



Jersey

R&O – 17/2004

SHIPPING (TRAINING, CERTIFICATION AND MANNING) (JERSEY) ORDER 2004

Arrangement

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Jersey

SHIPPING (TRAINING, CERTIFICATION AND MANNING) (JERSEY) ORDER 2004

Made

10th March 2004

Coming into force

in accordance with Article 6(2)

THE HARBOURS AND AIRPORT COMMITTEE, in pursuance of Articles 29, 49 and 196 of the Shipping (Jersey) Law 2002¹ and Regulation 2 of the Shipping (SOLAS) (Jersey) Regulations 2004,² orders as follows –

1 Interpretation

In this Order –

“STCW Convention” means the International Standards of Training and Certification of Watchkeeping for Seafarers, 1978, as for the time being applicable to the United Kingdom;

“the U.K. Manning Regulations” means the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997 of the United Kingdom as from time to time in force in the United Kingdom;

“the U.K. Training and Certification Regulations” means the Merchant Shipping (Training and Certification) Regulations 1997 of the United Kingdom as from time to time in force in the United Kingdom.

2 U.K. Training and Certification Regulations to apply in Jersey

- (1) The U.K. Training and Certification Regulations shall apply to Jersey as part of the law of Jersey.
- (2) They shall apply as if –
 - (a) paragraphs (2) and (3) of regulation 1 were omitted;
 - (b) for the definition in regulation 2(1) of “near costal voyage” there were substituted the definition –

“ ‘near costal voyage’ means a voyage during which the vessel is never more than 150 miles from Jersey;”;
 - (c) for regulation 3 there were substituted the following regulation –

“3 Application

This Part of these Regulations applies to masters and seamen employed on sea-going ships registered in Jersey, except in –

- (a) fishing vessels; or
- (b) pleasure craft – being ships that are primarily used for sport or recreational purposes and which are not more than 150 GT.”;
- (d) in regulation 4 for “for the purposes of section 47 of the Act” there were substituted “of a ship to which these Regulations apply”;
- (e) in regulation 4 “, or a certificate treated as equivalent pursuant to regulation 1(3)(a),” were omitted;
- (f) in regulation 21(1) everything after “Chief Engineer Officer.” were omitted;
- (g) in regulation 21(2) everything after “Second Engineer Officer.” were omitted;
- (h) Part III of the Regulations were omitted.

3 Additional application

- (1) In addition to applying to masters and seamen employed in ships registered in Jersey, the U.K. Training and Certification Regulations shall also apply to masters and seamen employed in ships registered outside Jersey that carry passengers –
 - (a) between places in Jersey or between Jersey and any other place; or
 - (b) on a voyage that begins and ends at the same place in Jersey and on which the ship calls at no place outside Jersey.
- (2) Paragraph (1) does not apply to masters and seamen employed in ships mentioned in that paragraph who hold certificates issued by or under the authority of another Party to the STCW Convention that the Committee is satisfied is fully complying with the requirements of the Convention concerning standards of competence, and the issue and endorsement of certificates in respect of masters and seamen.

4 U.K. Manning Regulations to apply in Jersey

- (1) The U.K. Manning Regulations shall apply to Jersey as part of the law of Jersey.
 - (2) They shall apply as if –
 - (a) paragraph (2) of regulation 1 were omitted;
 - (b) in the definition of “authorised person” in regulation 2(1) for “Secretary of State” there were substituted “Committee”;
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- (c) in regulations 2(1) (in the definition “appropriate certificate”), 3 (twice appearing), 4(1), 15 (headnote) and 15(1) (first appearing) for “United Kingdom” there were substituted “Jersey”;
 - (d) for regulation 3(b)(ii) and (iii) there were substituted the following sub-paragraph –
 - “(ii) pleasure craft – being ships that are primarily used for sport or recreational purposes and which are not more than 150 GT.”;
 - (e) in regulation 15 for “the United Kingdom” (twice appearing) there were substituted “Jersey”;
 - (f) regulations 5(3) and (4) and 16 were omitted;
 - (g) in regulation 17(1) “or 5(3),” were omitted;
 - (h) for regulation 17(2) there were substituted the following paragraph –
 - “(2) Any master who contravenes regulation 4(6), 5(2), 11(1) or (2), 12, 13 or 14 shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale³ and imprisonment for a term not exceeding 6 months.”;
 - (i) in regulation 17(4) for “level 5” there were substituted “level 4”.

5 Committee’s power to exempt

The Committee may exempt any ship or description of ship from any requirement of the U.K. Training and Certification Regulations or the U.K. Manning Regulations as it applies in Jersey.

6 Citation and commencement

- (1) This Order may be cited as the Shipping (Training, Certification and Manning) (Jersey) Order 2004.
- (2) It shall come into force on the same day as the Shipping (Jersey) Law 2002.

M.N. DE LA HAYE

Greffier of the States.

THE TEXT OF THE MERCHANT SHIPPING (TRAINING AND
CERTIFICATION) REGULATIONS 1997, AS IN FORCE IN THE UNITED
KINGDOM AT THE DATE OF THIS ORDER, AS MODIFIED BY THIS ORDER,
IS SET OUT BELOW FOR INFORMATION ONLY AND DOES NOT FORM
PART OF THE ORDER

PART I

PRELIMINARY

Citation, commencement, revocation and transitional provisions

1.-(1) These Regulations may be cited as the Merchant Shipping (Training and Certification) Regulations 1997, and shall come into force on 13th March 1997.

(2) * * * * *

(3) * * * * *

Interpretation

2.-(1) In these Regulations –

“the Act” means the Merchant Shipping Act 1995;

“appropriate certificate” means a certificate issued and endorsed in accordance with the provisions of these Regulations and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein on a ship of the type, tonnage or power and means of propulsion indicated by the endorsement while engaged on the particular voyage concerned;

“approved” (and “approved” in the STCW Convention so far as given effect by these Regulations) means approved by the Secretary of State;

“certificate of competency” means an appropriate certificate issued by the Secretary of State for the purposes of regulation 4 (other than a certificate of equivalent competency);

“chemical tanker” means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the IBC;

“constructed” means a craft the keel of which is laid or which is at a similar stage of construction; and “similar stage of construction” means a stage at which –

- (a) construction identifiable with a specific craft begins; and
- (b) assembly of that craft has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is the less;

“certificate of equivalent competency” means a document entitled “certificate of equivalent competency” issued under regulation 5(3);

“GT” means gross tons; and the gross tonnage of a ship having alternative gross tonnage shall be the larger of those tonnages; for a ship

having its tonnage determined both under Part II and regulation 16 of the Merchant Shipping (Tonnage) Regulations 1982 its gross tonnage shall be that determined under regulation 16;

“high speed craft” has the same meaning as in the Merchant Shipping (High Speed Craft) Regulations 1996;

“IBC Code” means the 1994 Edition of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk published by the International Maritime Organization;

“IGC Code” means the 1993 Edition of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, published by the International Maritime Organization;

“international voyage” means a voyage from a port in one country to a port in another country, either of the countries being a Party to the STCW Convention;

“length” has the same meaning as in the Merchant Shipping (Tonnage) Regulations 1997;

“liquefied gas tanker” means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the IGC Code;

“Merchant Shipping Notice” means a Notice described as such and issued by the Marine Safety Agency, an executive agency of the Department of Transport;

[“near costal voyage” means a voyage during which the vessel is never more than 150 miles from Jersey;]

“oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products, other than oil-like substances which are subject to the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996;

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes a combination carrier when it is carrying a cargo or part cargo of oil in bulk;

“passenger ship” means a ship carrying more than 12 passengers;

“propulsion power” means the total maximum continuous rated output power in kilowatts of all the ship’s main propulsion power which appears on the ship’s certificate of registry or other official document;

“ro-ro passenger ship” means a ro-ro passenger ship within the meaning of the Merchant Shipping (Passenger Ship Construction) Regulations 1984;

“sea-going” means going to sea beyond the limits of category A, B, C or D waters (as categorised in Merchant Shipping Notices Nos. M 1504 and M 1569);

“specified by the Secretary of State” means specified by the Secretary of State in a Merchant Shipping Notice which is considered by him to be relevant from time to time;

“the STCW Code” means the Seafarers’ Training, Certification and Watchkeeping Code adopted by the 1995 Conference of Parties to the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended on 7th July 1995;

“tanker” means a chemical tanker, a liquefied gas tanker or an oil tanker.

- (2) Any reference to the IBC Code, the IGC Code, the STCW Code, or the STCW Convention or a particular Merchant Shipping Notice shall include reference to any document amending the Code, Convention or Notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice.
- (3) In these Regulations, unless the context otherwise requires –
 - (a) a reference to a numbered regulation is a reference to the regulation of that number in these Regulations; and
 - (b) a reference to a numbered paragraph is a reference to the paragraph of that number in that regulation.

PART II

SHIPS

[Application

3. This Part of these Regulations applies to masters and seamen employed on sea-going ships registered in Jersey, except in –
 - (a) fishing vessels, or
 - (b) pleasure craft – being ships that are primarily used for sport or recreational purposes and which are not more than 150 GT.]

Qualification as an officer

4. A person is qualified as an officer [of a ship to which these Regulations apply] if he holds a certificate of competency or certificate of equivalent competency * * * in one of the following capacities:
 - (a)
 - (i) master;
 - (ii) chief mate; or
 - (iii) officer in charge of a navigational watch; or
 - (b)
 - (i) chief engineer officer;
 - (ii) second engineer officer; or
 - (iii) officer in charge of an engineering watch; or
 - (c) radio operator.

Recognition of certificates

- 5.-(1) The Secretary of State may recognise a certificate issued by or under the authority of another Party to the STCW Convention to a master, officer or radio operator if he is satisfied –
- (a) that the requirements of the STCW Convention concerning standards of competence, the issue and endorsement of certificates and record keeping are fully complied with; and
 - (b) that prompt notification will be given to the Marine Safety Agency of any significant change in the arrangements for training and certification provided in compliance with the Convention.
- (2) Where the Secretary of State recognises a certificate pursuant to paragraph (1) he shall endorse such a certificate to attest its recognition if he is satisfied that the requirements of the STCW Convention in paragraph (1)(a) and (b) have been complied with.
- (3) The endorsement shall be in the form of a separate document, entitled ‘certificate of equivalent competency’.
- (4) Where, pursuant to paragraph (1), the Secretary of State has recognised the standard of competence required for the issue of a certificate by an authority of a Party to the STCW Convention outside the United Kingdom as being in part the standard to be attained for officers qualified for the purposes of these Regulations, any conditions specified by the Secretary of State for the issue of a certificate of equivalent competency shall be limited to –
- (a) aptitude tests for the purpose of assessing the applicant’s ability to pursue the profession of officer on United Kingdom ships, in the light of subjects and training and related assessment procedures, which differ substantially from those covered by the applicant’s certificate issued by that State; or
 - (b) in the case of applicants who are nationals of a member State of the European Economic Area (at the applicant’s option) an adaptation period not exceeding 3 years, as specified by the Secretary of State.

Revalidation of certificates

- 6.-(1) The certificate of a master or other officer issued with a certificate under regulation 4 or 5 shall not be valid for sea-going service unless revalidated at intervals not exceeding 5 years to establish continued professional competence in accordance with section A-I/11 of the STCW Code.
- (2) A certificate of a category referred to in regulation 9 granted pursuant to the Merchant Shipping (Radio Installations) Regulations 1992(19) shall not be valid for sea-going service unless revalidated at intervals not exceeding 5 years, to establish continued professional competence in accordance with section A-I/11 of the STCW Code.

- (3) Every master and officer shall, for continuing sea-going service on ships referred to in regulations 10, 11 and 12, successfully complete approved refresher training at intervals specified by the Secretary of State.

Appropriate certificates

7. Any officer serving in the capacity set out in column 1 of the table below shall hold an appropriate certificate for that capacity. A person shall only be entitled to be issued with such an appropriate certificate if he complies with the criteria in Regulations annexed to the STCW Convention, set out in column 2 of the table in relation to that entry, and any other requirements specified by the Secretary of State.

TABLE OF CRITERIA FOR APPROPRIATE CERTIFICATES

<i>Column 1</i>	<i>Column 2</i>
<i>Master and Deck Department</i>	<i>Regulation Annexed to the STCW Convention</i>
Officer in charge of a navigational watch on any ship on voyages not limited to near-coastal voyages	Regulation II/1.2.
Master of chief mate on a ship of 3000 GT or more.	Regulation II/2.2.
Master or chief mate on a ship of less than 3000 GT.	Regulation II/2.4.
Officer in charge of a navigational watch on a ship of less than 500 GT engaged on near-coastal voyages	Regulation II/3.4.
Master on a ship of less than 500 GT engaged on near-coastal voyages.	Regulation II/3.6.
<i>Engine Department</i>	
<i>Regulation Annexed to the STCW Convention</i>	
Officer in charge of an engineering watch in a manned engine room, or designated duty engineer officer in a periodically unmanned engine-room, on a ship powered by main propulsion machinery of 750 kW propulsion power or more.	Regulation III/1.2
Chief engineer officer or second engineer officer on a ship powered by main propulsion machinery of 3000 kW propulsion power or more.	Regulation III/2.2
Chief engineer officer and second engineer officer on a ship powered by main propulsion machinery of between 750 and 3000 kW propulsion power.	Regulation III/3.2

Rating and holders of other qualifications

8.-(1)

- (a) Every rating forming part of a navigational watch on a ship of 500 GT or more, other than ratings under training and ratings whose duties while on watch are of an unskilled nature, shall hold a certificate issued under this paragraph.
- (b) No person shall be entitled to be issued with a certificate as such a rating unless he complies with the criteria set out in Regulation II/4.2 in the Annex to the STCW Convention.

(2)

- (a) Every rating forming part of an engine-room watch or designated to perform duties in a periodically unmanned engine-room on a ship powered by main propulsion machinery of 750 kW propulsion power or more, other than ratings under training and ratings whose duties are of an unskilled nature, shall hold a certificate issued under this paragraph.
- (b) No person shall be entitled to be issued with a certificate as such a rating unless he complies with the criteria set out in Regulation III/4.2 in the Annex to the STCW Convention.

- (3) Any person designated to perform watchkeeping duties in a manned or periodically unmanned engine room on a ship powered by main propulsion machinery of 350 kW power, or more, but less than 750 kW shall be the holder of one of the engineering certificates of competency referred to in regulation 7 or be the holder of a marine engine operator's licence issued in compliance with criteria specified by the Secretary of State.

Radiocommunication and Radio Personnel on GMDSS Ships

- 9.** No person shall be granted a certificate under regulation 16 of the Merchant Shipping (Radio Installation) Regulations 1992 unless –
 - (a) he is at least 18 years of age; and
 - (b) he has completed approved education and training and meets the standard of competence specified in section A-IV/2 of the STCW Code.

Mandatory minimum requirements for the training and qualification of masters, officers and ratings on tankers

- 10.-(1)** Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on tankers shall have completed an approved shore-based advanced fire-fighting course in addition to the training required by section A-VI/1 of the STCW Code and shall have completed –

- (a) at least three months of approved seagoing service on tankers in order to acquire adequate knowledge of safe operational practices; or
 - (b) an approved tanker familiarization course covering at least the syllabus given for that course in section A-V/1 of the STCW Code.
- (2) The period of three months referred to in sub-paragraph (a) of paragraph (1) may be reduced to not less than one month if –
- (i) the tanker on which such service is performed is of less than 3,000 GT; and
 - (ii) the duration of each voyage of the tanker on which such approved service is performed does not exceed 72 hours, and
 - (iii) the operational characteristics of the tanker on which such approved service is performed and the number of voyages and loading and discharging operations completed during the period, allow the same level of knowledge and experience to be acquired as would have been acquired in approved service performed in accordance with sub-paragraph (a) of paragraph (1) on a tanker of a size, and performing voyages, not falling within sub-paragraphs (i) and (ii) above.
- (3) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit or handling of cargo on tankers shall, in addition to meeting the requirements of paragraph (1), have –
- (a) experience appropriate to their duties on the type of tanker on which they serve; and
 - (b) completed an approved specialized training programme at which at least covers the subjects set out in section A-V/1 of the STCW Code that are appropriate to their duties on the tanker on which they serve.
- (4) An appropriate certificate shall be issued to masters and officers who are qualified in accordance with paragraph (1) or (3), or their existing certificate shall be endorsed, and every rating who is so qualified shall be certificated.

Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ro-ro passenger ships

- 11.-(1) This regulation applies to masters, officers, ratings and other personnel serving on board ro-ro passenger ships.
- (2) Prior to being assigned shipboard duties on board ro-ro passenger ships, seafarers shall have completed the training required by paragraphs (4) to (8) in accordance with their capacity, duties and responsibilities.
 - (3) Seafarers who are required to be trained in accordance with paragraphs (4), (7) and (8) shall, at intervals not exceeding five years, undertake appropriate refresher training or shall provide evidence of having achieved the required standard of competence within the previous five years; and in this paragraph “the required standard of competence”

means the standard of competence whose attainment is ensured by the training referred to in paragraphs (4), (7) and (8).

- (4) Masters, officers and other personnel designated on muster lists to assist passengers in emergency situations on board ro-ro passenger ships shall have completed training in crowd management as specified in section A-V/2, paragraph 1 of the STCW Code.
- (5) Masters, officers and other personnel assigned specific duties and responsibilities on board ro-ro passenger ships shall have completed the familiarization training specified in section A-V/2, paragraph 2 of the STCW Code.
- (6) Personnel providing direct service to passengers in passenger spaces on board ro-ro passenger ships shall have completed the safety training specified in section A-V/2, paragraph 3 of the STCW Code.
- (7) Masters, chief mates, chief engineer officers, second engineer officers and every person assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings on board ro-ro passenger ships shall have completed approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 4 of the STCW Code.
- (8) Masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board ro-ro passenger ships shall have completed approved training in crisis management and human behaviour as specified in section A-V/2, paragraph 5 of the STCW Code.
- (9) It shall be the duty of any person providing the training referred to in this regulation to issue documentary evidence to every person successfully completing such training.

Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships other than ro-ro passenger ships and high speed craft, where such ships are engaged on international voyages

- 11A.**-(1) This regulation applies to masters, officers, ratings and other personnel serving on board passenger ships other than ro-ro passenger ships and high speed craft, where such ships are engaged on international voyages.
- (2) Prior to being assigned shipboard duties on board passenger ships, seafarers shall have completed the training required by paragraphs (4) to (8) below in accordance with their capacity, duties and responsibilities.
- (3) Seafarers who are required to be trained in accordance with paragraphs (4), (7) and (8) below shall, at intervals not exceeding five years, undertake appropriate refresher training or shall provide evidence of having achieved the required standard of competence within the previous five years; and in this paragraph “the required standard of competence” means the standard of competence whose attainment is ensured by the training referred to in paragraphs (4), (7) and (8).

- (4) Personnel designated on muster lists to assist passengers in emergency situations on board passenger ships shall have completed training in crowd management as specified in section A-V/3, paragraph 1, of the STCW Code.
- (5) Masters, officers and other personnel assigned specific duties and responsibilities on board passenger ships shall have completed the familiarization training specified in section A-V/3, paragraph 2, of the STCW Code.
- (6) Personnel providing direct service to passengers in passenger spaces on board passenger ships shall have completed the safety training specified in section A-V/3, paragraph 3, of the STCW Code.
- (7) Masters, chief mates, and every person assigned immediate responsibility for embarking and disembarking passengers shall have completed approved training in passenger safety as specified in section A-V/3, paragraph 4, of the STCW Code.
- (8) Masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board passenger ships shall have completed approved training in crisis management and human behaviour as specified in section A-V/3, paragraph 5, of the STCW Code.
- (9) It shall be the duty of any person providing the training referred to in this regulation to issue documentary evidence to every person successfully completing such training.

Mandatory minimum requirements for the training and qualification of masters, officers, ratings and other personnel on high-speed craft

- 12.-(1) This regulation applies to masters and officers, ratings and other personnel serving on board high-speed craft which are ships constructed on or after 1st January 1996.
- (2) Prior to being assigned shipboard duties on board high speed craft, masters, officers, ratings and other personnel shall have completed the training specified in Merchant Shipping Notice No. M1696.
- (3) It shall be the duty of any person providing the training referred to in this regulation to issue documentary evidence to every person successfully completing such training. In the case of masters, and of officers having an operational role on high speed craft, the documentary evidence shall be a certificate in a form specified in Merchant Shipping Notice No. M1696 and shall be endorsed in a manner specified in that notice.

Mandatory minimum requirements for familiarization, basic safety training and instruction for all seafarers

13. All seamen shall receive familiarization and basic safety training or instruction in accordance with section A-VI/1 of the STCW Code and shall meet the appropriate standard of competence specified therein.

Mandatory minimum requirements for the issue of certificates of proficiency in survival craft, rescue boats and fast rescue boats

14.-(1)

- (a) Every person designated to launch or take charge of survival craft or rescue boats other than fast rescue boats shall have a certificate of proficiency in such craft.
- (b) No person shall be granted such a certificate unless he meets the criteria specified in Regulation VI/2.1 in the Annex to the STCW Convention.

(2)

- (a) Every person designated to launch or take charge of a fast rescue boat shall have a certificate of proficiency in such boats.
- (b) No person shall be granted such a certificate unless he meets the criteria in Regulation VI/2.2 in the Annex to the STCW Convention.

(3) In this regulation

“fast rescue boat” means a rescue boat which is –

- (a) not less than 6 metres in length and not more than 8.5 metres in length; and
- (b) capable of manoeuvring, for at least 4 hours, at a speed of at least 20 knots in calm water with a suitably qualified crew of 3 persons and at least 8 knots with a full complement of persons and equipment; and

“survival craft” and “rescue boat” have the same meaning as in the Merchant Shipping (Life Saving Appliances) Regulations 1986.

Mandatory minimum requirements for training in advanced fire-fighting

15.-(1) Seamen designated to control fire-fighting operations shall have successfully completed advanced training in techniques for fighting fire with particular emphasis on organization, tactics and command in accordance with the provisions of section A-VI/3 of the STCW Code and shall meet the standard of competence specified therein.

(2) Where training in advanced fire fighting is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course of training in advanced fire fighting.

Mandatory requirements relating to medical first aid and medical care

16.-(1) Seamen designated to provide medical first aid on board ship shall meet the standard of competence in medical first aid specified in section A-VI/4, paragraphs 1 to 3 of the STCW Code.

- (2) Seamen designated to take charge of medical care on board ship shall meet the standard of competence in medical care on board ships specified in section A-VI/4, paragraphs 4 to 6 of the STCW Code.
- (3) Where training in medical first aid or medical care is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course of training in medical first aid or in medical care.

Form, validity, record and surrender of certificates

- 17.-(1) Certificates and endorsements under these Regulations shall be issued by the Secretary of State on receipt of any fee payable, and delivered to the person entitled to hold them.
- (2) A certificate or endorsement shall remain valid for sea-going service only so long as the holder can comply with the standards and conditions as to medical fitness and professional competency to act in the appropriate capacity specified by the Secretary of State.
- (3) A record of all certificates and endorsements which are issued under this Part of these Regulations, have expired or have been revalidated, suspended, cancelled, or reported lost or destroyed and any alteration of or any other matters affecting any such certificates or endorsements, shall be kept, in such manner as the Secretary of State may require, by the Registrar General of Shipping and Seamen or by such other person as the Secretary of State may direct.
- (4) Where the holder of a certificate is issued with an appropriate certificate at a higher level he shall surrender the first-mentioned certificate to the Secretary of State, or to such person as the Secretary of State directs, for cancellation.
- (5) Where a person is convicted of an offence under section 47(5) of the Act, or where a certificate or endorsement is issued and the conditions for its issue prescribed in this Part of these Regulations or specified by the Secretary of State have not been complied with, then the holder of the relevant certificate shall, at the direction of the Secretary of State, deliver it to the Secretary of State, or to such person as the Secretary of State directs, for cancellation.

Refusal of certificates, and appeals against refusal

- 18.-(1) Notwithstanding that an applicant for a certificate of competency or for a certificate of equivalent competency complies with the standards or fulfils the conditions specified by, or by virtue of, the foregoing provisions of this Part of these Regulations, the Secretary of State shall not issue or revalidate the appropriate certificate applied for unless he is satisfied, having regard to all the relevant circumstances, that the applicant is a fit person to be the holder of the certificate and to act in the capacity to which it relates.

- (2) If the Secretary of State intends to refuse the issue or revalidation of a certificate of competency or certificate of equivalent competency for any reason, he shall give notice in writing to the applicant who shall have the right, before a date specified in the notice, to require the application to be reviewed at an inquiry.
- (3) If an applicant, before the date mentioned in paragraph (2) above, has required his case to be reviewed at an inquiry, in pursuance of that paragraph the Secretary of State shall cause such an inquiry to be held by one or more persons appointed by him.

Loss of certificates

19. If a person entitled to a certificate loses or is deprived of a certificate already issued to him, the Secretary of State –
 - (a) if satisfied that the person has lost or been deprived of the certificate without fault on his part shall, and
 - (b) if he is not so satisfied, may,upon receipt of any fee payable, cause a certificated copy to which the person appears to be entitled to be issued to him.

Endorsement of UK certificates

20. In the case of a certificate issued by the Secretary of State the certificate shall be endorsed by the Secretary of State in accordance with the STCW Convention if he is satisfied that the holder of the certificate complies with the requirements of regulation 7, 9 or 10.

Designated Authority

- 21.-(1) The Secretary of State for Transport is the designated authority for the purposes of Council Directive 89/48/EEC(21) on a general system for the recognition of higher education diplomas awarded on the completion of professional education and training of at least three years duration in respect of the following professions –

Profession requiring qualification referred to in regulation 4.

Master.

Chief Engineer Officer.

* * *

- (2) The Secretary of State for Transport is the designated authority for the purpose of Council Directive 92/51/EEC(22) on a second general system for the recognition of professional education and training to supplement Directive 89/48/EC in respect of the following professions –

Profession requiring qualification referred to in regulation 4.

Chief mate.

Officer in charge of a navigational watch.

Second Engineer Officer.

* * *

PART III

HOVERCRAFT

* * * * *

THE TEXT OF THE MERCHANT SHIPPING (SAFE MANNING, HOURS OF WORK AND WATCHKEEPING) REGULATIONS 1997, AS IN FORCE IN THE UNITED KINGDOM AT THE DATE OF THIS ORDER, AS MODIFIED BY THIS ORDER IS SET OUT BELOW FOR INFORMATION ONLY AND DOES NOT FORM PART OF THE ORDER

Citation, commencement and revocation

1.-(1) These Regulations may be cited as the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997 and shall come into force on 20th June 1997.

(2) * * * * *

Interpretation

2.-(1) In these Regulations –

“appropriate certificate” means in relation to [Jersey] ships an appropriate certificate as defined in the Training and Certification Regulations, and in relation to other ships, an appropriate certificate as defined in the STCW Convention;

“authorised person” means a person authorised by the [Committee] for the purposes of these Regulations;

“certificate of equivalent competency” means a document entitled “certificate of equivalent competency” issued under regulation 5(2) and (3) of the Merchant Shipping (Training and Certification) Regulations 1997;

“company” includes an individual, and in relation to a ship means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by the Regulations annexed to the STCW Convention;

“GT” means gross tons; and the gross tonnage of a ship having alternative gross tonnages shall be the larger of those tonnages; for a ship having its tonnage determined both under Part II and regulation 16 of the Merchant Shipping (Tonnage) Regulations 1982 its gross tonnage shall be that determined under regulation 16;

“hazardous cargo” means cargo which is or may be explosive, flammable, toxic, health-threatening or environment-polluting;

“length” has the same meaning as in the Merchant Shipping (Tonnage) Regulations 1997;

“Merchant Shipping Notice” means a Notice described as such and issued by the MSA;

“MSA” means the Marine Safety Agency, an executive agency of the Department of Transport;

“safe manning document” means a document, described as such, issued, in the case of a United Kingdom ship by the Secretary of State, and in the case of any other ship by or on behalf of the government of the State whose flag the ship is entitled to fly;

“safety committee” – definition revoked;

“sea-going” means going beyond the limits of waters of category A, B, C and D (as categorised in Merchant Shipping Notices No. M1504 and No. M1569);

“STCW Code” means the Seafarers’ Training, Certification and Watchkeeping Code adopted by the 1995 Conference of Parties to the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended on 7th July 1995;

“specified by the Secretary of State” means specified in Merchant Shipping Notice MSN 1682;

“Training and Certification Regulations” means the Merchant Shipping (Training and Certification) Regulations 1997.

- (2) Any reference to the STCW Code, the STCW Convention or a particular Merchant Shipping Notice includes any amendment to that Convention or Notice which the Secretary of State considers relevant from time to time and specifies in a Merchant Shipping Notice.
- (3) In these Regulations, unless the context otherwise requires –
 - (a) a reference to a numbered regulation is a reference to the regulation of that number in these Regulations; and
 - (b) a reference to a numbered paragraph is a reference to the paragraph of that number in that regulation.

Application

3. These Regulations apply to sea-going ships which are –
 - (a) [Jersey] ships wherever they are; and
 - (b) other ships when in [Jersey] waters,except –
 - (i) fishing vessels;
 - (ii) pleasure craft – being ships that are primarily used for sport or recreational purposes and which are not more than 150 GT.]

Responsibilities of companies, masters and others

- 4.-(1) This regulation applies only to [Jersey] ships.
 - (2) Every company shall ensure that –
-

- (a) every master and seaman assigned to any of its ships holds an appropriate certificate or a certificate of equivalent competency in respect of any function he is to perform on that ship;
 - (b) every master and seaman on any of its ships has had training specified in the Training and Certification Regulations in respect of any function he is to perform on that ship; and
 - (c) documentation and data relevant to all masters and seamen employed on its ships are maintained and readily available for inspection and include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties.
- (3) Nothing in paragraph (2) shall prohibit the allocation of tasks for training under supervision or in case of force majeure.
- (4) The company shall provide written instructions to the master of each of its ships setting out the policies and the procedures to be followed to ensure that all seamen who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties.
- (5) The policies and procedures referred to in paragraph (4) shall include –
- (a) allocation of a reasonable period of time during which each newly employed seaman will have an opportunity to become acquainted with –
 - (i) the specific equipment the seaman will be using or operating; and
 - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly; and
 - (b) designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seaman to receive essential information in a language the seaman understands.
- (6) It shall be the duty of any master and any member of a crew designated with an obligation under paragraph (4) to carry out that obligation.

Safe manning document

- 5.-(1) It shall be the duty of the company to ensure that in relation to every ship of 500 GT or more –
- (a) a safe manning document is in force in respect of the ship and the manning of the ship;
 - (b) the safe manning document is kept on board the ship at all times; and
 - (c) the manning of the ship is maintained at all times to at least the levels specified in the safe manning document.

- (2) The master of any ship to which this regulation applies shall ensure that the ship does not proceed to sea unless there is on board a valid safe manning document issued in respect of the ship and the manning of the ship complies with that document.
- (3) * * * * *
- (4) * * * * *

Hours of work

- 6. Revoked.

General duty of company, employers and masters

- 7. Revoked.

Duties of master and seamen

- 8. Revoked.

Schedules of duties, and need to record

- 9. Revoked.

Exception for emergencies

- 10. Revoked.

Watchkeeping arrangements

- 11.-(1) The master of any ship shall ensure that the watchkeeping arrangements for the ship are at all times adequate for maintaining safe navigational and engineering watches having regard to Chapter VIII of section A of the STCW Code.
- (2) Without prejudice to the duties of the master provided by paragraph (1) the master shall give directions to the deck watchkeeping officers responsible for navigating the ship safely during their periods of duty, in accordance with Part 3-1 of section A VIII/2 of the STCW Code and any requirements specified by the Secretary of State.
- (3) The chief engineer officer of any ship shall ensure that the engineering watchkeeping arrangements for the ship are at all times adequate for maintaining a safe watch, in accordance with Part 3-2 of section A-VIII/2 of the STCW Code, and when deciding the composition of the watch the chief engineer officer shall observe the principles set out in Part 3-2 of that section and the requirements specified by the Secretary of State.

Watchkeeping arrangements in port

12. The master of any ship which is safely moored or safely at anchor under normal circumstances in port shall arrange for an appropriate and effective watch to be maintained for the purposes of safety. Such arrangements shall be in accordance with Part 4 of section A-VIII/2 of the STCW Code and any operational guidance specified by the Secretary of State.

Watchkeeping arrangements in port for ships carrying hazardous cargo

- 13.-(1) The master of any ship which is carrying hazardous cargo and which is in port, even when safely moored or safely at anchor, shall in addition to any watchkeeping arrangements required under regulation 12, in the case of –
 - (a) a ship carrying hazardous cargo in bulk, ensure that a safe deck watch and safe engineering watch are maintained by the ready availability on board of a duly qualified officer or officers, and where appropriate ratings; and
 - (b) a ship carrying hazardous cargo other than in bulk ensure that in organising safe watchkeeping arrangements he takes account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions on board, afloat and ashore.
- (2) Such watchkeeping arrangements shall take full account of the principles and requirements specified by the Secretary of State.

Carriage of documents

14. Without prejudice to regulation 4, the company and the master shall ensure that there are carried at all times on board ship all original certificates and other documents issued pursuant to the STCW Convention indicating the qualification of any member of the crew to perform functions which they are required to perform aboard ship in the course of their designated duties.

Inspection of non-[Jersey] ships

- 15.-(1) An authorised person may inspect any ship which is not a [Jersey] ship for the purposes of –
 - (a) verifying that all seamen serving on board who are required to be certificated hold valid appropriate certificates; and
 - (b) assessing the ability of the master or seamen in the ship to maintain the watchkeeping standards required by these Regulations where there are grounds for believing that such standards are not being maintained because, while in a port in [Jersey] or in the approaches to that port, any of the following have occurred –

- (i) the ship has been involved in a collision, grounding or stranding,
 - (ii) there has been an unlawful discharge of substances from the ship when underway, at anchor or at a berth,
 - (iii) the ship has been manoeuvred in an erratic or unsafe manner, or navigational course markers or traffic separation schemes have not been followed; or
 - (iv) the ship has otherwise been operated in such a manner as to pose a danger to persons, property or the environment.
- (2) If an authorised person finds on inspection any deficiency of a kind specified in paragraph (3) he shall notify in writing the master of the ship and in the case of a ship registered outside [Jersey], the nearest maritime, consular or diplomatic representative of the flag State.
- (3) Deficiencies referred to in paragraph (2) are –
- (a) a failure of the master or any seaman, required to hold an appropriate certificate, to have a valid appropriate certificate or a valid exemption from that requirement;
 - (b) a failure to comply with the safe manning document;
 - (c) a failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the competent authority of the country in which the ship is registered;
 - (d) an absence on a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution;
 - (e) an inability of the master to provide adequately rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

Power to detain

* * * * *

Penalties

- 17.-(1) Any company which contravenes regulation 4(2) or (4), 5(1) * * *
* ____ or 14 shall be guilty of an offence punishable on summary conviction by a fine not exceeding the statutory maximum, or on indictment by a fine, or (in the case of an individual) by imprisonment not exceeding 6 months, or both.
- [(2) Any master who contravenes regulation 4(6), 5(2), 11(1) or (2), 12, 13 or 14 shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale⁴ and imprisonment for a term not exceeding 6 months.]
- (2A) Revoked

- (3) Any member of the crew who contravenes regulation 4(6) shall be guilty of an offence, punishable on summary conviction by a fine not exceeding level 3 on the standard scale.⁵
- (4) Any chief engineer who contravenes regulation 11(3) shall be guilty of an offence punishable on summary conviction by a fine not exceeding [level 4] on the standard scale.⁶
- (5) Revoked.
- (6) Revoked.
- (7) Revoked.
- (8) Revoked.
- (9) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to avoid commission of the offence.
- (10) In any proceedings for an offence under these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Exemptions

- 18.** The Secretary of State may grant, on such terms, if any, as he may specify, exemptions from all or any provisions of these Regulations for classes of cases or individual cases, and may alter or cancel any exemptions so granted.

¹ *Recueil des Lois, Volume 2002, pages 846, 864 and 1021 and No. 9/2004.*

² *No. 9/2004.*

³ *Recueil des Lois, Volume 1992-1993, page 437.*

⁴ *Recueil des Lois, Volume 1992-1993, page 437.*

⁵ *Recueil des Lois, Volume 1992-1993, page 437.*

⁶ *Recueil des Lois, Volume 1992-1993, page 437.*