Article 367 of the Merchant Shipping Act

(E-mail to: shipreg.tm@transport.gov.mt & cc: mark.farrugia@transport.gov.mt)

The following surveys and issuance of certification have been requested by:

Name of Surveyor:

Surveyor's Mobile and E-mail:

Name of Principal:

Name of vessel:

Official No/IMO No:

Surveys

Commercial yacht above 24m but below 500GT	<input type="checkbox"/>
Commercial yacht above 500GT	<input type="checkbox"/>
Commercial yacht below 24m	<input type="checkbox"/>
Non-Convention Vessel in accordance to the NCV Code	<input type="checkbox"/>
Passenger vessel in compliance with Directive 2009/45/EC, as amended	<input type="checkbox"/>
Commercial Vessel Regulations (CVC) for vessels < 15m LoA operating exclusively in Maltese Waters	<input type="checkbox"/>
IACS99 for vessels < 15m LoA	<input type="checkbox"/>
Others (please specify)	<input type="checkbox"/>

Issuance of Certificates

Certificate of Survey (vessels > 24m)	<input type="checkbox"/>
ITC and Certificate of Survey	<input type="checkbox"/>
International Load Line Certificate (Commercial Yachts & Local Trading)	<input type="checkbox"/>
Cargo Ship Safety Radio Certificate (Commercial Yachts & Local Trading)	<input type="checkbox"/>
International Oil Pollution Prevention Certificate (Commercial Yachts & Local Trading)	<input type="checkbox"/>
Cargo Ship Safety Equipment Certificate (Commercial Yachts & Local Trading)	<input type="checkbox"/>
International Anti Fouling Systems Certificate (Commercial Yachts & Local Trading)	<input type="checkbox"/>
MARPOL Annex IV Certificate (Commercial Yachts & Local Trading)	<input type="checkbox"/>
MARPOL Annex VI Certificate (Commercial Yachts & Local Trading)	<input type="checkbox"/>
Certificate of compliance with EU Directive 97/70/EC	<input type="checkbox"/>
MARPOL Annex VI Certificate (Commercial Yachts & Local Trading)	<input type="checkbox"/>

Approval of Manuals

SOPEP Manual	<input type="checkbox"/>
Intact Stability Manual	<input type="checkbox"/>
Damage Stability Manual	<input type="checkbox"/>
Cargo Securing Manual	<input type="checkbox"/>

Note: Authorisation by TM will be forwarded by email.

Name, Signature and Official Stamp of Surveyor