

**FIRST SUPPLEMENT TO THE GIBRALTAR  
GAZETTE**

**No. 2,400 of 28<sup>th</sup> January, 1988.**

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**I ASSENT,  
PETER TERRY,  
GOVERNOR.**

**28th January, 1988.**



**GIBRALTAR.**

**No. 2 of 1988.**

**AN ACT** to amend the Merchant Shipping Act.

**ENACTED** by the Legislature of Gibraltar.

**Title and Commencement.**

1.(1) This Act may be cited as the Merchant Shipping (Amendment) Act, 1988.

(2) This Act shall come into operation on such date as the Governor may by notice in the Gazette appoint and different dates may be appointed for different provisions of this Act.

**Amendment of section 2.**

2. Section 2 of the Merchant Shipping Act (hereinafter called "the Act") is amended in the definition of "Merchant Shipping Acts" by omitting the words "cited as the Merchant Shipping Acts, 1894 to 1979" and substituting

therefor the words "which may be cited as the Merchant Shipping Acts, 1894 to 1986".

**Amendment section 3.**

3. Section 3 of the Act is amended by repealing subsections of (1), (2) and (3).

**New sections.**

4. The following new sections are inserted after section 3-

**"Manning and certification of deck officers.**

3A. Subject to sections 3E and 3F and to the modifications specified in Part A of Schedule 3 to this Act, the provisions of the Merchant Shipping (certification of Deck Officers) Regulations 1985 (S.I. 1985 No. 1306) of the United Kingdom shall have the force of law in Gibraltar.

**Manning and certification of engineer officers, etc.**

3B. Subject to sections 3E and 3F, and to the modifications specified in Part B of Schedule 3 to this Act, the provisions of the Merchant Shipping (Certification of Marine Engineer Officers and Licensing of Marine Engine Operators) Regulations 1986 (S. 1. 1986 No. 1935) of the United Kingdom shall have the force of law in Gibraltar.

**Watchkeeping.**

3C. Subject to section 3F and to the modifications specified in Part C of Schedule 3 to this Act, the provisions of the Merchant Shipping (Certification and Watchkeeping) Regulations, 1982 (S.I. 1982 No. 1699) of the United Kingdom shall have the force of law in Gibraltar.

**Tankers, officers and ratings.**

3D. Subject to section 3F and to the modifications specified in Part D of Schedule 3 to this Act, the provisions of the Merchant Shipping (Tankers, Officers and Ratings)

Regulations 1984 (S. I. 1984 No. 94) of the United Kingdom shall have the force of law in Gibraltar, and shall apply in relation to tankers registered in Gibraltar as they apply to United Kingdom tankers.

**Special provisions concerning certificates of competency.**

3E. A certificate of competency for a foreigngoing ship shall be deemed to be of a higher grade than the corresponding certificate for a home trade passenger ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in the last-mentioned ship; but a certificate for a home trade passenger ship shall not entitle the holder to go to sea as master or mate of a foreigngoing ship.

**Interpretation of sections 3A,3B,3C and 3D.**

3F. The references in sections 3A, 3B, 3C and 3D to the Regulations mentioned therein shall be construed as references to such Regulations as amended or any provisions enacted in substitution therefor from time to time.

**Offences and penalties.**

3G.(1) Any person who contravenes the provisions of the Regulations mentioned in section 3A, 3B, 3C or 3D, relating to the watch-keeping requirements shall be guilty of an offence and liable on summary conviction to a fine of £2000 or, on conviction on indictment to imprisonment for a term of two years and a fine.

(2) Any person who appoints any other person in a capacity for which he is not duly certificated or licensed under the Regulations mentioned in sections 3A, 3B, 3C or 3D. shall be guilty of an offence and liable on summary conviction to a fine of £2000 or, on conviction on indictment, to imprisonment for a term not exceeding two years and a fine.

**Publication of countries whose certificates are recognised.**

3H. Up-to-date lists of countries whose certificates of competency are from time to time specified by the Secretary of State as recognised to have the same force as certificates of a specified class under the Regulations referred to in sections 3A, 3B, 3C or 3D shall be published periodically in the Gazette."

**Repeal and substitution of section 4.**

5. Section 4 of the Act is repealed and the following section is substituted therefor-

**"Certification of coxswains, etc.**

4. Subject to sections 5, 6, 7 and 8, certificates may be granted under this Act to coxswains and engine drivers of motor launches."

**Amendment to section 5.**

6. Section 5 of the Act is amended in subsection (1) by omitting the words "of competency".

**Amendment to section 7.**

7. Section 7 of the Act is amended in subsection (1) by omitting the words "of competency" and substituting therefor "under section 4".

**Amendment to section 8.**

8. Section 8 of the Act is amended in subsections (1) and (2) by omitting the words "of competency" in both places where they appear and substituting therefor "under section 4".

**Amendment to section 9.**

9. Section 4 of the Act is amended by omitting the words "of competency" and substituting therefor "under section 4".

**Amendment to section 10.**

Section 10 of the Act is amended by omitting the words "this Act" wherever they appear (three times) and substituting therefor "the Regulations mentioned in sections 3A and 3B".

**Amendment to section 11.**

11. Section 11 of the Act is amended by inserting-

- (a) after the word "competency" wherever it appears (four times) the expression "or a certificate under section 4";
- (b) after the word "offence" at the end of the section insert "and liable on summary conviction to imprisonment for 6 months and a fine of £2,000 and on a conviction on indictment to imprisonment for five years and a fine".

**Amendment to section 20.**

12. Section 20 of the Act is amended by inserting after the word "offences" at the end of the section the expression "and liable to a fine of £2,000".

**Amendment to section 29.**

13. Section 29 of the Act is amended by inserting after the word "offence" at the end of the section the expression "and liable to a fine of £2,000".

**Repeal of section 36.**

14. Section 36 of the Act is repealed.

**Amendment to section 42.**

15. Section 42 of the Act is amended in subsection (1) by omitting the words and figures "same court and manner in which wages of seamen not exceeding £50 may be recovered under this Act" and by substituting therefor the words "magistrate's court".

**Amendment to section 53.**

16. Section 53 of the Act is amended by omitting the expression "£50" and substituting therefor "£100".

**Amendment of section 56.**

17. Section 56 of the Act is amended by inserting after paragraph (b) the following paragraph-

"(c) of making regulations to provide for periodical medical examinations of masters and seamen, to prohibit the employment of masters and seamen who fail to obtain a valid medical fitness certificate, and to provide for matters incidental thereto."

**Amendment section 80.**

18. Section 80 of the Act is amended by inserting after the word "offence" at the end of the section the expression "and liable to a fine of £2,000."

**Amendment to section 81**

19. Section 81 of the Act is amended by omitting all the words and figures commencing with "he is guilty" to the end of the section and substituting therefor the words and figures "he shall for each offence be liable on summary conviction to a fine of £50,000 and on conviction on indictment to a fine."

**Repeal of Part III.**

20. The Act is further amended by repealing the whole of Part III thereof.

**New Section.**

21. The Act is further amended by inserting in Part IV before section 102 the following new section-

**"Convention for the Safety of Life at Sea.**

101A (1) In this section the expression "Safety Convention" refers collectively to the International Convention for the Safety of Life at Sea signed in London on 1st November 1974 and to the Protocol relating to that Convention signed in London on 17th February 1978 and to the amendments to that

Convention adopted on 20th November 1981 and on 17th June 1983 by the Maritime Safety Committee of the International Maritime Organisation.

(2) Without prejudice to subsection (3) the rules and regulations contained in the Safety Convention as from-time to time amended shall without further enactment be given legal effect in Gibraltar and shall apply in relation to-

(a) ships registered in Gibraltar to the same extent as if such ships were registered in the United Kingdom, and

(b) ships not registered in Gibraltar while they are in Gibraltar.

(3) The Governor may by regulations make provision for any such matter as shall appear to him necessary or expedient for the purpose of implementing in Gibraltar the provisions of the Safety Convention or enabling any such provision to be implemented.

(4) Without derogation from the generality of subsection (3), the regulations made under that subsection may make provision for –

(a) giving legal effect in Gibraltar to any amendment to the Safety Convention made at any time in accordance with Article VIII of that Convention, and

(b) making such modifications of this Act or any other enactment as shall appear to the Governor necessary or expedient for the purpose specified in subsection (3):

Provided that the regulations making such modifications as are specified in this paragraph shall not be made except with the approval by a resolution of the House of Assembly.

(5) If a ship to which the rules and regulations referred to in this section apply proceeds on any voyage or excursion without

complying with the requirements of such rules or regulations, the owner and master of the ship shall each be guilty of an offence and liable on summary conviction to a fine of £1(10 or on conviction on indictment, to imprisonment for two years and a fine:

Provided that it shall be a good defence to a charge under this subsection to prove that the person charged took all reasonable steps to avoid the commission of the offence.

(6) In any case where a ship does not comply with the requirements of the rules and regulations referred to in this section, the ship shall be liable to be detained.

(7) Whenever there is a conflict between the provisions of the Safety Convention and the provisions of this Act or rules or regulations made thereunder the provisions of this Act or such rules or regulations shall prevail to the extent of the conflict.

(8) The rules and regulations referred to in this section, shall, except where otherwise stated therein, apply to the ships belonging to the Government of Gibraltar."

**Amendment to Part V.**

22. The Act is further amended by repealing sections 121 to 132 inclusive and by substituting therefor the following sections-

**"Implementation of Merchant Shipping (Load Lines) Act 1967, etc.**

121.(1) Subject to section 122 the provisions of the Merchant Shipping (Load Lines) Act, 1967 (hereinafter referred to as "the 1967 Act") and the load line rules made thereunder shall mutatis mutandis apply in relation to-

- (a) ships registered in Gibraltar to the same extent as if such ships were registered in the United Kingdom, and



(b) ships not registered in Gibraltar while they are in Gibraltar.

(2) Whenever there is a conflict between the provision of the 1967 Act or the load line rules made thereunder and the provisions of this Act the provisions of that Act or the said rules as the case may be, shall prevail to the extent of the conflict.

**Exemptions.**

122. (1) Section 121 shall not apply in relation to-

(a) ships engaged solely in trading in the Bay of Gibraltar,

(b) ships exempted under subsection (2) of this section,

(c) ships solely engaged in fishing,

(d) pleasure yachts,

(e) ships of less than one hundred and fifty tons gross tonnage.

(2) The powers of the Board of Trade under section 18 of the 1967 Act may be exercised by the Governor by regulations as if "Gibraltar" were substituted for "the United Kingdom".

**Amendment of section 133.**

23. Section 133 of the Act is amended by omitting the expression "any foreign ship is detained under Part III or Part V" and substituting therefor the expression "a ship other than a ship registered in Gibraltar or in the United Kingdom is detained in pursuance of the provisions of section 101A or Part V".

**Amendment of section 134.**

24. Section 134 of the Act is amended by omitting the expression "Part III" and substituting therefor the expression "section 101A".

**Amendments to Part VI.**

25. Part VI of the Act is amended-

- (a) in the heading by omitting "PART III AND";
- (b) in sections 133 and 134 by omitting the expression "Part III or" .

**Amendment to section 141.**

26. Section 141 of the Act is amended in subsection (1)-

(a) by omitting all the words commencing with "The certificate" and ending with "this Act" and substituting therefor the following words and expressions-

"The certificate of competency granted to any deck officer or to any marine engineer officer or marine engine operator under the Regulations mentioned in section 3A or 3B, as the case may be",

(b) in paragraph (b) by omitting the words "master, mate or engineer" and substituting therefor "holder of a certificate of competency granted under the Regulations mentioned in section 3A or 3B, as the case may be,".

**Amendment of section 204.**

27. Section 204 of the Act is amended in subsection (1) by omitting the words "or shall act as master of a British" and substituting therefor the following words "chief officer or chief engineer or shall act as master, chief officer or chief engineer of a".

**Amendment of section 204A.**

28. Section 204A of the Act is amended in subsection (1) by re-lettering the last paragraph as "(d)" instead of "(b)".

**Amendment to section 208.**

29. Section 208 of the Act is amended-

(a) in subsection (1) by omitting the words and figures "to a fine of 100" and substituting therefor the words and figures "on indictment to a fine and on summary conviction to a fine of £50,000.";

(b) in subsection (2) (a) by-

(i) omitting the expression "of 100", and

(ii) omitting all the words and figures commencing with "of £10" to the end of the paragraph and substituting therefor the expression "£2,000".

**Amendment to section 223.**

30. Section 223 of the Act is amended by omitting the expression "£50" and substituting therefor "£2,000".

**Amendment to section 224.**

31. Section 224 of the Act is amended by repealing paragraphs (a), (b) and (c) of subsection (2).

**New Part XIII.**

32. The Act is further amended by inserting immediately after section 224 the following new Part-

**"PART XIII-MARPOL CONVENTION**

**Implementation of The Merchant Shipping (Prevention of Oil Pollution) Regulations 1983.**

225.(1) The provisions of the Merchant Shipping (Prevention of Oil Pollution) Regulations, 1983 (S. 1. 1983 No. 1398) of the United Kingdom and any regulations amending or replacing the same shall mutatis mutandis apply to all ships to which this section applies and to the owners and masters of such ships, as they apply to United Kingdom ships, and to the owners and masters of such ships.

(2) This section applies to-

- (a) all ships registered in Gibraltar;
- (b) other ships while they are in Gibraltar.

(3) For the purposes of this section all powers vested by any provision of the Regulations mentioned in subsection (1) shall be exercisable by the Governor.

(4) Without derogation from the generality of subsection (3), the Governor may grant exemptions from all or any of the provisions of the regulations mentioned in subsection (1) for classes of cases or individual cases on such terms as he may specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

(5) The Governor may after consultation with the Secretary of State by regulations make provision for any such matter as shall appear to him to be necessary or expedient for the purpose of implementing in Gibraltar the provisions of the International Convention for the Prevention of Pollution from Ships 1973, including its protocols, Annex I (but no other Annex) and appendices thereto, as amended by the Protocol of 1978 to that Convention or any amendment thereto."

**Alterations of penalties.**

33. A person convicted of any offence under any provision of the Act mentioned in the first column of Schedule 4 to this Act shall be liable to a fine set out opposite that provision in the second column thereof instead of the fine to which he would be liable for that offence apart from this section.

34. The Act is further amended by inserting immediately after Schedule 2 the following new Schedules:

**SCHEDULE 3.**

Sections 3A, 3B, 3C and 3D.

**PART A.**

**THE MERCHANT SHIPPING (CERTIFICATION OF DECK OFFICERS) REGULATIONS, 1985.**

**MODIFICATIONS**

**Regulation 1.**

Omit all the words after "Regulations 1985".

**Regulation 2.**

1. In the definition of "Extended European trading area" insert at the end "excluding the limits of the Limited European trading area;".

2. In the definition of "Limited European Trading Area" insert at the end "and includes an area between Gibraltar and any place situated within the following limits, that is to say, the continent of Europe between Cape St. Vincent and Valencia inclusive and the continent of Africa between Agadir and Oran inclusive".

3. In the definition of "Merchant Shipping Notice" insert at the end "and in relation to ships registered in Gibraltar and any ships in the territorial waters of Gibraltar, any such notice issued by the Governor".

**Regulation 3.**

1. For paragraph (1) substitute-

"(1) Subject to paragraph (3) of this regulation, Part II and III of these Regulations apply to-

(a) all ships registered in Gibraltar, and

(b) all other ships which carry passengers on a voyage which begins and ends in Gibraltar and on which the ship calls at no place outside Gibraltar.

2. In paragraph (2) for "United Kingdom" substitute "Gibraltar registered".

**New Regulation.**

After regulation 5 insert the following new regulation-

"5A. Notwithstanding the provisions of regulation 5, and except in the case of the master and chief officer, any person holding a valid current certificate of competency or similar document granted to him under the law of any country-

(a) that has ratified the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978; and

(b) has been specified by the Governor by notice in the Gazette for the purposes of this regulation;

shall be deemed to be the holder of a certificate of competency of a corresponding class granted under these regulations."

**Regulation 17.**

In paragraph (1) for "the United Kingdom" substitute "Gibraltar".

**PART B.**

**THE MERCHANT SHIPPING (CERTIFICATION OF MARINE ENGINEER OFFICERS AND LICENSING OF MARINE ENGINE OPERATORS) REGULATIONS, 1986.**

**MODIFICATIONS.**

**Regulation 1.**

Omit all the words after "Regulations 1986".

**Regulation 2.**

1. In the definition of "Extended European trading area" insert at the end "excluding the limits of the Limited European trading area;"

2. In the definition of "Limited European Trading Area" insert at the end "and includes an area between Gibraltar and any place situated within the following limits, that is to say, the continent of Europe between Cape St.

Vincent and Valencia inclusive and the continent of Africa between Agadir and Oran inclusive."

3. In the definition of "Merchant Shipping Notice" insert at the end "and in relation to ships registered in Gibraltar and any ships in the territorial waters of Gibraltar, any such notice issued by the Governor".

**Regulation 3.**

1. For paragraph (1) substitute-

"(1) Subject to paragraph (4) of this regulation, Parts II to IV of these Regulations apply to ships described in paragraph (3) which are-

(a) ships registered in Gibraltar, or

(b) any other ships which carry passengers on a voyage which begins and ends in Gibraltar and on which the ship calls at no place outside Gibraltar."

2. In paragraph (2) for "United Kingdom" substitute "Gibraltar registered".

**Regulation 6.**

In paragraph (2) for "Secretary of State" substitute "Governor".

**Regulations 6 and 9.**

The references in these regulations to the Merchant Shipping (Certification and Watchkeeping) Regulations 1982 shall be taken as references to the said Regulations as modified in accordance with the provisions of Part C of this Schedule.

**New Regulation.**

After regulation 6 insert the following new regulation-

"6A. Notwithstanding the provisions of regulation 4, and except in the case of the chief engineer, any person holding a valid current certificate of competency or similar document granted to him under the law of any country that-

(a) has ratified the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978; and

(b) has been specified by the Governor by notice in the Gazette for the purposes of this regulation;

shall be deemed to be the holder of a certificate of competency of a corresponding class granted under these regulations."

**Regulation 13.**

In paragraph (1) after "Regulations 1985" insert "as modified in accordance with the provisions of Part A of this Schedule".

**Regulation 19.**

For "the United Kingdom" substitute "Gibraltar".

**PART C.**

**THE MERCHANT SHIPPING (CERTIFICATION AND WATCHKEEPING) REGULATIONS, 1982.**

**MODIFICATIONS.**

**Regulation 1.**

Omit all the words after "Regulations 1982".

**Regulation 2.**

1. In the definition of "authorized person" for "Secretary of State" substitute "Governor".

2. In the definition of "Certification Regulations" insert at the end "as modified in accordance with Part A or B, as the case may be, of this Schedule".



3. In the definition of "Merchant Shipping Notice" insert at the end "and in relation to ships registered in Gibraltar and any ships in the territorial waters of Gibraltar, any such notice issued by the Governor".
4. In the definition of "specified" after "Secretary of State" insert "or the Governor as the case may be".
5. Omit sub-regulation (2).

**PART D.**

**THE MERCHANT SHIPPING (TANKERS-OFFICERS AND RATINGS) REGULATIONS, 1984.**

**MODIFICATIONS.**

**Regulation 1.**

Omit all the words after "Regulations 1984".

**Regulation 2.**

1. In the definition of "Merchant Shipping Notice" insert at the end "and in relation to ships registered in Gibraltar and any ships in the territorial waters of Gibraltar, any such notice issued by the Governor".
2. Omit the definition of "United Kingdom tanker" and substitute the following definition-

""Gibraltar tanker" means a tanker which-

- (a) is registered in Gibraltar; or
- (b) is not registered under the law of any country but is wholly owned by persons each of whom is either a Gibraltar or a body corporate which is established under the law of Gibraltar and has its principal place of business in Gibraltar."

**Regulation 3.**

For "United Kingdom" substitute "Gibraltar".

**Regulation 4.**

At the end of paragraph (b) insert "as modified in accordance with Part A or B, as the case may be, of this Schedule".

**Regulation 5(1).**

1. In paragraph (a) for "28th April 1984" substitute "the date of the coming into operation of section 3D of the Merchant Shipping Act".

2. In paragraph (b) for "Secretary of State" substitute "Captain of the port" (twice).

**Regulation 5(2).**

For "a superintendent at a Department of Trade Marine Office" substitute "The Captain of the Port".

**SCHEDULE 4.**

Section 33.

**ALTERATION OF PENALTIES.**

First Column Act Section.	Second Column Amount of fine. I	First Column Act Section.	Second Column Amount of fine.
	£		£
12(2)	400	107(2)	for 100 400
14(&)	100		for 50 200
17	400	108	1000
18(2)	400	109(2)	for 100 400
19(2)	400	for 50 200	
23(2)	400	110(2)	for 100 400
24(3)	400		for 10 100
26(2)	400	111	5000

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27(1)&(2)	400	144(2)	400
3p(1)	100	150(4)	200
31(3)	100	154(2)	400
37(2)	100	155(2)	200
59(1)&(2)	400	181(d)	100
59(3)	1000	189(2)	400
(0(2)	400	191(2)	100
61(3)	400	192	400
63(1)	400	193(2)	400
64(1)	1000	194	400
77(1)	1000	196	1000
78(2)	400	197(1)8c(2)	1000
79(2)	400	199	200
79(3)	for 100 400	204(2)	2000
	for 20 200	205(a)&(b)	1000
81	2000	207	400
85(4)	for 100 400	210(2)	2000
for 50 200		213(2)	100
86	1000	214(4)	1000
87(1)(2)&(4)	100	215(2)	400
89(3)	400	216(3)	200
104(1)	for 100 400		
	for 50 200		

Passed by the Gibraltar House of Assembly on the 21st day of January, 1988.

P. A. GARBARINO,

Clerk to the Assembly.