

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**
No. 3655 of 8 May, 2008

LEGAL NOTICE NO. 32 OF 2008.

GIBRALTAR MERCHANT SHIPPING (SAFETY, ETC.) ACT, 1993

**GIBRALTAR MERCHANT SHIPPING (MANNING, TRAINING AND
CERTIFICATION FOR SEAFARERS) (AMENDMENT)
REGULATIONS 2008**

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 transposing into the law of Gibraltar, Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member State and amending Directive 2001/25/EC, the Government has made the following Regulations:

Title and commencement.

1. These Regulations may be cited as the Gibraltar Merchant Shipping (Manning, Training and Certification for Seafarers) (Amendment) Regulations 2008 and come into operation on the day of publication.

Amendment of regulation 2.

2. The Gibraltar Merchant Shipping (Manning, Training and Certification for Seafarers) Regulations 2006 ("the principal Regulations") are amended in regulation 2—

- (a) by inserting the following definition after the definition of "ECDIS"—

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

- (b) by inserting the following definition after the definition of "GMDSS"—

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

- (c) by inserting the following definition after the definition of “rating”–

““recognition” means the acceptance by the Administration of a certificate or appropriate certificate issued by any Member State;”;

- (d) by replacing the following definition for the definition of “seafarer”–

““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;”;

- (e) by inserting “, 1978” in the definition of “STCW Convention” after the words “Watch Keeping for Seafarers””.

Insertion of regulation 12A.

3. The principal Regulations are amended by inserting the following regulation after regulation 12–

“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.”.

Amendment of regulation 29.

4. The principal Regulations are amended in regulation 29 by substituting the following paragraph for paragraph (a)–

“(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”.

Insertion of regulation 30A.

5. The principal Regulations are amended by inserting the following regulation after regulation 30–

“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.”.

Insertion of regulation 42A.

6. The principal Regulations are amended by inserting the following regulation after regulation 42–

“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–
 - (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.”.

Dated 8th May, 2008.

J J HOLLIDAY,

Minister with responsibility for the Port and Shipping
for the Government.

EXPLANATORY MEMORANDUM

These Regulations amend the Gibraltar Merchant Shipping (Manning, Training and Certification for Seafarers) Regulations 2006 in order to transpose into the law of Gibraltar, Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member State and amending Directive 2001/25/EC.