

Gibraltar Merchant Shipping (Safety, etc.)

1995-13

GIBRALTAR MERCHANT SHIPPING (MANNING, TRAINING AND CERTIFICATION FOR SEAFARERS) REGULATIONS 2006

Subsidiary
2006/023

This version is out of date

Regulations made under s.118.

GIBRALTAR MERCHANT SHIPPING (MANNING, TRAINING AND CERTIFICATION FOR SEAFARERS) REGULATIONS 2006

(LN. 2006/023)

Commencement **6.4.2006** *(LN. 2006/038)*

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Transposing:

Directive 2001/25/EC

Directive 2003/103/EC

Directive 2005/23/EC

Directive 2005/45/EC

Implementing:

International Convention for Safety of Life at Sea, 1974

International Convention on Standards of Training, Certification and
Watchkeeping for Seafarers, 1978

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In exercise of the powers conferred on it by section 118 of the Gibraltar Merchant Shipping (Safety, etc.) Act 1993, and all other enabling powers, and for the purposes of re-enacting the implementing legislation for Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers as amended by Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and prevention of pollution from ships, and for transposing into the law of Gibraltar Directive 2003/103/EC of the European Parliament and of the Council of 17 November 2003, and Commission Directive 2005/23/EC of 8 March 2005, and for the purposes of giving effect to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended from time to time and the STCW Code, the Government has made the following Regulations:

PART 1

Preliminary

Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Manning, Training and Certification for Seafarers) Regulations 2006 and comes into operation on a day to be appointed by the Minister for the Port and Shipping by notice in the Gazette.

Interpretation.

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

“Administration” means the Maritime Administrator in the case of Gibraltar, and in other cases the person in the relevant flag State holding equivalent responsibilities;

“Administrative Instructions” means the instructions issued in accordance with regulation 47;

“approved” means approved by the Administration;

“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 a particular capacity and perform the functions involved at the level of responsibility specified therein on a ship of the type, tonnage, power and means

of propulsion concerned while engaged on the type of voyage concerned;

“approved sea-going service” or “sea-service” means the period of service performed on a sea-going ship of at least 100 GT while being on the Articles of Agreement of the ship and the period of such service being duly recorded in the Discharge Book or a book containing a record of such sea-service provided the ship was not laid up in any port or harbour for more than 15 days and attendance on ships in the final stage of construction, conversion, repair or survey to an extent of 60 days may be counted if the seafarer concerned eventually sails on the same ship;

“ARPA” means an Automated Radar Plotting Aid;

“Assistant engineer officer” includes a cadet training to qualify as an engineer officer;

“basic training” means the training courses specified in regulation 8;

“cadet” means a person under training in order to qualify as a deck or engineer officer;

“certificate” means a valid document, by whatever name it may be known, issued by or under the authority of the Administration or recognised by the Administration to those seafarers who, to the satisfaction of the Administration, meet the requirements for service, age, medical fitness, training, qualification and examinations in accordance with the relevant provisions of the STCW Convention and STCW Code authorising the holder to serve as stated in the document or in these Regulations;

“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 International Bulk Chemical Code in its up-to-date version as in force at the time of reference;

“Chief engineer officer” means the senior engineer officer responsible for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ships;

“Chief mate” means the officer next in rank to the master and upon whom the command of the ship will fall in the event of the incapacity of the master;

“Commission” means the European Commission;

“company” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISM Code;

“deck officer” means an officer qualified in accordance with the provisions of Regulation II of the STCW Convention;

“Document of Compliance (DOC)” means a document issued to a company that complies with the requirements of the ISM Code;

“ECDIS” means the Electronic Chart Display and Information System;

“endorsement” means a valid document issued by the Administration in accordance with regulation 28;

“Engineer officer” means an officer qualified in accordance with the provision of Regulation III of the STCW Convention;

“function” means a group of tasks, duties and responsibilities necessary for ship operation, safety of life at sea and protection of the marine environment as specified in the STCW Code which include—

- (a) navigation,
- (b) cargo handling and stowage,
- (c) controlling the operation of the ship and care for persons on board,
- (d) marine engineering,
- (e) electrical, electronic and control engineering,
- (f) maintenance and repair, and
- (g) radio communication;

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“Gibraltar ship” means a ship registered in accordance with the provisions of the Gibraltar Merchant Shipping (Registration) Act, 1993;

“GMDSS” means the Global Maritime Distress and Safety System;

“host Member State” means any Member State in which a seafarer seeks recognition of his appropriate certificate or other certificate;

“IMO” means the International Maritime Organisation;

“Instructions” means—

- (a) Administrative Instructions made and issued pursuant to section 3(5) of the Act; and
- (b) the Administrative Instructions made and issued by the Maritime Administrator, from time to time, pursuant to regulation 47;

“international voyage” means any voyage which is not a near-coastal voyage;

“ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by Resolution A.741(18) as amended by Resolution MSC. 104/73 in its up-to date version as in force at the time of reference;

“level” with reference to STCW endorsements means the level of responsibility as defined in the STCW Code which includes—

- (a) management level for the capacity of Master, Chief Engineer officer, Chief mate and Second engineer officer;
- (b) operational level for the capacity of watchkeeping officers (navigational and engineering) other than those in management level; and
- (c) support level for ratings forming part of a watch (navigational and engineering);

“liquefied-gas tanker” means a ship constructed or adopted and used for the carriage in bulk of any liquefied gas or other product listed in

Chapter 19 of the International Gas Carrier Code, in its up-to-date version as in force at the time of reference ;

“master” means the person having command of a ship;

“Member State” means any State within the European Economic Area and includes Gibraltar;

“near-coastal voyages” means voyages during which the ship shall not proceed more than 600 miles from Gibraltar and shall always remain within 200 miles of a safe haven;

“officer” means a member of the crew, other than the master, designated as follows–

- (a) Chief mate;
- (b) Chief engineer officer;
- (c) Second engineer officer;
- (d) Officer in charge of a navigational watch;
- (e) Officer in charge of an engineering watch; and
- (f) radio operator;

“officer in charge of an engineering watch” means an Engineer officer who, for the time being, is in charge of an engineering watch;

“officer in charge of a navigational watch” means a Deck officer who, for the time being, is in charge of a navigational watch;

“oil tanker” means a ship constructed and used for the carriage of petroleum or petroleum products in bulk;

“Party” or “party State” means a State which is a party to the STCW Convention and which has brought the STCW Convention into force;

“propulsion power” means the total maximum continuous rated output power in kilowatts of all of a ship’s main propulsion machinery as given in the certificate of registry or other official document;

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- “Radio operator” means a person who holds an appropriate certificate issued or recognised by the Administration under the provisions of the Radio Regulations;
- “radio duties” include, as appropriate, watch-keeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the International Convention for Safety of Life at Sea (1974), (SOLAS Convention) as amended by the Protocol of 1988, in its up-to-date version as in force at the time of reference and any recommendation of the IMO that the Administration considers relevant;
- “Radio Regulations” means the revised radio regulations, adopted by the World Administrative Radio Conference for the Mobile Service, in its up-to-date version as in force at the time of reference;
- “rating” means a member of the ship’s crew other than the master, an officer or a cadet;
- “recognition” means the acceptance by the Administration of a certificate or appropriate certificate issued by any Member State;
- “ro-ro passenger ship” means a passenger ship with ro-ro cargo spaces or special category spaces as defined in the SOLAS Convention;
- “safe manning document” means a document referred to in regulation 4;
- “seafarer” means a person who is trained and who is certificated by the Administration in accordance with the requirements laid down by Part 3 of these Regulations;
- “Second engineer officer” means the Engineer officer next in rank to the Chief engineer officer and upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship falls in the event of the incapacity of the Chief engineer officer;
- “SMC” means the safety management certificate issued to a ship which signifies that the company and its shipboard management operates in accordance with the approved Safety Management System;
- “SOLAS Convention” means the International Convention for Safety of Life at Sea, 1974, and including its Protocols of 1978 and 1988, in its up-to date version as in force at the time of reference;

“STCW Code” means the Seafarers’ Training, Certification and Watch keeping (STCW) Code as adopted by Resolution 2 of the 1995 STCW Conference of Parties, in its up-to-date version as in force at the time of reference;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watch keeping for Seafarers’, 1978 as it applies to the matters concerned taking into account the transitional provisions of Article VII and Regulation I/15 of the Convention and including, where appropriate, the applicable provisions of the STCW Code, all being applied in the up-to-date version as in force at the time of reference;

“UK–MCA” means the Maritime and Coastguard Agency of the United Kingdom.

Application and administration of these Regulations.

3.(1) These Regulations apply to–

- (a) ships registered in Gibraltar; and
- (b) any other ships when in Gibraltar waters with the exception of–
 - (i) war ships, naval auxiliaries;
 - (ii) a ship which is owned or operated by a Member State;
 - (iii) fishing vessels;
 - (iv) pleasure yachts not engaged in trade; and
 - (v) wooden ships of primitive build.

(2) The STCW Convention and the STCW Code shall have effect in Gibraltar.

(3) The Maritime Administrator shall be responsible for the administration of these Regulations.

PART 2

Manning and training

Requirement for safe manning document.

4.(1) Every Gibraltar ship engaged in international voyages shall be required to be in possession of a safe manning document issued by the Administration in compliance with Regulation 14 of Chapter V of the SOLAS Convention.

(2) No ship shall be allowed to proceed to sea unless it—

- (a) has a safe manning document referred to in subregulation (1); and
- (b) is manned in accordance with such document at least at the minimum acceptable manning standard.

(3) 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.

Procedure for safe manning document.

5.(1) Every company managing a Gibraltar ship and engaged in international voyages shall apply to the Maritime Administrator, in such form as may be prescribed by Administrative Instructions issued by the Maritime Administrator, for issue of a safe manning document.

(2) In an application for a safe manning document the company shall, in particular, provide detailed particulars of the ship, nature of trade, area of operation, and the minimum scale of manning with which the company wants to operate the ship.

(3) The Maritime Administrator shall consider each application in the light of IMO Assembly Resolution A-890.

(4) Where the Maritime Administrator is satisfied that the manning suggested by the company meets the requirements for safe operation and protection of the marine environment, he shall issue a safe manning document for the ship in such form as may be prescribed by any Administrative Instructions.

(5) Notwithstanding anything contained in this regulation, the company may employ additional seafarers above the minimum standards specified in the safe manning document if the following conditions are satisfied—

- (a) appropriate accommodation is available for the additional seafarers;
- (b) sufficient life-saving appliances are available for the additional seafarers; and
- (c) safety familiarisation training is given to them.

Requirement for training.

6.(1) Every company managing a Gibraltar ship shall ensure that seafarers serving on the ship—

- (a) are trained as a minimum in accordance with the requirements of the STCW Convention, as laid down in this Part;
- (b) have received familiarization training set out in regulation 7 and basic training set out in regulation 8; and
- (c) meet the appropriate standards of competence specified in Section A-VI/1 of the STCW Code.

(2) This regulation shall apply to certificates issued to crew members in accordance with Regulation III/10.04 of the SOLAS Convention.

Familiarisation training.

7.(1) Every person employed or engaged on a seagoing ship, other than passengers, shall, before being assigned to shipboard duties, receive approved familiarisation training required by Section A-VI/1, paragraph 1, of the STCW Code.

(2) Every company managing a Gibraltar ship shall submit to the Administration and obtain its approval for its plan and arrangements for providing familiarisation training.

(3) The company shall ensure that documentary evidence is maintained on the ship that familiarisation training has been provided to all persons other than passengers.

Basic training.

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8.(1) Every seafarer employed or engaged in any capacity on board a ship on the business of that ship as part of the ship's complement with designated safety or pollution-prevention duties and on duties in the operation of the ship shall, before being assigned to any shipboard duties receive appropriate approved basic training or instruction required by Section A-VI/2, paragraph 2, of the STCW Code.

(2) A seafarer may hold a separate certificate relating to each component of the training or may exchange them for a single "Certificate of basic training" to be issued by the Administration with specific reference to all of the four components of the approved training referred to in subregulation (1).

Mandatory training and qualification for masters, officers and ratings on tankers.

9.(1) No officer or rating shall be assigned any specific duties and responsibilities relating to cargo or cargo equipment on tankers unless he has completed—

- (a) an approved shore-based fire-fighting course in addition to the training required by Regulation VI/1; and
- (b) at least three months of approved seagoing service on tankers in order to acquire adequate knowledge of safe operational practices; or
- (c) an approved tanker-familiarisation course covering at least the syllabus given for that course referred to in section A-V/1 of the STCW Code.

(2) Notwithstanding subregulation (1), the Administration may accept a period of supervised seagoing service shorter than that prescribed by subregulation (1)(b) if—

- (a) the period so accepted is not less than one month;
- (b) the tanker is of less than 3000 gross tonnage;
- (c) the duration of each voyage on which the tanker is engaged during the period does not exceed 72 hours; and
- (d) the operational characteristics of the tanker 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.

(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 shall, in addition to meeting the requirements of subregulation (1)(b) or (c) have—

- (a) experience appropriate to their duties on the type of tanker on which they serve; and
- (b) completed an approved specialised training programme 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 oil tanker, chemical tanker or liquefied gas tanker on which they serve.

Mandatory training and qualification for masters, officers, ratings and other personnel on passenger ships other than ro-ro passenger ships.

10.(1) This regulation applies to—

- (a) masters, officers, ratings and other personnel serving on board passenger ships, other than ro-ro passenger ships, engaged on international voyages; and
- (b) personnel serving on passenger ships engaged on domestic voyages.

(2) No seafarer shall be assigned shipboard duties on board passenger ships, unless that seafarer has completed the training required by subregulations (4) to (8) in accordance with his capacities, duties and responsibilities.

(3) Seafarers who are required to be trained in accordance with subregulation (4), (7) and (8) shall, at intervals not exceeding five years—

- (a) undertake appropriate refresher training; or
- (b) provide evidence of having achieved the required standard of competence within the previous five years.

(4) No person shall be designated on muster lists to assist passengers in emergency situations on board passenger ships unless that person has

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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 familiarisation training specified in section A-V/3, paragraph 2, of the STCW Code.

(6) No person shall be allowed to provide direct services to passengers on board passenger ships in passenger spaces unless that person has 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) The Administration shall ensure that documentary evidence of the training which has been completed is issued for every person found qualified under the provisions of this regulation.

Mandatory training and qualification for masters, officers, ratings and other personnel on ro-ro passenger ships.

11.(1) This regulation applies to—

- (a) masters, officers, ratings and other personnel serving on board ro-ro passenger ships engaged on international voyages; and
- (b) personnel serving on ro-ro passenger ships engaged on domestic voyages.

(2) No seafarer shall be assigned shipboard duties on board ro-ro passenger ships, unless that seafarer has completed the training required by subregulations (4) to (6) in accordance with his capacities, duties and responsibilities.

- (3) Seafarers who are required to be trained in accordance with subregulation (4)(a) and (6) shall, at intervals not exceeding five years—
- (a) undertake appropriate refresher training; or
 - (b) provide evidence of having achieved the required standard of competence within the previous five years.
- (4) Masters, officers and other personnel—
- (a) 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; and
 - (b) assigned specific duties and responsibilities on board ro-ro passenger ships shall have completed the familiarisation training specified in section A-V/2, paragraph 2, of the STCW Code.
- (5) No person shall be allowed to provide direct service to passengers in passenger spaces on board ro-ro passenger ships unless that person has completed the safety training specified in section A-V/2, paragraph 3, of the STCW Code.
- (6) Masters, Chief mates, Chief engineer officers, Second engineer officers and—
- (a) 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; and
 - (b) 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.
- (7) The Administration shall ensure that documentary evidence of the training which has been completed is issued for every person found

qualified under the provisions of this regulation.

Mandatory training for seafarers in advanced fire-fighting.

12. No seafarer shall be designated or allowed to control fire-fighting operations unless that seafarer has—

- (a) completed advanced training in techniques for fighting fire with particular emphasis on organisation, tactics and command and in accordance with the provisions of Section A-VI/3 of the STCW Code and met the standard of competence specified therein; and
- (b) met the standard of competence to undertake the tasks, duties and responsibilities listed in column 1 of table A-VI-3 of the STCW Code

Requirement of language proficiency for seafarers.

12A. The company and the master of a Gibraltar ship shall ensure that seafarers employed or engaged in any voyage possess adequate proficiency in English language as defined in Sections A-II/I, A-III/I, A-IV/2 and A-II/4 of the STCW Code so as to enable them to perform their specific duties on the ship.

PART 3

Certification for seafarers

Requirement for certificates for seafarers.

13.(1) Every company shall ensure that each seafarer serving on the ship holds an appropriate certificate.

(2) No company shall permit a person to perform any function or group of functions specified in Tables A-II/1, A-II/2, A-II/3 or A-II/4 of Chapter II or in Tables A-III/1, A-III/2 or A-III/4 of Chapter III or Table A-IV/2 of Chapter IV of the STCW Code unless that person holds an appropriate certificate.

(3) A person shall only be entitled to be issued with such an appropriate certificate if he complies with the criteria in the Regulations annexed to the STCW Convention, set out in column 2 of the Table in relation to that entry.

Certificates for officers in charge of a navigational watch on ships of 500 gross tonnage or more.

14.(1) Every officer in charge of a navigational watch serving on a seagoing ship of 500 gross tonnage or more shall hold an appropriate certificate.

(2) A person shall be eligible for an appropriate certificate as required by subregulation (1) if that person—

- (a) is not less than 18 years of age;
- (b) has had approved seagoing service of not less than one year as part of an approved training programme which includes on-board training that meets the requirements of section A-II/1 of the STCW Code and is documented in an approved training record book, or otherwise has had approved seagoing service of not less than three years;
- (c) has performed, during the required seagoing service, bridge watchkeeping duties under the supervision of the master or a qualified officer for a period of not less than six months;
- (d) meets the applicable requirements of the Regulations in Chapter IV of the STCW Convention, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
- (e) has completed approved education and training and meets the standard of competence specified in section A-II/1 of the STCW Code.

Certificates for masters and Chief mates on ships of 500 gross tonnage or more.

15.(1) Every master and Chief mate on a seagoing ship of 3,000 gross tonnage or more shall hold an appropriate certificate.

(2) A person shall be eligible for an appropriate certificate as required by subregulation (1) if that person—

- (a) meets the requirements for certification as an officer in charge of a navigational watch on ships of 500 gross tonnage or more as specified in regulation 14;

- (b) has had approved seagoing service in that capacity—
 - (i) for certification as Chief mate, not less than 12 months; and
 - (ii) for certification as master, not less than 36 months (but this period may be reduced to not less than 24 months if not less than 12 months of such seagoing service has been served as Chief mate); and
 - (c) has completed approved education and training and meets the standard of competence specified in section A-II/2 of the STCW Code for masters and Chief mates on ships of 3000 gross tonnage or more.
- (3) Every master and Chief mate on a seagoing ship of between 500 and 3000 gross tonnage shall hold an appropriate certificate.
- (4) A person shall be eligible for an appropriate certificate as required by subregulation (3) if that person—
- (a) for certification as Chief mate, meets the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more as specified in regulation 14;
 - (b) for certification as master, meets the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more as specified in regulation 14 and has had approved seagoing service of not less than 36 months in that capacity (but this period may be reduced to not less than 24 months if not less than 12 months of such seagoing service has been served as Chief mate); and
 - (c) has completed approved training and meets the standard of competence specified in section A-II/2 of the STCW Code for masters and Chief mates on ships of between 500 and 3000 gross tonnage.

Certificates for officers in charge of a navigational watch and of masters on ships of less than 500 gross tonnage.

16.(1) Every officer in charge of a navigational watch serving on a seagoing ship of less than 500 gross tonnage not engaged on near-coastal voyages

shall hold an appropriate certificate for ships of 500 gross tonnage or more.

(2) Every master serving on a seagoing ship of less than 500 gross tonnage not engaged on near-coastal voyages shall hold an appropriate certificate for service as master on ships of between 500 and 3000 gross tonnage.

(3) Every officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall hold an appropriate certificate.

(4) A person shall be eligible for certification as officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage as required by subregulation (3) if that person—

- (a) is not less than 18 years of age;
- (b) has completed—
 - (i) special training, including an adequate period of appropriate seagoing service as required by the Administration, or
 - (ii) approved seagoing service in the deck department of not less than three years;
- (c) meets the applicable requirements of the regulations in Chapter IV of the STCW Convention, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
- (d) has completed approved education and training and meets the standard of competence specified in section A-II/3 of the STCW Code for officers in charge of a navigational watch on ships of less than 500 gross tonnage engaged on near-coastal voyages.

(5) Every master serving on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall hold an appropriate certificate.

(6) A person shall be eligible for certification as master on a seagoing ship of less than 500 gross tonnage as required by subregulation (5) if that person—

- (a) is not less than 20 years of age;

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- (b) has had approved seagoing service of not less than 12 months as officer in charge of a navigational watch; and
- (c) has completed approved education and training and meets the standard of competence specified in section A-II/3 of the STCW Code for masters on ships of less than 500 gross tonnage engaged on near-coastal voyages.

(7) Where it appears to the Administration that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of this regulation and Section A-II/3 of the STCW Code unreasonable or impracticable, it may to that extent exempt the master and the officer in charge of a navigational watch on such a ship or class of ships from some of the requirements, bearing in mind the safety of all ships which may be operating in the same waters.

Certificates for ratings forming part of a navigational watch.

17.(1) No rating shall be allowed to form part of a navigational watch on a seagoing ship of 500 gross tonnage or more (other than ratings under training and ratings whose duties while on watch are of an unskilled nature) unless that rating is duly certificated to perform such duties.

(2) A person shall be eligible for a certificate as a rating to perform duties as required by subregulation (1) if that person—

- (a) is not less than 16 years of age;
- (b) has completed—
 - (i) approved seagoing service including not less than six months training and experience, or
 - (ii) special training, either pre-sea or on board ship, including an approved period of seagoing service which shall not be less than two months; and
- (c) meets the standard of competence specified in section A-II/4 of the STCW Code.

(3) The seagoing service, training and experience required by subregulation (2)(b) shall be associated with navigational watchkeeping functions and involve the performance of duties carried out under the direct

supervision of the master, the officer in charge of the navigational watch or a qualified rating.

Certificates for Chief engineer officers and Second engineer officers on ships powered by main propulsion machinery of 3000 kW propulsion power or more.

18.(1) Every Chief engineer officer and Second engineer officer on a seagoing ship powered by main propulsion machinery of 3000 kW propulsion power or more shall hold an appropriate certificate.

(2) A person shall be eligible for an appropriate certificate as required by subregulation (1) if that person—

- (a) meets the requirements for certification as an officer in charge of an engineering watch as specified in regulation 20 and—
 - (i) for certification as a Second engineer officer, has had not less than 12 months approved seagoing service as Assistant engineer officer or Engineer officer; and
 - (ii) for certification as Chief engineer officer, has had not less than 36 months approved seagoing service of which not less than 12 months shall have been served as an engineer officer in a position of responsibility while qualified to serve as Second engineer officer; and
- (b) has completed approved education and training and meets the standard of competence specified in section A-III/2 of the STCW Code.

Certificates for Chief engineer officers and Second engineer officers on ships powered by main propulsion machinery of between 750 kW and 3000 kW propulsion power.

19.(1) Every Chief engineer officer and Second engineer officer on a seagoing ship powered by main propulsion machinery of between 750 and 3000 kW propulsion power shall hold an appropriate certificate.

(2) A person shall be eligible for an appropriate certificate as required by subregulation (1) if that person—

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- (a) meets the requirements for certification as an officer in charge of an engineering watch as specified in regulation 20 and—
 - (i) for certification as Second engineer officer, has had not less than 12 months approved seagoing service as Assistant engineer officer or Engineer officer; and
 - (ii) for certification as Chief engineer officer, has had not less than 24 months approved seagoing service of which not less than 12 months shall have been served while qualified to serve as Second engineer officer; and
- (b) has completed approved education and training and meets the standard of competence specified in section A-III/3 of the STCW Code.

(3) The company may employ an Engineer officer who is qualified to serve as Second engineer officer on ships powered by main propulsion machinery of 3000 kW propulsion power or more, to serve as Chief engineer officer on ships powered by main propulsion machinery of less than 3000 kW propulsion power, if, not less than 12 months approved seagoing service shall have been served as an Engineer officer in a position of responsibility and the certificate is so endorsed.

Certificates for officers in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room.

20.(1) Every 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 seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold an appropriate certificate.

- (2) A person shall be eligible for an appropriate certificate required by subregulation (1) if that person—
 - (a) is not less than 18 years of age;
 - (b) has completed not less than six months seagoing service in the engine department in accordance with section A-III/1 of the STCW Code; and
 - (c) has completed approved education and training of at least 30 months which includes on-board training documented in an

approved training record book and meets the standards of competence specified in section A-III/1 of the STCW Code.

Certificates for ratings forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room.

21.(1) Every rating—

- (a) forming part of an engine-room watch; or
- (b) designated to perform duties in a periodically unmanned engine-room on a seagoing 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 be duly certificated to perform such duties.

(2) A person shall be eligible for an appropriate certificate as required by subregulation (1) if that person—

- (a) is not less than 16 years of age;
- (b) has completed—
 - (i) approved seagoing service including not less than six months training and experience; or
 - (ii) special training, either pre-sea or on board ship, including an approved period of seagoing service which shall not be less than two months;
- (c) meets the standard of competence specified in Section A-III/4 of the STCW Code.

(3) The seagoing service, training and experience required by subregulation (2)(b) shall be associated with engine-room watchkeeping functions and involve the performance of duties carried out under the direct supervision of a qualified Engineer officer or a qualified rating.

Radio operator's certificate in Global Maritime Distress and Safety System.

22.(1) Every person who—

- (a) is required to be in charge of performing Radio-communication duties on a ship fitted with Global Maritime Distress and Safety System equipment; or
- (b) intends to obtain an appropriate certificate as a deck officer

shall hold a Radio operator's certificate in Global Maritime Distress and Safety System.

(2) A person shall be eligible for a Radio operator's certificate in Global Maritime Distress and Safety System if that person—

- (a) is not less than 18 years of age;
- (b) has completed approved training ; and
- (c) meets the standard of competence specified in Section A-IV/2 of the STCW Code.

(3) Radio personnel on ships not required to comply with the provisions of the GMDSS mentioned in Chapter IV of the SOLAS Convention are not required to meet the provisions of this regulation but radio personnel on these ships are, nevertheless, required to comply with the Radio Regulations and the Administration shall ensure that the appropriate certificates as prescribed by the Radio Regulations are issued to or recognised in respect of such radio personnel.

Certificate for seafarer of proficiency in survival craft, rescue boats and fast rescue boats.

23.(1) Every—

- (a) person designated to take charge of a survival craft; and
- (b) candidate for a certificate as a Deck officer or Engineer officer;

shall hold a certificate of proficiency in survival craft and rescue boats.

(2) A person shall be eligible for a certificate of proficiency in survival craft and rescue boats, other than fast rescue boats, if that person—

- (a) is not less than 18 years of age;
- (b) has had approved seagoing service of not less than 12 months or has attended an approved training course and has approved seagoing service of not less than six months; and
- (c) meets the standard of competence for certificates of proficiency in survival craft and rescue boats set out in Section A-VI/2, paragraphs 1 to 4, of the STCW Code.

(3) A person shall be eligible for a certificate of proficiency in fast rescue boats if that person—

- (a) is the holder of a certificate of proficiency in survival craft and rescue boats other than fast rescue boats;
- (b) has attended an approved training course; and
- (c) meets the standard of competence for certificates of proficiency in fast rescue boats set out in section A-VI/2, paragraphs 5 to 8, of the STCW Code.

Certificate in medical first aid for seafarers.

24.(1) Every—

- (a) person designated to provide medical first aid on a ship; and
- (b) every candidate for a certificate as a Deck officer or Engineer officer,

shall hold a certificate in medical first aid.

(2) A person shall be eligible for a certificate in medical first aid if that person—

- (a) has completed basic training;
- (b) has undertaken an approved training course; and
- (c) meets the standard of competence set out in Section A-VI/4, paragraphs 1 to 3 of the STCW Code.

(3) Where training in medical first aid is not included in the qualification 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.

Certificate for seafarer of proficiency in medical care.

25.(1) Every person designated to take charge of medical care on board a ship shall hold a certificate of proficiency in medical care.

(2) A candidate for a certificate for the capacity of Chief mate or master as required by regulation 15(1) of these Regulations shall be required to be in possession of a certificate of proficiency in medical care.

(3) A person shall be eligible for a certificate of proficiency in medical care if that person—

- (a) has acquired a certificate in medical first aid;
- (b) has undertaken an approved training course; and
- (c) meets the standard of competence set out in Section A-VI/4, paragraphs 4 to 6 of the STCW Code.

(4) A seafarer serving on a Gibraltar ship in charge of medical care, shall undertake refresher training at intervals not exceeding 5 years commencing on or before the fifth anniversary of his original training in medical care.

(5) Where training in medical care is not included in the qualification 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 care.

Certificate for advanced fire-fighting.

26.(1) A seafarer designated to control fire-fighting operations shall hold a certificate in advanced fire fighting.

(2) A seafarer shall be eligible for a certificate in advanced fire fighting if that seafarer—

- (a) has completed basic training;
- (b) has performed at least 3 months sea-service;

- (c) has undertaken an approved training course; and
- (d) meets the training and assessment set out in Section A-VI/3, of the STCW Code.

Issue and registration of certificates.

27.(1) Where the Administration is satisfied that a master, Deck officer, Engineer officer or a Radio operator meets the requirements for service, age, medical fitness that focuses on eyesight and hearing of the seafarer, and training and qualifications as required by these Regulations, it shall issue an appropriate certificate to that master, Deck officer, Engineer officer or a Radio operator.

(2) A certificate for medical fitness issued pursuant to regulation 12 or 13 of the Gibraltar Merchant Shipping (Seafarers' Hours of Work and Medical Examination) Regulations, 2003 shall be considered an appropriate certificate for medical fitness for the purpose of subregulation (1) if the seafarer's eyesight and hearing has been tested and meets the required standard.

(3) No certificate shall be issued by the Administration unless the candidate for certification provides satisfactory proof—

- (a) of his identity;
- (b) that his age is not less than that prescribed in Part 3 of these Regulations as relevant to the certificate applied for;
- (c) that he meets the standards of medical fitness, particularly regarding eyesight and hearing, established by the Gibraltar Merchant Shipping (Seafarers' Hours of Work and Medical Examination) Regulations, 2003 and holds a valid document attesting to his medical fitness, issued by a duly qualified medical practitioner recognised by the Administration;
- (d) of having completed the seagoing service and any related compulsory training prescribed by Part 3 of these Regulations as relevant for the certificate applied for; and
- (e) that he meets the standards of competence prescribed by Part 3 of these Regulations for the capacities, functions and levels that are to be identified in the endorsement to the certificate.

- (4) Every certificate for service in a Gibraltar ship shall be issued in English.
- (5) The Administration shall—
- (a) maintain a register of all certificates and endorsements for masters and officers and, as appropriate, ratings, which are issued, have expired or have been revalidated, suspended, cancelled or reported lost or destroyed and of dispensations issued; and
 - (b) make available information on the status of such certificates, endorsements and dispensations to other Member States or other Parties to the STCW Convention and companies which request verification of the authenticity and validity of certificates produced to them by seafarers seeking recognition of their certificates or employment on board ship.
- (6) The master of the ship shall ensure that, subject to regulation 30(7), any certificate required under these Regulations is kept available in its original form on board the ship on which the holder is serving.

Endorsement of certificates.

- 28.(1) No person shall be employed on a Gibraltar ship in the capacity of an officer unless that person holds an endorsement issued by the Administration in recognition of an appropriate certificate for the relevant capacity.
- (2) An endorsement required by subregulation (1) shall not be necessary if the seafarer holds a certificate of competency or certificate of equivalent competency for the relevant capacity issued by the UK-MCA.
- (3) Subject to subregulation (6), the certificates issued to a master, Deck officer, Engineer officer or a Radio operator shall be endorsed by the Administration in compliance with the STCW Convention in the manner prescribed by Regulation I/2 of the STCW Convention and Section A-1/2 of the STCW Code.
- (4) Every endorsement issued by the Administration to a certificate for service in a Gibraltar ship shall be issued in English.

(5) A Radio operator's certificate issued pursuant to regulation 22 shall be endorsed by the Administration in compliance with Regulation I/2 of the STCW Convention.

(6) An endorsement required by subregulation (5) shall not be issued unless the person applying for the endorsement (not being a master or Deck officer) has completed basic training and at least 3 months supervised sea service in radio-communication duties.

(7) Where the Administration recognises a certificate issued under regulation 30(2) it shall endorse that certificate to attest its recognition in the form set out in paragraph 3 of Section A-I/2 of the STCW Code.

(8) Endorsements issued under this regulation—

- (a) may be issued as separate documents;
- (b) shall each be assigned a unique number, except that endorsements attesting the issue of a certificate may be assigned the same number as the certificate concerned, if that number is unique; and
- (c) shall each expire as soon as the certificate endorsed expires or is withdrawn, suspended or cancelled by the Administration or third country which issued it and, in any case, within five years of their date of issue.

(9) The capacity in which the holder of a certificate is authorised to serve shall be identified in the form of an endorsement in terms identical to those used in compliance with the safe-manning requirements under these Regulations.

(10) The Administration may use a format different from the format laid down in Section A-I/2 of the STCW code, if, as a minimum, the required information is provided in Roman characters and Arabic figures, taking account of the variations permitted under Section A-I/2 of the STCW Code.

(11) The Administration may, by taking into account the provisions of regulation 30(6)(c), endorse a certificate issued, with respect to a Gibraltar ship, by a third country recognised by the Commission.

Recognition of certificates issued by a Member State.

29. A seafarer may be allowed to serve on a Gibraltar ship, whether that seafarer is a national of another Member State or not, if–

- (a) that seafarer possesses appropriate certificates or other certificates issued by a Member State in accordance with the Requirements laid down in Directive 2001/25/EC as amended from time to time; and
- (b) those certificates are mutually recognised in accordance with the provisions of the Recognition of Professional Qualifications Act.

Recognition of certificates issued by a third country.

30.(1) A seafarer who is a national of a third country and does not possess certificates referred to in regulation 29(2) may be allowed to serve in a Gibraltar ship if his appropriate certificates are recognised by the Commission in accordance with this regulation.

(2) Where the Administration intends to recognise, by endorsement, appropriate certificates issued by a third country to a master, officer or Radio operator, for service in a Gibraltar ship, it shall cause a request to be submitted to the Commission, stating its reason, for recognition of that third country.

(3) Where the Commission takes a decision granting the recognition of the third country within three months from the date of the request for recognition, that recognition shall be valid subject to regulation 31(2).

(4) Where no decision is taken by the Commission on recognition of the third country within three months from the date of the request for recognition, the Administration may recognise the third country unilaterally until the Commission has taken a decision on this matter.

(5) Recognition of certificates issued by recognised third countries and published in the Official Journal of the European Union, 18 months after the date of entry into force of Directive 2003/103/EC, shall remain valid and such recognition may be used unless the Commission has subsequently withdrawn it.

(6) For the purposes of this regulation a third country shall not be recognised unless–

- (a) the third country–

- (i) is a Party to the STCW Convention; and
 - (ii) has been identified by the Maritime Safety Committee as having demonstrated that full and complete effect is given by it to the provisions of the STCW Convention;
- (b) the Commission has confirmed, through all necessary measures, which may include the inspection of facilities and procedures, that—
- (i) the requirements concerning the standard of competence, the issue and endorsement of certificates and record keeping are fully complied with, and
 - (ii) a quality standards system has been established pursuant to Regulation I/8 of the STCW Convention;
- (c) the Administration—
- (i) is in the process of agreeing an undertaking with that third country that prompt notification will be given of any significant change in the arrangements for training and certification provided in accordance with the STCW Convention; and
 - (ii) has introduced measures to ensure that seafarers who present for recognition certificates for functions at management level have an appropriate knowledge of the maritime legislation of Gibraltar relevant to the functions they are permitted to perform.

(7) Notwithstanding regulation 28(7), the Administration may, if circumstances require, allow a seafarer to serve in a capacity other than radio officer or radio operator, except as provided by the Radio Regulations, for a period not exceeding three months on board a Gibraltar ship, while holding an appropriate and valid certificate issued and endorsed as required by a third country, but not yet endorsed for recognition by the Administration so as to render it appropriate for service on board a Gibraltar ship and in that case, documentary proof shall be kept readily available that application for an endorsement has been submitted to the Administration.

Recognition of appropriate certificate.

30A.(1) The recognition of an appropriate certificate shall be limited to the capacities, functions and levels of competency prescribed in the certificate and it must be accompanied by an endorsement attesting that recognition.

(2) Notwithstanding subregulation (1), the Administration may impose further limitations on capacities, functions and levels of competence relating to near-coastal voyages as referred to in regulation 34, or alternative certificates issued under regulation 32.

(3) The Administration shall ensure that seafarers who present for recognition of certificates for functions at the management level have an appropriate knowledge of the maritime legislation of Gibraltar relevant to the functions they are permitted to perform.

Assessment of compliance and withdrawal of recognition.

31.(1) If the Administration wishes to supplement assessment of compliance of a third country by evaluating certain maritime training institutes, it shall proceed according to the provisions of section A-I/6 of the STCW Code.

(2) Notwithstanding the criteria specified in regulation 30(6), when the Administration considers that a recognised third country no longer complies with the requirements of the STCW Convention, it shall notify the Commission immediately, giving substantiated reasons.

(3) When the Administration intends to withdraw the endorsements of all certificates issued by a third country it shall without delay inform the Commission and the other Member State of its intention, giving substantiated reasons for it.

(4) Where the Commission takes a decision for the withdrawal of the recognition, the Administration shall take appropriate measures to implement that decision.

(5) Endorsements attesting recognition of certificates, issued in accordance with regulation 28(7) before the date on which the decision to withdraw recognition of the third country is taken, shall remain valid; seafarers holding such endorsements may not claim an endorsement recognising a higher qualification, however, unless that upgrading is based solely on additional seagoing service experience.

Alternative certificates.

32.(1) Notwithstanding the requirements for certification specified in Part 3, the Administration may issue or authorise the issue of alternative certificates subject to the following conditions—

- (a) the associated functions and levels of responsibility to be stated on the certificates and in the endorsements are selected from, and identical to those appearing in Sections A-II/1, A-II/2, A-II/3, A-II/4, A-III/1, A-III/2, A-III/3, A-III/4 and A-IV/2 of the STCW Code;
- (b) the candidates for certification—
 - (i) have completed approved education and training and meet the requirements for standards of competence, prescribed in the relevant sections of the STCW Code and as set forth in Section A-VII/1 of that Code, for the functions and levels that are to be stated on the certificates and in the endorsements;
 - (ii) have completed approved seagoing service appropriate to the performance of the functions and levels that are to be stated on the certificate and the minimum duration of seagoing service shall be equivalent to the duration of seagoing service prescribed in regulations 14 to 21 of these Regulations (but the minimum duration of seagoing service shall be not less than as prescribed in section A-VII/2 of the STCW Code);
 - (iii) who are to perform the function of navigation at the operational level shall meet the requirements of regulation 22 of these Regulations for performing designated radio duties in accordance with the Radio Regulations; and
- (a) the certificates are issued in accordance with the requirements of regulation 33 of these Regulations and the provisions set forth in Chapter VII of the STCW Code.

(2) No certificate shall be issued under subregulation (1) unless the information required by the STCW Convention has been communicated to the Commission.

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(3) Where the Administration decides to issue or authorise alternative certificates under this regulation, it shall ensure that the following principles are observed—

- (a) no alternative certification system shall be implemented unless it ensures a degree of safety at sea and has a preventive effect as regards pollution at least equivalent to that provided by other provisions of the STCW Convention;
- (b) any arrangement for alternative certification issued under this regulation shall provide for the interchangeability of certificates with those issued under other provisions of this Part;
- (c) the principle of interchangeability referred to in paragraph (b) shall ensure that—
 - (i) seafarers certificated under the arrangements of any provision of regulations 14 to 21 and those certificated under this regulation are able to serve on ships which have either traditional or other forms of shipboard organisation; and
 - (ii) seafarers are not trained for specific shipboard arrangements in such a way as would impair their ability to take their skills elsewhere;
- (d) the issue of alternative certificates shall not be used in itself—
 - (i) to reduce the number of crew on board,
 - (ii) to lower the integrity of the profession or undermine the skills of seafarers, or
 - (iii) to justify the assignment of the combined duties of the engine and check watchkeeping officers to a single certificate holder during any particular watch;
- (e) the person in command shall be designated as the master and the legal position and authority of the master and others shall not be adversely affected by the implementation of any arrangement for alternative certification; and

- (f) the principles contained in paragraphs (a) to (c) of this regulation shall ensure that the competency of both deck and engineer officers is maintained.

(4) For the purposes of this regulation, a rating who qualifies under regulation 17 or 21 of these Regulations shall be treated as having qualified for the purpose of alternative certificates for support level under this regulation and may be employed as a rating forming part of a navigational or engineering watch.

Revalidation of certificates.

33.(1) In order to continue to qualify for sea-going service, every master, officer and Radio operator holding a certificate, other than a certificate or endorsement issued under regulation 7, 8, 17, 23, 24, 25 or 26, shall have such certificate revalidated at intervals not exceeding five years upon establishing—

- (a) that he continues to meet the standards of medical fitness prescribed by the Gibraltar Merchant Shipping (Seafarer's Hours of Work and Medical Examination) Regulations 2003; and
- (b) continued professional competence in accordance with section A-I/11 of the STCW Code.

(2) An alternative certificate issued to a master or an officer under regulation 32 of these Regulations on the basis of his approved sea-going service as referred to in paragraph 1.1, Section A-I/11 of the STCW Code shall not be revalidated unless the holder provides evidence of his service in each discipline in a capacity not lower than that of a watchkeeping officer for at least three months.

(3) A revalidation of an appropriate certificate shall automatically mean revalidation of all short ancillary certificates and training documents required for the relevant appropriate certificate except medical care as mentioned in regulation 25.

(4) No appropriate certificate issued to a seafarer before 1 February 2002 shall be revalidated unless the holder provides documentary evidence of his having undertaken such additional training, which has been introduced by the STCW Convention since the issue of the relevant certificate.

(5) For the purposes of revalidation of certificates, every master, officer and Radio operator shall, for continuing seagoing service on board ships for which special training requirements have been internationally agreed upon, successfully complete approved relevant training.

(6) The additional training referred to in subregulations (4) and (5) or the special training referred to in subregulation (5) shall include—

- (a) in the case of a master or Deck officer, training in Radar-ARPA, GMDSS and ECDIS;
- (b) in the case of an Engineer officer, training in Medical First Aid and Proficiency in Survival Craft and Rescue boat; and
- (c) in the case of a Radio operator, the basic training.

(7) In order to continue to serve on those ships referred to in regulation 9, an officer shall, in addition to the requirement of subregulation (1), be required to produce evidence of—

- (a) at least 3 months sea service on a relevant tanker;
- (b) 6 months service at a relevant tanker terminal; or
- (c) having undertaken a relevant refresher training course.

(8) In subregulation (7) of this regulation, references to “relevant tanker”, “relevant tanker terminal” and “relevant refresher training course” means that the tanker, tanker terminal and refresher training course, as the case may be, are relevant to the type of tanker on which the certificate held by the officer permits him to serve.

Part 4

Matters incidental to seafarers training, experience and certification

Near-coastal voyages.

34.(1) The Administration shall not impose—

- (a) on seafarers serving on board a ship that is not a Gibraltar ship and engaged on near-coastal voyages any requirement of training, experience or certification in a manner resulting in more stringent requirements for such seafarers than for seafarers serving on board a Gibraltar ship; and
- (b) requirements for seafarers serving on board a ship that is not a Gibraltar ship which is in excess of the requirements of these Regulations in respect of ships not engaged on near-coastal voyages.

(2) The Administration shall prescribe such training, experience or certification requirements for seafarers serving on Gibraltar ships which are, at least equal to those of the Member State or the party State off the coast of which the ship is engaged on near-coastal voyages.

(3) The criteria set out in subregulation (2) shall not apply if they exceed the requirements of these Regulations in respect of ships not engaged on near-coastal voyages.

(4) The company shall ensure that seafarers serving on a ship which extends its voyage beyond a near-coastal voyage and enters waters not covered by the distance of the near-coastal voyage fulfil the appropriate requirements of these Regulations.

(5) The Administration may afford a Gibraltar ship the benefits of the near-coastal voyage of these Regulations when that ship is regularly engaged off the coast of a non- party State on near-coastal voyages.

(6) The Administration shall cause the details of the definition of near-coastal voyages adopted pursuant to these Regulations and the conditions of education and training required thereof in accordance with the requirements of this regulation, to be communicated to the Commission.

Quality standards.

35.(1) The Administration shall ensure that—

- (a) all training, assessment of competence, certification, endorsement and revalidation activities carried out by a nongovernmental agency or entity under its authority are continuously monitored through a quality standards system to ensure the achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors;
- (b) where governmental agencies or entities perform such activities, there is a quality-standards system;
- (c) the education and training objectives and related standards of competence to be achieved are clearly defined and identify the levels of knowledge, understanding and skills appropriate to the examinations and assessments required under the STCW Convention; and
- (d) the fields of application of the quality standards cover the administration of the certification systems, all training courses and programmes, examinations and assessments carried out by or under the authority of the Administration and the qualifications and experience required of instructors and assessors, having regard to the policies, systems, controls and internal quality-assurance reviews established to ensure achievement of the defined objectives.

(2) The Administration shall ensure that independent evaluations of the knowledge, understanding, skills and competence acquisition and assessment activities, and of the administration of the certification system, are conducted at intervals of not more than five years by qualified persons who are not themselves involved in the activities concerned in order to verify that—

- (a) all internal management control and monitoring measures and follow-up actions comply with planned arrangements and documental procedures, and they are effective in ensuring achievement of the defined objectives;
- (b) the results of each independent evaluation are documented and brought to the attention of those responsible for the area evaluated; and
- (c) timely action is taken to correct deficiencies.

(3) The Administration shall cause a report relating to each evaluation carried out pursuant to subregulation (2) to be communicated to the Commission within six months of the date of the evaluation.

(4) In order to carry out the purposes of this regulation, the Minister shall, subject to regulation (6), appoint an audit team comprising of no more than three persons who are qualified, competent and conversant with the role of the Administration in respect of the STCW Convention but not themselves involved in the activities concerned, to conduct periodically an independent evaluation of the quality standard system developed, operated and maintained by the Administration.

(5) The team appointed under subregulation (4) shall report back to the Minister as to the compliance of Regulation I/8 of the STCW Convention.

(6) The Minister need not appoint an audit team to supervise and monitor the working of the Administration if he is satisfied that an audit team of the UK-MCA has undertaken such an audit.

(7) The Minister shall cause a report to be transmitted to the IMO at intervals not exceeding 5 years in respect of information relating to the evaluation required under this regulation to comply with the provisions of paragraph 3 of Regulation I/8 of the STCW Convention.

Use of simulators.

36.(1) The Administration shall ensure that the performance standards and other provisions set out in Section A-I/12 of the STCW code and such other requirements as are prescribed in Part A of the STCW Code for any certificate concerned are complied with in respect of—

- (a) all mandatory simulator-based training;
- (b) any assessment of competence required by Part A of the STCW Code which is carried out by means of a simulator; and
- (c) any demonstration, by means of a simulator, of continued proficiency required by Part A of the STCW Code.

(2) Simulators installed or brought into use before 1 February 2002 may be exempted from full compliance with the performance standards referred to in subregulation (1) at the discretion of the Administration.

Responsibility for training and assessment.

37.(1) The Administration is designated for the purpose of this regulation and it shall be responsible for—

- (a) providing the training required by regulation 6;
- (b) if necessary, organising or supervising the examinations;
- (c) issuing the appropriate certificates referred to in regulation 27; and
- (d) granting the dispensations provided for in regulation 41.

(2) The Administration shall ensure that—

- (a) all training and assessment of seafarer's is—
 - (i) structured in accordance with the written programmes, including such methods and media of delivery, procedures and course material as are necessary to achieve the prescribed standard of competence; and
 - (ii) conducted, monitored, evaluated and supported by persons qualified in accordance with paragraphs (d), (e) and (f) of this subregulation;
- (b) persons conducting in-service training or assessment on board ship do so only when such training or assessment does not adversely affect the normal operation of the ship and they can dedicate their time and attention to training or assessment;
- (c) instructors, supervisors and assessors are appropriately qualified for the particular types and levels of training or assessment of competence of seafarers either on board or ashore;
- (d) any person conducting in-service training of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under these Regulations—
 - (i) has an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted;

- (ii) is qualified in the task for which training is being conducted; and
- (iii) if conducting training using a simulator–
 - (A) has received appropriate guidance in instructional techniques involving the use of simulators; and
 - (B) has gained practical operational experience on the particular type of simulator being used;
- (e) any person responsible for the supervision of the in-service training of a seafarer intended to be used in qualifying for certification has a full understanding of the training programme and the specific objectives for each type of training being conducted;
- (f) any person conducting in-service assessment of the competence of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification–
 - (i) has an appropriate level of knowledge and understanding of the competence to be assessed;
 - (ii) is qualified in the task for which the assessment is being made;
 - (iii) has received appropriate guidance in assessment methods and practice;
 - (iv) has gained practical assessment experience; and
 - (v) if conducting assessment involving the use of simulators, has gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor;
- (g) when it recognises a course of training, a training institution, or a qualification granted by a training institution, as part of its requirements for the issue of a certificate, the qualifications and experience of instructors and assessors are covered in the application of the quality standard provisions of regulation 35

and such qualification, experience and application of quality standards incorporate appropriate training in instructional techniques and training and assessment methods and practice and comply with all applicable requirements of paragraphs (d), (e) and (f) of this regulation.

Responsibilities of companies.

38.(1) A company managing a Gibraltar ship shall ensure that—

- (a) each seafarer assigned to any of its ships holds an appropriate certificate in accordance with the provisions of these Regulations and as established by the Administration;
- (b) its ships are manned in accordance with the applicable safe-manning requirements of these Regulations;
- (c) documentation and data relevant to all seafarers employed on its ships are maintained and readily accessible, and include, without being limited to, documentation and data on their experience, training, medical fitness and competence in assigned duties;
- (d) on being assigned to any of its ships seafarers are familiarised with their specific duties and with all ship arrangements, installations, equipment, procedures, and ship characteristics that are relevant to their routine or emergency duties; and
- (e) the ship's complement can effectively coordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

(2) The company shall provide written instructions to the master of each ship to which these Regulations apply, setting out the policies and the procedures to be followed to ensure that all seafarers 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.

(3) The policies and procedures mentioned in subregulation (2) shall include—

- (a) the allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with—
 - (i) the specific equipment the seafarer 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;
- (b) the designation of a knowledgeable crew member who shall be responsible for ensuring that each newly employed seafarer is given an opportunity to receive essential information in a language the seafarer understands.

(4) The company shall make available on board in English an Emergency Muster List, SOPEP (Ship's Oil Pollution Plan), Operational manuals, ISM Code and SMC procedures and other publications of the Administration and the Organisation and administrative instructions affecting the safe operation of the ship and protection of the marine environment.

(5) For the purpose of updating the knowledge of masters, officers and Radio operators, the Administration shall ensure that the texts of changes in Gibraltar legislation concerning safety and the protection of the marine environment are made available to all Gibraltar ships.

(6) Where a company fails to comply with the provision of this regulation, the Administration may suspend the Document of Compliance (DOC) issued to that company under the ISM Code for such period until the deficiencies are rectified to the satisfaction of the Administration.

(7) The master and any member of a crew designated with an obligation under subregulation (2) shall carry out that obligation.

Fitness for duty.

39.(1) For the purpose of preventing fatigue a company operating a Gibraltar ship shall ensure that—

- (a) the rest periods for watchkeeping personnel established by this regulation are maintained;

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- (b) watch systems are so arranged that the efficiency of watchkeeping personnel is not impaired by fatigue; and
- (c) duties are so organised that the first watch at the start of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.

(2) In the event of an emergency or drill or in other overriding operational conditions, it may not be required to maintain the periods of rest mentioned in subregulation (1).

(3) This regulation shall be subject to regulations 5, 6, 7, 8, 9 and 10 of the Gibraltar Merchant Shipping (Seafarer's Hours of Work and Medical Examination) Regulations 2003.

Responsibilities of the company and the master with regard to on-board communication.

40.(1) The company and the master of a Gibraltar ship shall ensure that—

- (a) without prejudice to paragraphs (b) and (c), there are, at all times on board the ship, means in place for effective oral communication relating to safety between all members of the ship's crew, particularly with regard to the correct and timely reception and understanding of messages and instructions; and
- (b) on board passenger ships the personnel nominated on a muster list to assist passengers in an emergency situation are readily identifiable and have communication skills that are sufficient for that purpose;
- (c) on board oil tankers, chemical tankers and liquefied gas tankers, the master, officers and ratings on board are able to communicate with each other in English; and
- (d) there are adequate means for communication between the ship and the shore-based authorities, which shall be conducted in accordance with Chapter V, Regulation 14, paragraph 4, of the SOLAS Convention.

(2) In ensuring compliance with the requirement of subregulation (1)(b), an appropriate and adequate combination of any of the following factors shall be taken into account—

- (a) the language or languages appropriate to the principal nationalities of passengers carried on a particular route;
 - (b) the likelihood that an ability to use elementary English vocabulary for basic instructions can provide a means of communicating with a passenger in need of assistance whether or not the passenger and crew member share a common language;
 - (c) the possible need to communicate during an emergency by some other means (e.g. by demonstration, hand signals, or calling attention to the location of instructions, muster stations, life-saving devices or evacuation routes) when verbal communication is impractical;
 - (d) the extent to which complete safety instructions have been provided to passengers in their native language or languages;
 - (e) the languages in which emergency announcements may be broadcast during an emergency or drill to convey critical guidance to passengers and to facilitate crew members in assisting passengers.
- (3) In order to ensure effective crew performance in safety matters, the company of—
- (a) a Gibraltar ship shall ensure that each seafarer understands English and where appropriate, can give orders and instructions and report back in English, and where English is not the official language of the ship, it may establish another working language and all plans and lists that must be posted shall include translations into English; and
 - (b) a passenger ship which is not registered in Gibraltar but starting or finishing a voyage in the port of Gibraltar shall establish a language to be the working language of the ship by which all seafarers can give orders and instructions and report back in that language and where English is not the official language of the ship, all plans and lists that must be posted shall include translations into English.
- (4) Where a company, in the case of a Gibraltar ship, fails to comply with this regulation, the Administration may suspend the Document of Compliance (DOC) issued to that company under the ISM Code for such

period until the deficiencies are rectified to the satisfaction of the Administration.

(5) Where a company, in the case of a passenger ship not registered in Gibraltar but starting or finishing a voyage in the port of Gibraltar, fails to comply with this regulation, the Administration shall carry out port state control checks pursuant to regulation 44 and shall take action in accordance with that regulation.

Dispensation.

41.(1) In circumstances of exceptional necessity when the services of a duly qualified officer are not available, the company may apply to the Administration for a dispensation giving particulars of the seafarer who is intended should fill the vacancy temporarily and the particulars of the ship and the intended voyages.

(2) Where the Administration is satisfied that—

- (a) the seafarer concerned is adequately qualified to fill the vacant post in a safe manner; and
- (b) the dispensation shall not cause danger to persons, property or environment,

it may issue a dispensation permitting a specified seafarer to serve in a specified ship for a period not exceeding six months in a capacity other than that of master, Chief engineer officer or Radio operator.

(3) Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below.

(4) Where certification of the post immediately below is not required by the STCW Convention, a dispensation may be issued to a person whose qualifications and experience are, in the opinion of the Administration, of a clear equivalence to the requirements for the post to be filled.

(5) Where the person in favour of whom a dispensation is issued under subregulation (4) holds no appropriate certificate, that person shall be required to pass a test accepted by the Administration as demonstrating that such a dispensation may safely be issued and in such a case, the company shall ensure that the holder of an appropriate certificate fills the post in question, as soon as possible.

(6) The Maritime Administrator shall, not later than 31 January each year, send a report to the IMO, giving information on the total number of dispensations in respect of each capacity for which a certificate is required that have been issued in the previous calendar year.

Inquiry and investigation.

42.(1) The master or the company shall inform the Maritime Administrator regarding any accident or casualty (causing loss or injury to life or property or harm to the environment) involving either a Gibraltar ship or seafarers serving on such ship or involving any ships in Gibraltar waters.

(2) A narrative report of the incident with date, time and place, particulars of any other vessel, object, property or person involved, nature and extent of the accident or casualty and probable cause of the incident shall be transmitted to the Maritime Administrator within 24 hours of the incident.

(3) Where a Gibraltar ship is detained under port state control, the master or the company shall inform the Maritime Administrator regarding such detention within 24 hours of the receipt of the notice by the ship.

(4) On receipt of the report referred to in subregulation (2) or a notification under subregulation (3), the Maritime Administrator, where he deems it necessary, may order an inquiry into the causes leading to the accident or detention and in such case he shall request the Minister to appoint a suitably qualified person or board to—

- (a) conduct the inquiry; and
- (b) make a report to the Maritime Administrator within such time as may be determined by the Minister.

(5) Where the Maritime Administrator is satisfied that the inquiry report has established as one of the reasons for the accident that there has been negligence, misconduct or incompetence on the part of a seafarer, he may withdraw or suspend (for such period as he deems fit) an endorsement, certificate or any other document issued to the seafarer.

(6) Where an endorsement was issued against a certificate issued abroad, the relevant issuing authority shall be informed of the fact that an inquiry or investigation has been held under this regulation with details thereof.

(7) The Maritime Administrator shall forward a report including a summary of activities done under this regulation to the IMO.

Prevention of fraud and other unlawful practices.

42A.(1) No application for recognition of certificates or endorsement shall be accepted by the Administration unless the copies of certificates are certified to be correct by a notary public, the crewing agents or an ISM Company.

(2) The Administration shall, on receipt of all the documents including the copies of the application whether by fax or email, check and compare the details and if necessary, ask for any other information or documents from the applicants.

(3) In the process of application, the Administration may use the IMO verification webpage to contact other administrations direct and keep a log of all responses.

(4) The Administration shall maintain the appropriate electronic databases accessible over its network for recognition endorsements.

(5) The Gibraltar flag state endorsement shall—

- (a) follow the STCW template;
- (b) be signed and stamped in original; and
- (c) scanned electronically and laminated to seal the interior.

(6) The endorsement shall—

- (a) be printed on paper which may or may not have a watermark or any unique identification print; and
- (b) have contact details of the Administration on the second page.

(7) No duplicates of certificates or replacements shall be issued without an application in writing to the Administration.

(8) Every old or expired endorsement shall be returned to the Administration for destruction.

(9) The Maritime Administrator shall be—

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- (a) the competent authority to detect and combat fraud and other unlawful practices concerning the certificates of seafarers; and
- (b) responsible for exchange of information with the competent authorities of other Member States.

(10) At the request of a competent authority of other Member States, the Maritime Administrator, or an officer nominated by the Maritime Administrator shall provide written confirmation or denial of the authenticity of seafarers' certificates, corresponding endorsements or any other documentary evidence of training issued in Gibraltar.

Offences and penalties.

43.(1) A company which or an individual who contravenes regulation 4(1), 5, 6(1), 7(2) or (3), 13, 34(4), 38(1), (2) or (4) or 39(1) is guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale;
- (b) on conviction on indictment (in the case of an individual) to imprisonment for a term not exceeding one year; or
- (c) by both.

(2) Any master who contravenes regulation 4(2) or 27(6) is guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding level 5 on the standard scale;
- (b) on conviction on indictment to imprisonment for a term not exceeding one year; or
- (c) by both.

(3) Any member of the crew who contravenes regulation 38(7) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) 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.

(5) 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.

(6) The Maritime Administrator may cancel or withdraw a certificate or endorsement issued following the making of a false declaration or untrue statement or use of a forged document by any person to obtain the certificate or endorsement, in addition to further legal action the Administration may choose to take.

(7) Where a person uses or attempts to use a certificate or endorsement which has not been issued to him, such documents shall be confiscated and any national Administrations which appear to the Administration to have an interest in the matter will be notified and the Administration may, at its discretion, impose restrictions on employment of such seafarers on Gibraltar ships.

(8) A company and the master who fails to inform the Maritime Administrator as required by regulation 42(3) are guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Port State Control.

44.(1) The Maritime Administrator may arrange for a marine surveyor or inspector to board any ship when in Gibraltar waters to check that—

- (a) the ship has a safe manning document and is manned in accordance with such document; and
- (b) the seafarers employed on the ship are duly qualified.

(2) In addition to the above the seafarers may be required to demonstrate the related competency at the place of duty following any of the following types of incident, namely that—

- (a) the ship has been involved in a collision, grounding or stranding;
- (b) there has been a discharge of substances from the ship when underway, at anchor or at berth which is illegal under any international convention;

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- (c) the ship has been manoeuvred in an erratic or unsafe manner whereby routing measures adopted by the IMO or safe navigational practices and procedures have not been followed;
- (d) the ship is otherwise being operated in such a manner as to pose a danger to persons, property or the environment;
- (e) a certificate has been fraudulently obtained or the holder of a certificate is not the person to whom that certificate was originally issued; or
- (f) the ship is flying the flag of a country which has not ratified the STCW Convention, or has a master, officer or rating holding a certificate issued by a third country which has not ratified the STCW Convention.

(3) If the control procedures laid down in subregulations (1) and (2) reveal any serious deficiency specified in subregulation (4) which in the opinion of the Maritime Administrator may pose a danger to the ship, persons, property or the environment then the Maritime Administrator may prevent the vessel from proceeding to sea until such time as the deficiencies are corrected to an extent that it does not pose any danger to life, property or the environment.

(4) Deficiencies referred to in subregulation (3) are–

- (a) a failure of any seafarer, 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 a requirement of a 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.

(5) If the control procedures reveal use of documents by persons other than the genuine holder or forged or tampered documents then those illegal documents shall be immediately seized and the national Administration of the seafarer concerned shall be notified.

(6) The position held by the person using the illegal documents referred to in subregulation (5) shall be considered vacant until a duly qualified seafarer is employed to meet the requirements of the safe manning document.

(7) The Maritime Administrator shall ensure that all cases of detention following a port state control inspection are promptly notified to all agencies including the Port Authority and the Customs Department in addition to the Flag Administration or its diplomatic representative in the UK or Gibraltar.

(8) When a ship is allowed to proceed to a nearby port for supplies or repairs to correct any deficiency, the Administration of the relevant state shall be informed accordingly.

Fees.

45. The following rates of fees (payable to the Government of Gibraltar) shall be charged for the services rendered under these Regulations:

Table

Services	Fee
1. Gibraltar endorsement for the capacity of master or Chief engineer officer	£75.00
2. Gibraltar endorsement for the capacity of Chief mate/Second engineer officer	£50.00
3. Gibraltar endorsement for Watchkeeping officer (Deck/Engineer)	£40.00
4. Watchrating (navigational or engine room or dual purpose) certificate	£30.00
5. Ship's Cook Certificate	£40.00
6. Able Seaman Certificate	£40.00

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7.	Tanker familiarisation certificate	£30.00
8.	Tanker endorsement (with Gibraltar endorsement)	£20.00
9.	Tanker endorsement (without Gibraltar endorsement)	£40.00
10.	Issue of Discharge Book	£100.00
11.	Article of Agreement for a Gibraltar ship	£20.00
12.	Safe manning document	£100.00
13.	Dispensation	£50.00
14.	Certificate to operate Government/local vessels	£50.00
15.	Revalidation/Extension of a certificate/Endorsement	£30.00

Appeals.

46.(1) In the case of any dispute or complaint with regard to any decision made by the Administration in carrying out its duties under these Regulations, the owner or operator of a ship or his representative in Gibraltar or the company may, within 7 days, make an appeal to the Minister and the Minister shall dispose of the appeal as soon as possible in writing giving reasons for his decision.

(2) On an appeal under subregulation (1), the Minister shall either—

(a) confirm the decision made by the Administration or confirm it with such modifications as he thinks fit; or

(b) cancel it.

(3) A second appeal may be made to the Supreme Court and only on a point of law.

(4) An appeal under subregulation (3) shall be made within 21 days from the decision made under subregulation (1) and the Court shall give an expedited hearing to that appeal.

(5) An appeal to the Minister or to the Supreme Court shall not suspend the operation of a notice of detention of a ship.

Powers to make Administrative Instructions.

47.(1) Subject to prior consultation with the Minister, the Maritime Administrator may make Administrative Instructions in respect of procedures and details relating to—

- (a) the issue of a safe manning document;
- (b) watchkeeping standards and arrangements;
- (c) the assessment, approval and monitoring of training institutes or training centres in order that the approved centres may conduct training, assess the competence and issue certificates to successful participants;
- (d) the recognition of certificates issued by other parties and the issue of a Gibraltar endorsement to such certificates to enable the holder to serve as a master or officer on a Gibraltar ship;
- (e) the issue of appropriate certificates in Gibraltar;
- (f) the issue of certificates and endorsements for service on Tankers;
- (g) the issue of watch rating certificates;
- (h) the issue Able Seaman Certificate;
- (i) the issue of a Ship's Cook certificate;
- (j) cadet training programmes;
- (k) standards of medical fitness for seafarers, particularly regarding eyesight and hearing, and the issue of certificates of medical fitness;
- (l) the maintenance of registers of all certificates and endorsements for masters and officers and, as appropriate, ratings, which are issued, have expired or have been revalidated, suspended, cancelled or reported lost or destroyed

and of dispensations issued; and making available information on the status of such certificates, endorsements and dispensations to other parties and companies which request verification of the authenticity and validity of the documents produced to them;

- (m) the issue of a Discharge Book;
- (n) the issue of certificates for operation of Government vessels, pleasure vessels and other vessels operating within Gibraltar waters;
- (o) the format of an "Article of Agreement";
- (p) the conduct of inquiry into an accident and follow-up action;
- (q) any other matter considered relevant by the Maritime Administrator.

Revocation.

48. The Gibraltar Merchant Shipping (Manning, Training, Certification and Related Seafarers' Matters) Regulations 2002 are revoked.