

## CHAPTER 389

### THE MERCHANT SHIPPING ACT

#### SUBSIDIARY LEGISLATION

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**THE MERCHANT SHIPPING, 1967—  
APPOINTMENT OF REGISTRAR OF SHIPS**

[Legal Notice 71 of 1968]

IN EXERCISE of the powers conferred by section 6 of the Merchant Shipping Act 1967, the Minister for Power and Communications hereby directs that the person for the time being holding the Office of Merchant Shipping Superintendent of the harbour authority shall exercise the powers and perform the duties of registrar of ships at the port of registry of Mombasa.

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**THE MERCHANT SHIPPING ACT, 1967—  
APPOINTMENT OF RECEIVERS OF WRECK**

ARRANGEMENT OF PARAGRAPHS

*Paragraph*

*SCHEDULE*

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**THE MERCHANT SHIPPING, 1967—  
APPOINTMENT OF RECEIVERS OF WRECK**

[Legal Notice 102 of 1968]

IN EXERCISE of the powers conferred by section 239 of the Merchant Shipping Act 1967, the Commissioner of Customs and Excise, Kenya, hereby appoints the officers named in the first column of the Schedule of this Notice to be receivers of wreck in the districts shown in relation to them in the second column of that Schedule.

**SCHEDULE**

Officer .....	District
The Customs Officer-in-charge .....	Kwale
The Customs Officer-in-charge .....	Kilifi
The Examining Officer-in-charge .....	Lamu
The Chief Collector-in-charge .....	Mombasa

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**THE MERCHANT SHIPPING ACT, 1967—  
APPOINTMENT OF RECEIVERS OF WRECK**

ARRANGEMENT OF PARAGRAPHS

*Paragraph*

*SCHEDULE*

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**THE MERCHANT SHIPPING, 1967—  
APPOINTMENT OF RECEIVERS OF WRECK**

[Legal Notice 174 of 1968]

IN EXERCISE of the powers conferred by section 239 of the Merchant Shipping Act 1967, the Commissioner of Customs and Excise, Kenya, hereby appoints the officers named in the first column of the Schedule of this Notice to be receivers of wreck in the districts shown in relation to them in the second column of that Schedule.

Legal Notice No. 102 of 1968 is cancelled.

**SCHEDULE**

*Officer.....District*

The Customs Officer-in-charge ..... Kwale.

The Customs Officer-in-charge at Malindi

The Customs Officer-in-charge at Kilifi ..... Kilifi

The Examining Officer-in-charge ..... Lamu.

The Chief Collector-in-charge ..... Mombasa.

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**THE MERCHANT SHIPPING, 1967—DELEGATION OF POWERS**

[Legal Notice 342 of 1968]

IN EXERCISE of the powers conferred by section 38 of the Interpretation and General Provisions Act and section 313 of the Merchant Shipping Act 1967, the Minister for Power and Communications hereby delegates to Captain EDWARD MICHAEL GROVES the exercise of all the powers and the performance of the duties (except the power to make rules and regulations and the powers conferred by sections 266, 271, 291 and 313 of that Act) conferred upon or vested in the Minister by the Merchant Shipping Act 1967.

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**DECLARATION OF A BODY CORPORATE  
QUALIFIED TO OWN A KENYA SHIP**

ARRANGEMENT OF SECTIONS

*SCHEDULE*

*The Motor Vessel HARAMBEE*

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**DECLARATION OF A BODY CORPORATE  
QUALIFIED TO OWN A KENYA SHIP**

[Legal Notice 212 of 1976]

IN EXERCISE of the powers conferred by section 3(2) (d) of the Merchant Shipping Act, the Minister for Power and Communications hereby declares that the Eastern Africa National Shipping Line Limited, being a company registered in Kenya under Part X of the Companies Act, is qualified to be the owner of the ship specified in the Schedule hereto which ship is hereby declared to be subject to the jurisdiction of the Republic of Kenya.

**SCHEDULE**

**The Motor Vessel HARAMBEE**



**THE MERCHANT SHIPPING-DECLARATION OF A BODY  
CORPORATE QUALIFIED TO OWN A KENYA SHIP**

[Legal Notice 166 of 1978]

IN EXERCISE of the powers conferred by section 3 (2)(d) of the Merchant Shipping Act, the Minister for Power and Communications hereby declares that the Eastern Africa National Shipping Line Limited, being a company registered in Kenya under Part X of the Companies Act, is qualified to be the owner of the ship specified in the Schedule hereto which ship is hereby declared to be subject to the jurisdiction of the Republic of Kenya.

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SCHEDULE

**The Motor Vessel JOGOO.**



**THE MERCHANT SHIPPING (TRAINING, CERTIFICATION,  
WATCHKEEPING AND SAFE-MANNING) REGULATIONS**

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CERTIFICATE

CERTIFICATE OF COMPETENCE

CERTIFICATE OF EQUIVALENT COMPETENCY

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**THE MERCHANT SHIPPING (TRAINING, CERTIFICATION,  
WATCHKEEPING AND SAFE-MANNING) REGULATIONS**

[Legal Notice 35 of 2000, Legal Notice 113 of 2012]

## PART I – PRELIMINARY

**1. Citation**

These Regulations may be cited as The Merchant Shipping (Training, Certification, Watchkeeping and Safemanning) Regulations.

**2. Interpretation**

In these Regulations unless the context otherwise requires—

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

"approved" means approved by the Cabinet Secretary;

"authorized person" means a person authorized by the Cabinet Secretary for the purposes of these Regulations;

"certificate of competency" means an appropriate certificate issued by Cabinet Secretary under regulation 6(1)(other than a certificate of equivalent competency);

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

"constructed" means a craft the keel of which is laid or which is at a similar stage of construction; and "similar stage of construction" means a stage at which—

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

"certificate of equivalent competency" means the certificate issued under regulation 6(3);

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

"GT" means gross tonnage, where a vessel operates alternative tonnage system, the greater of the two will apply;

"deck officer" means an officer qualified in accordance with chapter 2 of the STCW Convention;

"engineer officer" means an officer qualified in accordance with chapter 3 of the STCW Convention;

"IBC Code" means the 1993 edition of the International Code for the construction and equipment of ships carrying dangerous chemicals in Bulk, published by the International Maritime Organization as last revised;

"IGC Code" means the 1993 edition of the International Code for the construction and equipment of ships carrying dangerous chemicals in bulk published by IMO;

"length" has the same meaning conferred to it in rule 1 of the Merchant Shipping Rules as to the measurement of tonnage;

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"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to transport; and the term "ministry" shall be construed accordingly;

"GMDSS" means Global, Maritime Distress and Safety system;

"Master" means the person having command of a ship;

"officer" means a member of the crew other than the master designated, as such by these Regulations;

"second engineer" means the engineer officer next in rank to the Chief Engineer;

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

"near-coastal voyage" means a voyage on a trading vessel of 500 GT or less restricted to an area between Des Chiambone to the North and Pungu Tiayo Island to the South on the Kenyan Coast and not more than 200 miles from the shore;

"oil" means petroleum in any form including crude oil, sludge, oil refuse and refined products;

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

"passenger ship" means a ship carrying more than 12 passengers;

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

"rating" means a member of the ship crew other, than a master or an officer;

"radio operator" means a person holding an appropriate certificate issued and recognized by the Ministry under the provisions of these Regulations;

"ro-ro passenger ship" means a passenger ship constructed or adapted with loading facilities for driving on and off for passengers and other vehicles;

"sea-going" in relation to a vessel, proceeding to sea beyond internal waters or beyond waters declared to be smooth or partially smooth waters by the Government by notification in the *Gazette*;

"serious casualty" means an accident to a ship causing loss of life, or total loss of a ship;

"serious injury" means any injury, to a person employed or carried on a Kenyan ship, or on a foreign ship in Kenyan waters which occurs on board during access which results in incapacity for more than three consecutive days excluding the day of the accident, or as a result of which the person concerned, is put ashore and the ship sails without him;

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

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

"tanker" means a chemical tanker, a liquefied gas tanker or an oil tanker.

### **3. Transitional provisions**

For the purposes of these Regulations—

- (a) certificates and licences granted, endorsements made and standards of competency and training already met prior to the coming into force of these Regulations shall be treated as equivalent to certificates, endorsements, appropriate certificates, standards of competency or training, referred to in

these Regulations and shall accordingly remain in full validity, subject to regulation 6 hereof, until 1st February, 2002; and

- (b) seamen who commenced seagoing service as part of an approved training programme or the shore-based phase of an approved training programme before 1st August, 1998 may be issued with certificates or have their certificates recognized or endorsed, pursuant to such revoked Regulations and the provisions of sub-paragraph (a) shall apply to such certificates.

#### PART II – SHIPS

#### 4. Application

This part of these Regulations shall apply to masters and seamen employed on sea-going ships registered in Kenya except in—

- (a) fishing vessels; or
- (b) pleasure vessels not engaged in trade or wooden ships of primitive build.

#### 5. Qualification as an officer

A person is qualified as an officer of the ship for the purposes of this part if he is-

- (a) a master; or
- (b) a chief mate; or
- (c) an officer-in-charge of a navigational watch; or
- (d) a chief engineer officer; or
- (e) a second engineer officer; or
- (f) an officer-in-charge of an engineering watch; or
- (g) a radio operator.

#### 6. Recognition of Certificates

(1) The Cabinet Secretary may recognize a certificate issued by or under the authority of another party to the STCW Convention to a master, officer or radio operator if he is satisfied

- (a) that the requirements of the STCW Convention concerning standards of competence, the issue and endorsement of certificates and record keeping are fully complied with; and
- (b) that prompt notification has been given to the Ministry of the appropriate change in the arrangements,

for training and certification provided in compliance with the Convention.

(2) Where the Cabinet Secretary recognizes a certificate pursuant to paragraph (1), he shall endorse such certificate to attest its recognition if he is satisfied that the requirements of the STCW Convention in paragraphs (1)(a) and regulation 10 (b) have been complied with.

(3) The endorsement shall be in the prescribed form entitled "certificate of equivalent competency" set out in the Sixth Schedule to these Regulations.

(4) Where pursuant to paragraph (1), the Cabinet Secretary has recognized the standard of competence required for the issue of a certificate by an authority which is a party to the STCW Convention outside Kenya as being, in part the standard to be attained for officers qualified for the purposes of these Regulations, any conditions specified, by the Cabinet Secretary for the issue of a certificate of equivalent competency shall be limited to—

- (a) aptitude tests for the purpose of assessing the applicant's ability to pursue the profession of of on Kenyan ships, in the light of subjects and training and related assessment procedures, which differ substantially from those covered by the applicant's certificate issued by that State; or

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- (b) in the case of applicants who are nationals of a member of the East African Co-operation area (at the applicant's option) an adaptation period as specified by the Cabinet Secretary.

## **7. Revalidation or certificates**

(1) The certificate of a master or any other officer issued with a certificate under regulation 5 shall not be valid for sea-going service unless revalidated at intervals not exceeding five years to establish continued professional competence in accordance with section A-1/11 of the STCW Code.

(2) A certificate of a category referred to in regulation 10 granted pursuant to, regulation 75 shall not be valid for sea-going service unless revalidated at intervals not exceeding 5 years, to establish continued professional competence in accordance with section A-1/11 of the STCW Code.

(3) Every master and officer shall, for continuing sea-going service on ships complete approved refresher training at intervals specified by the Cabinet Secretary.

## **8. Appropriate certificates**

(1) Any officer serving in the capacity set out in column 1 of the table set out in the First Schedule to these Regulations shall hold an appropriate certificate for that capacity.

(2) The certificate issued under subparagraph (1) shall be in the Form set out in the Fifth Schedule to these Regulations.

(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 specified in the First Schedule of these Regulations.

## **9. Ratings and holders of other qualifications**

(1) Every rating forming part of a navigational watch on a ship of 500 GT or more, other than ratings under training and ratings whose duties while watching are of an unskilled nature, shall hold a certificate issued under this paragraph.

(2) No person shall be entitled to be issued with a certificate of such a rating unless he complies with the criteria set out in regulation 11/4.2 of the STCW Convention.

(3) Every rating forming part of an engine-room watch or designated to perform duties in a periodically unmanned engine-room on a ship powered by main propulsion machinery of 750 kW propulsion power or more, other than ratings under training and ratings whose duties are of an unskilled nature, shall hold a certificate issued under this paragraph.

(4) No person shall be entitled to be issued with a certificate of such a rating unless he complies with the criteria set out in regulation 11/4.2 of the STCW Convention.

(5) Any person designated to perform watchkeeping duties in a manned or periodically unmanned engine-room on a ship powered by main propulsion machinery of 350 kW power or more, but less than 750 kW shall be the holder of one of the engineering certificates of competency referred to in regulation 8 hereof, or be the holder of a marine engine operator's licence issued in compliance with the criteria specified by the Cabinet Secretary.

## **10. Radio communication and radio personnel on GMDSS ships**

No person shall be granted a certificate under regulation 75 unless—

- (a) he is at least 18 years of age; and  
(b) he has completed approved education and training and meets the standard of competency specified in section A-IV/2 of the STCW Code.

## **11. Mandatory minimum requirements for the training and qualification of masters, officers and rating on tankers**

(1) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo on tankers shall complete an approved shore-based advanced fire-fighting course

in addition to the training required by section A-V1/1 of the STCW Code and shall also complete—

- (a) at least three months of approved sea-going service on tankers in order to acquire adequate knowledge of safe operational practices; or
- (b) an approved tanker familiarization course covering at least the syllabus given for that course in section A-V/1 of the STCW Code.

(2) The period of three months referred to in sub-paragraph (a) of paragraph (1) may be reduced to not less than one month if—

- (a) the tanker on which such service is performed is of less than 3000 GT;
- (b) the duration of each voyage of the tanker on which such approved service is performed does not exceed 72 hours; and
- (c) the operational characteristics of the tanker on which such approved service is performed and the number of voyages and loading and discharging operations completed during the period, allow the same level of knowledge and experience to be acquired as would have been acquired in approved service performed in accordance with sub-paragraph (a) of paragraph (1) on a tanker of a size, and performing voyages, not falling within sub-paragraphs (a) and (b) of this paragraph.

(3) Masters, chief engineering officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit or handling of cargo on tankers shall, in addition to meeting the requirements of paragraph (1), have—

- (a) experience appropriate to their duties on the type of tanker on which they serve; and
- (b) an approved specialized 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 tanker on which they serve.

(4) An appropriate certificate shall be issued to masters and officers who are qualified in accordance with paragraph (1) or (3), or their existing certificate shall be endorsed, and every rating who is qualified shall be certificated.

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

(1) This regulation applies to masters, officers, ratings and other personnel serving on board ro-ro passenger ships.

(2) Prior to being assigned shipboard duties on board ro-ro passenger ships, seafarers shall have completed the training required by paragraphs (4) to (8) in accordance with their capacity, duties and responsibilities.

(3) Seafarers who are required to be trained in accordance with paragraphs (4), (7) and (8) shall, at intervals not exceeding five years, undertake appropriate refresher training.

(4) Masters, officers and other personnel designated on muster lists to assist passengers in emergency situations on board ro-ro passenger ships shall have completed training in crowd management as specified in section A-V/2, paragraph 1 of the STCW Code.

(5) Masters, officers and other personnel assigned specific duties and responsibilities on board ro-ro passenger ships shall have completed the familiarization training specified in section A-V/2, paragraph 2 of the STCW Code.

(6) Personnel providing direct service to passengers in passenger spaces on board ro-ro passenger ships shall have completed the safety training specified in section A-V2, paragraph 3 of the STCW Code.

(7) Masters, chief mates, chief engineer officers, second engineer officers and every other person assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings on board ro-ro

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passenger ships shall have completed approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 4 of the STCW Code.

(8) Masters, chief mates, engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board ro-ro passenger ships shall have completed approved training in crisis management and human behaviour as specified in section A-V/2, paragraph 5 of the STCW Code.

(9) It shall be the duty of any person providing the training referred to in this regulation to issue documentary evidence to every person successfully completing such training.

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

(1) This regulation applies to masters and officers, ratings and other personnel serving on board high-speed craft which are ships constructed on or after 1st January, 2000.

(2) Prior to being assigned shipboard duties on board high-speed craft masters, officers, ratings and other personnel shall have completed the training specified in the STCW Code.

(3) It shall be the duty of any person providing the training referred to in this Regulation to issue documentary evidence to every person successfully completing such training.

(4) In the case of masters and of officers having an operational role on high-speed craft, the documentary evidence shall be a certificate in the form specified by the Cabinet Secretary and shall be endorsed in a manner specified by a Cabinet Secretary.

### **14. Mandatory Minimum requirements for familiarization, basic safety training and instruction for all seafarers**

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

### **15. Mandatory minimum requirements for the issue of certificates of proficiency in survival craft rescue boats**

(1) Every person designated to launch or take charge of survival craft or rescue boats other than fast rescue boats shall have a certificate of proficiency in such craft.

(2) A person shall not be granted a certificate issued under paragraph (1) unless he meets the criteria specified in regulation V1/2 of the STCW Convention.

(3) Every person designated to launch or take charge of a fast rescue boat shall have a certificate of proficiency in such boats.

(4) No person shall be granted such a certificate unless he meets the criteria specified in regulation VI/2.2 of the STCW Convention.

(5) In this regulation-

"fast rescue boat" means a rescue boat which is—

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

### **16. Mandatory minimum requirements for training in advanced fire-fighting**

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

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

**17. Mandatory requirements relating to medical first-aid and medical care**

(1) Seamen designated to provide medical first-aid on board ships shall meet the standard of competence in medical first-aid specified in section A-VI/14, paragraphs (1) to (3) of the STCW Code.

(2) Seamen designated to take charge of medical care on board ships shall meet the standard of competence in medical care on board ships specified in section A-VI/4, paragraphs (4) to (6) of the STCW Code.

(3) where training in medical first-aids or medical care is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course and has been trained in medical first-aid or in medical care.

**18. Form, validity, record and surrender of certificates**

(1) Certificates issued and endorsements made under these Regulations shall be issued by the Cabinet Secretary on receipt of the fee payable, if any, and delivered to the person entitled to hold them.

(2) A certificate or endorsement shall remain valid for sea-going service as long as the holder complies with the standards and conditions of medical fitness and professional competency to act in the appropriate capacity specified by the Cabinet Secretary.

(3) A record of all certificates and endorsements which are issued under this part of these Regulations, or for certificates which have expired or have been revalidated, suspended, cancelled, or reported lost or destroyed and any alteration of or any other matters affecting any such certificates or endorsements, shall be kept, in such manner as the Cabinet Secretary may require, by the Registrar of Shipping and Seamen or by such other person as the Cabinet Secretary may direct.

(4) Where a person is convicted of an offence under regulation 38, or where a certificate or endorsement is issued and the conditions for its issue prescribed in this part or specified by the Cabinet Secretary have not been complied with, then the holder of the relevant certificate shall, at the direction of the Cabinet Secretary deliver it to the Cabinet Secretary, or to such person as the Cabinet Secretary may direct, for cancellation.

**19. Refusal of certificates, and appeals against refusal**

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

(2) If the Cabinet Secretary intends to refuse to the issue or revalidation of a certificate of competency or certificate of equivalent competency for any reason, he shall give notice in writing to the applicant who shall have the right, before a date specified in the notice, to require the application to be reviewed at an inquiry.

(3) If an applicant, before the date mentioned in paragraph (2) seeks to have his case reviewed at an inquiry, the Cabinet Secretary shall cause such an inquiry to be held by one or more persons appointed by him.

**20. Loss of Certificates**

If a person entitled to a certificate loses or is deprived of a certificate already issued to him, the Cabinet Secretary shall—

- (a) if he is satisfied that the person has lost or been deprived of the certificate without fault on his part; or
- (b) If he is not so satisfied; upon receipt of any fee payable, cause a certificated copy to which the person appears to be entitled to be issued to him or refuse to issue such a certificated copy as he deems fit.

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## **21. Endorsement of Kenya certificates**

In the case of a certificate issued by the Cabinet Secretary, the certificate shall be endorsed by the Cabinet Secretary in accordance with the STCW Convention if he is satisfied that the holder of the certificate complies with the provisions of these Regulations.

## **22. Designated authority**

(1) The Cabinet Secretary is the designated authority for the purposes of these Regulations on a general system for the recognition of higher education diplomas awarded on the completion of approved professional education and training in respect of the following professions—

- (a) professions requiring qualification referred to in regulation 5;
- (b) Profession requiring qualification under regulations referred to in regulation 3.

(2) The Cabinet Secretary is the designated authority for the purpose of these Regulations on a second general system for the recognition of professional education and training in respect of the following professions—

- (a) professions requiring qualification referred to in regulation 5;
- (b) professions requiring qualifications under regulations annexed to the STCW Convention referred to in regulation 8.

### **PART III – HOVERCRAFT**

## **23. Mandatory Minimum Requirements for the training of hovercraft personnel**

(1) This part applies to every sea-going hovercraft registered in Kenya and constructed after 1st January, 2000.

(2) It shall be the duty of every owner of a hovercraft to which this part applies to ensure that masters officers, ratings and other personnel have completed the training specified by the Cabinet Secretary.

(3) It shall be the duty of any person providing the training referred to in this regulation to issue documentary evidence to every person successfully completing such training.

(4) In the case of masters, and of officers having an operational role on high speed craft, the documentary evidence referred to in paragraph (3) shall be a certificate in a form specified by the Cabinet Secretary and shall be endorsed in a manner specified by the Cabinet Secretary.

(5) Any owner of a hovercraft who contravenes paragraph (2) commits an offence, and shall on conviction, be liable to a fine not exceeding ten thousand shillings.

## **24. Certificates**

Regulations 18, 19 and 20 shall apply to certificates issued under regulation 23 as they apply to certificates issued under Part II of these Regulations.

## **25. Exemptions**

The Cabinet Secretary may exempt the owner of any hovercraft from any of the requirements of regulation 23, subject to such conditions as he may specify, but may alter or cancel any exemption so granted if he is satisfied that such conditions have been violated.

### **PART IV – SAFE MANNING, HOURS OF WORK AND WATCHKEEPING**

## **26. Application**

(1) This Part applies to sea-going ships which are—

- (a) Kenyan ships wherever they are; and
- (b) other ships when in Kenyan water, except fishing vessels.

(2) For the purposes of this Part every company shall ensure that—



- (a) every seaman assigned to any of its ships holds an appropriate certificate in respect of any function he is to perform on that ship;
- (b) every seaman on any of its ships has had training specified in these Regulations in respect of any function he is to perform on that ship; and
- (c) documentation and data relevant to all seamen employed on its ships are maintained and readily available for inspection and include, without being limited to, documentation and data on their experience, training, medical fitness and competence in assigned duties.

(3) Nothing in paragraph (2) shall prohibit the allocation of tasks for training under supervision or in case of *force majeure*.

(4) The company shall provide written instructions to the master of each of its ships setting out the policies and the procedures to be followed to ensure that all seamen who are newly employed on board the ship are given reasonable opportunity to become familiar with the ship board equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties.

(5) The policies and procedures referred to in paragraph (4) shall include—

- (a) allocation of reasonable period of time during which each newly employed seaman will have an opportunity to become acquainted with—
  - (i) the specific equipment the seaman will be using or operating; and
  - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly;
- (b) designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seaman to receive essential information in a language the seaman understands.

(6) It shall be the duty of any master and any member of a crew designated with an obligation under paragraph (4) to carry out the obligation.

## 27. Safe manning document

(1) It shall be the duty of the company to ensure that in relation to every ship of 500 GT or more—

- (a) a safe manning document is in force in respect of the ship and the manning of the ship;
- (b) the safe manning document is kept on board the ship at all times; and
- (c) the manning of the ship is maintained at all times to at least the levels specified in the safe manning document.

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

(3) It shall be the duty of a company applying for a safe manning document in respect of any Kenyan ship to submit to the Ministry proposals as to the numbers and grade of personnel it considers appropriate to be carried so that the ship would be safely manned if it proceeded to sea on any intended voyages.

(4) In preparing such proposals, the company shall take into account any guidance issued by the Ministry.

(5) It shall be the duty of the company after the issue of a safe manning document to inform the Ministry as soon as any of the circumstances which are pertinent to that safe manning document change, for the purpose of enabling the Ministry to review the document's continuing validity or approve fresh proposals from the company.

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**28. Hours of work of company employee and masters**

(1) Subject to regulation 32, it shall be the duty of every company in respect of a ship, and of every employer, to ensure, so far as is reasonably practicable, that the seamen do not work more than is safe in relation to the safety of the ship and the master's and the seamen's performance of their duties.

(2) Subject to regulation 32, it shall be the duty of every master of a ship to ensure, so far as is reasonably practicable, that seamen do not work more hours than is, safe in relation to the safety of the ship and seamen's performance of their duties.

**29. Duties of master and seamen**

Every master and seaman shall, so far as is reasonably practicable, ensure that he is properly rested when commencing duty on a ship and that he obtains adequate rest during periods when he is off duty.

**30. Schedule of duties and need to record**

(1) It shall be the duty of the company to produce a Schedule of duties in accordance with this regulation.

(2) Where the company is not the employer of the master and all the seamen, it shall consult any other person who is an employer of the master or of any of the seamen before the production of the Schedule.

(3) The company may arrange with any such employer that the employer is to produce a Schedule of duties in accordance with this regulation and in such a case that employer shall also be subject to the duties of the company under this Regulation.

(4) Before producing a Schedule, the company shall seek the views of the master, and the master shall seek and convey to the company, the views of—

- (a) the ship's safety committee;
- (b) the seamen or their representatives; or
- (c) a trade union with one or more members on board ship.

(5) A Schedule produced under this regulation shall—

- (a) set out the hours of work for-
  - (i) masters and seamen whose work includes regular watchkeeping duties or ship handling; and
  - (ii) the ship's chief engineer, chief officer and second engineer officer, so as to provide that they do not work more hours than is safe in relation to the safety of the ship and the master's and seamen's performance of their duties;
- (b) specify the maximum period of continuous watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work; and
- (c) provide a minimum of ten hours of rest in any twenty-four hour period, which may be divided into not more than two periods, one of which shall be at least six hours in length:

Provided that the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that any such reduction shall not extend beyond two days and not less than seventy hours of the period provided in each seven days.

(6) The company shall give consideration to the category of shipping operations undertaken in arranging the hours of work.

(7) The Schedule may be changed by the company, or by an employer who by virtue of paragraph (3) is subject to the duties of the company, on condition that—

- (a) other employees and the company (as the case may be) have been consulted;

- (b) the company or the employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the company the views of persons mentioned in paragraph (4) (a), (b) or (c); and
- (c) the Schedule as changed complies with paragraph (5).

(8) The company shall ensure that the Schedule is displayed prominently in the crew accommodation for the information of all the seamen.

(9) It shall be the duty of the master to ensure, as far as reasonably practicable, that the hours of work specified in the Schedule are not exceeded.

(10) The company and the master shall maintain on the ship a copy of the Schedule, and a record of all deviations from its requirements.

(11) The company for the time being responsible for the ship shall ensure that a copy of the Schedule and the record of all deviations from its requirements are preserved for five years from the date the Schedule was introduced, and that they are available for inspection by a superintendent, or surveyor of ships, or an inspector appointed under the Act.

(12) If during the five year period there ceases to be a company in relation to the ship, the duty to preserve the copies of the Schedule and of the record shall remain with the last such company.

### **31. Exception for emergencies**

(1) The requirements for rest periods specified in regulation 30(5)(c) need not be maintained in case of any emergency or drill or in other overriding operational conditions.

(2) Without prejudice to the generality of paragraph (10) of regulation 30 a master of a ship or seaman may participate in a navigational, engine room or machinery watch although he has not had the rest period provided by the Schedule produced in pursuance to regulation 30 and the master may exceed and a seaman may be required to exceed the Schedule work or duty periods when in the opinion of the master it is necessary to meet one of the following situations—

- (a) an emergency threatening the safety of the ship or the life of any person or threatening damage to the environment; and
- (b) employment of the ship in the service of the Department of Defence at a time when the ship is operating in direct support of the armed forces, or in direct support of the forces of any foreign power to which Kenya is bound by any treaty to provide operational support.

(3) When in pursuance of paragraph (1) the master or a seaman has worked within a rest period provided for by the Schedule, his name shall be recorded pursuant to the provisions of regulation 30 paragraph (10), together with the reasons why he so worked.

### **32. Watchkeeping arrangements**

(1) The master of any ship shall ensure that the watchkeeping arrangements for the ship are at all times adequate for maintaining safe navigational and engineering watches having regard to section A–VIII of the STCW Code.

(2) Without prejudice to the duties of a master specified in paragraph (1), a master shall give directions to the deck watchkeeping officers responsible for navigating the ship safely during their periods of duty, in accordance with Part 3-1 of section A–VIII/2 of the STCW Code and any requirements specified by the Cabinet Secretary.

(3) The chief engineer officer of any ship shall ensure that the engineering watchkeeping arrangements for the ship are at all times adequate for maintaining a safe watch, in accordance with Part 3-2 of section A–VIII/2 of the STCW Code, and when deciding the composition of the watch the chief engineer officer shall observe the principles set out in Part 3-2 of that section and the requirements specified by the Cabinet Secretary.

### **33. Watchkeeping arrangements in port**

The master of any ship which is safely moored or safely at anchor under normal circumstances in port shall arrange for an appropriate and effective watch to be maintained

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for the purposes of safety which arrangements shall be in accordance with Part 4 of section A–VIII/2 of the STCW Code and any operational guidelines specified by the Cabinet Secretary.

#### **34. Watchkeeping arrangements in port for ships carrying hazardous cargo**

(1) The master of any ship which is carrying hazardous cargo and which is in port, even when safely moored or safely at anchor, shall in addition to any watch-keeping arrangements required under regulation 33 in the case of—

- (a) a ship carrying hazardous cargo in bulk, ensure that a safe deck watch and safe engineering watch are maintained by the ready availability on board of a duly qualified officer or officers, and where appropriate ratings; and
- (b) a ship carrying hazardous cargo other than in bulk, ensure that in organizing safe watchkeeping arrangements he takes account of the nature, quantity, packing and storage of the hazardous cargo and of any special conditions on board, afloat and ashore.

(2) Such watchkeeping arrangements shall take full account of the principles and requirements as specified by the Cabinet Secretary.

#### **35. Carriage of doorman**

Without prejudice to regulation 27, the company and the master shall ensure that there are carried at all times on board ship all original certificates and other documents issued pursuant to the STCW Convention indicating the qualification of any member of the crew to perform functions which they are required to perform aboard ship in the course of their designated duties.

#### **36. Inspection of non-Kenyan ships**

(1) An authorized person may inspect any ship which is not a Kenyan ship for the purposes of—

- (a) verifying that all seamen serving on board who are required to be certificated hold valid and appropriate certificates; and
- (b) assessing the ability of the seamen in the ship to maintain the watchkeeping standards required by these Regulations where there are grounds for believing that such standards are not being maintained because, while in a port in Kenya or in the approaches to that port, any of the following have occurred-
  - (i) the ship has been involved in a collision, grounding or stranding;
  - (ii) there has been an unlawful discharge of substances' from the ship when underway, at anchor or at a berth;
  - (iii) the ship has been maneuvered in an erratic or unsafe manner, or navigational course markers or traffic separation schemes have not been followed; or
  - (iv) the ship has otherwise been operated in such manner as to pose a danger' to persons, property or the environment.

(2) If on inspection an authorized person finds any deficiency of a kind specified in paragraph (3), he shall in writing notify the master of the ship and in case of a ship registered outside Kenya, the nearest maritime, consular or diplomatic representative of the flag State.

(3) Deficiencies referred to in paragraph (2) may refer to any of the following conditions—

- (a) failure of any seaman, required to hold an appropriate certificate, to have a valid appropriate certificate or a valid exemption from that requirement;
- (b) failure to comply with the safe manning document;
- (c) 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) absence on a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution; and
- (e) inability of the master to provide adequately rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

### **37. Power to deer**

In any case where it is found -

- (a) in relation to a ship which is a Kenyan ship, that there is any contravention of these Regulations; or
- (b) in relation to a ship which is not a Kenyan ship, there is-
  - (i) any contravention of regulations 27, 34, 35, 36; or
  - (ii) a failure to correct a deficiency of a kind specified in regulation 36 (3) after notification to the master pursuant to regulation 36 (2), and there is in consequence a danger to persons, property or the environment, the ship may be detained.

### **38. Penalties**

(1) Any company which contravenes regulations 27 (2) or (5), 28 (1) or (2), 32, 36 or 37 commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) Any master who contravenes regulation 27 (5), 28 (2), 30 (2), 33, 34 (1) or (2), 36, or 37 commits an offence and shall be liable on conviction to a fine not exceeding the fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

(3) Where an employer becomes subject to the duties of the company under these Regulations, in the event of any contravention thereof, he commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding six months or to both.

(4) Any member of the crew who contravenes regulation 27 (5) commits an offence and shall be liable, on conviction to a fine not exceeding three thousand shillings.

(5) Any chief engineer who contravenes regulation 34 (2) commits an offence and shall be liable on conviction to a fine not exceeding five thousand shillings.

(6) Any company which contravenes regulation 30 (1) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings.

(7) Any master who contravenes regulations 31 or 32 commits an offences and shall be liable on conviction to a fine not exceeding fifty thousand shillings.

(8) Any seaman who contravenes regulation 31 commits an offence and shall be liable on conviction to a fine not exceeding three thousand shillings.

(9) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to avoid the commissioning of the offence.

(10) In any proceedings for an offence under these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirements.

### **39. Exemption**

The Cabinet Secretary may grant, on such terms, if any, as he may specify, exemptions from all or any provisions of these Regulations for classes or individual cases.

## PART V – INQUIRIES INTO COMPETENCE

**40. Application**

These Regulations apply to any inquiry under section 271 of the Act, and to any hearing of such an inquiry which is not held by the High Court.

**41. Notice of inquiry**

(1) When the Cabinet Secretary causes an inquiry to be held, he shall cause a notice (in these Regulations called a "notice of inquiry") to be served in writing on the certificate holder concerned who shall be made a party to the inquiry.

(2) Service of such a notice shall be effected at least thirty days before the date fixed for the concerned inquiry either by serving the certificate holder personally or by sending the notice to his last known address by registered post or by recorded delivery service.

(3) The notice of inquiry shall state—

- (a) the facts giving rise to the inquiry;
- (b) the allegation made against the certificate holder to whom the notice is addressed and the grounds thereof;
- (c) the time and date when, and the place where, the inquiry is to be held; and
- (d) the certificate holder's rights as set out in regulation 44 (2) and (3) of these Regulations.

**42. Appointment of the court of inquiry**

(1) The person appointed to hold the inquiry shall conduct it with the assistance of one or more assessors who shall be appointed by the Attorney-General.

(2) An assessor shall be suitably qualified to assess the competence of a seaman to discharge the duties and responsibilities commensurate with his certificate.

**43. Holding of the inquiry**

(1) At the time and the place appointed for holding the inquiry the person appointed may proceed with the inquiry in the absence of the certificate holder upon whom the notice of the inquiry was served, any other party, or any person who has applied to become a party:

Provided that where the certificate holder concerned has been served with the notice of inquiry by post, the person appointed shall not proceed with the inquiry in his absence unless satisfied that the certificate holder has been served in accordance with the requirements of regulation 46 (1) and (2).

(2) Any other person, not being the certificate holder concerned, may, with leave of the person appointed, become a party to the inquiry.

(3) The inquiry shall be held in public except to the extent to which the person appointed is satisfied that in the interests of justice, or for other good and sufficient reason in the public interest, any part of the evidence or any argument relating thereto should be heard in private.

**44. Procedure at an inquiry**

(1) The proceedings at the inquiry shall commence with the presentation on behalf of the Cabinet Secretary of the case against the certificate holder concerned.

(2) The certificate holder concerned shall have the right—

- (a) to defend himself against the allegation, in person or by his legal representative; and
- (b) to admit before or at any time after the commencement of the inquiry the allegation or any part thereof.

(3) Where more than one allegation is made against a certificate holder, his admission of an allegation or any part thereof pursuant to paragraph (2) shall be without prejudice to his right to defend himself against any other allegation which he does not admit.

(4) Any party to the inquiry shall have the right in person or by a legal representative to make an opening statement, call witnesses, cross-examine witnesses called by other parties or on behalf of the Cabinet Secretary, tender evidence other than oral evidence and address the person appointed to preside at the inquiry as such a person so appointed may direct.

(5) If a party to the inquiry does not appear in person or send a legal representative, he may opt to make representations in writing to the person appointed to preside over such an inquiry and such written representations shall be in writing to the person appointed to preside over such an enquiry shall be read out at the inquiry.

(6) Without prejudice to the admission of documents as secondary evidence allowed by the Evidence Act, affidavits, dispositions, statutory declarations and other written evidence shall, unless the person appointed considers it unjust, be accepted as evidence at the inquiry.

(7) The person appointed to preside over such an inquiry may postpone or adjourn the hearing of the inquiry for such period as he thinks fit either on his own motion or upon the application of any party.

#### **45. Decision of the person appointed**

(1) The person appointed shall, at the conclusion of the inquiry or as soon as possible thereafter, announce his decision in public.

(2) Each assessor shall either sign the report with or without reservations, or state in writing his dissent therefrom and his reasons for such dissent, and any such reservations or dissent and reasons shall be forwarded to the Cabinet Secretary with the report.

(3) The Cabinet Secretary shall inform the certificate holder concerned, in writing, of the decision of the person appointed to preside over the inquiry if the certificate holder was not present when that decision was announced and make a copy of the report available to him.

(4) A copy of the report shall be made available to any party to the inquiry upon request to the Cabinet Secretary.

### **PART VI – ACCIDENT INVESTIGATION**

#### **46. Application**

(1) Subject to regulation 48 (3), this regulation shall apply in respect of serious injuries, dangerous occurrences and hazardous incidents as they apply in respect of accidents, except that regulations 48 and 50 shall not apply to hazardous incidents.

(2) This regulation applies to accidents involving or occurring on board—

- (a) any Kenyan ship, except that regulation 48 shall not apply to pleasure vessels or to lifeboats operated by the emergency and rescue services;
- (b) any other ship within Kenya or the territorial waters thereof, save that regulations 48 and 56 shall not apply to such a ship unless she is within a port in Kenya or is employed in carrying passengers to or from a port in Kenya.

(3) An investigation may be held under regulation 49 into an accident involving or occurring on board a ship which is not a Kenyan ship and which at the time of the accident was not within Kenya or the territorial waters thereof, if the Cabinet Secretary so determines.

#### **47. Purpose of investigation**

The purpose of investigating an accident under these Regulations is to determine its circumstances and the causes with the aim of improving the safety of life at sea and the avoidance of accidents in the future, and not to apportion liability, nor, except so far as is necessary to achieve the purpose, to apportion blame.

#### **48. Duty to report accidents, dangerous occurrences and serious injuries**

(1) Subject to paragraphs (2), (3) and (6) of this regulation, when an accident occurs, the master shall send a report to the inspector as soon as is practicable by the quickest means available, and in any case not later than twenty four hours after the ship next arrives at port.

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(2) Such a report shall be sent by the owner, the master, or a senior surviving officer as soon as is practicable by the quickest means available.

(3) Subject to paragraph (6), the master shall report every serious injury or dangerous occurrence as listed in the Second Schedule to these Regulations to the inspector within fourteen days of its happening or, if the ship is at sea within fourteen days of her arrival at the next port of call.

(4) A report pursuant to sub-paragraph (3) may be made to the Ministry or to the Kenya Navy.

(5) The master shall, so far as is reasonably practicable, ensure that the circumstances of every accident involving death or major injury, or serious injury and every dangerous occurrence are examined.

(6) The owner or master shall on request provide the inspector with a report, in addition to any report made under the preceding paragraphs of this regulation, giving the findings of such examination and stating any measures taken or proposed to, prevent a recurrence.

(7) This regulation shall not apply—

(a) to an accident or a serious injury where the person killed or injured is a stevedore or shore-based worker and the accident or serious injury occurs in a port or shipyard in Kenya; or

(b) to a dangerous occurrence which occurs in a shipyard in Kenya.

(8) No report made under this regulation shall be admissible in evidence against the maker in any proceedings except proceedings in pursuance of regulation 61 (1).

#### **49. Ordering of investigation**

(1) Where an accident occurs, the inspector shall decide whether or not an investigation should be carried out and, where a report has been received under regulation 48 (1) or (2), shall cause the master or owner to be notified of his decision and he may cause to be obtained such information concerning the accident as he considers necessary, and the owner or master of the ship concerned shall provide such information to the best of his ability and knowledge.

(2) An investigation may be carried out by one or more inspectors of marine accidents appointed under section 5 of the Act, or alternatively by such other person or persons as the inspector may appoint specifically for any purpose in circumstances where inspectors appointed under the Act are not available, or where such a person has special qualifications or experience and in such a case such other person or persons shall have the powers conferred on an inspector.

(3) The inspector may order that the investigations takes the form of an inspector's inquiry.

(4) Public notice that an inspector's inquiry has been ordered shall be given in such manner as the inspector may think fit, and shall invite any persons who so desire to make representations to the inspector in such manner and within such a time as is specified in the notice.

#### **50. Preservation of evidence**

The owner and master shall so far as is possible ensure that all charts, log-books and other records and documents which might reasonably be considered pertinent to an accident report under regulation 48 are kept and that no alteration shall be made to entries therein, and that any equipment which might reasonably be considered pertinent to such an accident is so far as practicable left undisturbed, until either—

(a) notification is received from the inspector that no investigation is to take place; or

(b) if notification is received that an investigation will take place, the inspector or the inspectors appointee carrying out the investigation indicates that he no longer requires them.



**51. Report of inspector's inquiry**

(1) Subject to paragraph (4) where an inspector's inquiry has taken place, the inspector shall make a report to the Cabinet Secretary which shall include the inspector's findings as to the cause of the accident and his own observations thereon and any recommendations which he considers appropriate.

(2) Subject to paragraphs (2) and (3), unless the Cabinet Secretary orders a formal investigation under section 266 of the Act, the inspector may publish the report if he thinks fit and shall do so if—

- (a) it appears to him that to do so will improve the safety of life at sea and help to prevent accidents in the future; or
- (b) it relates to a serious casualty to a Kenyan ship, unless in his opinion there is good reason to the contrary.

(3) If the prosecution of any person in connection with the accident is under consideration, the Cabinet Secretary may at his discretion withhold publication until either the prosecution, including any appeal, has been concluded or it has been decided not to prosecute.

(4) Where the Cabinet Secretary is still considering whether to cause an investigation to be held under section 266 of the Act into the conduct of a certificated officer, or to take action under section 266 of that Act in respect of the holder of a certificate other than an officer's, then he may at his discretion withhold publication until proceedings under either of the said sections have been completed or it has been decided not to pursue such proceedings.

(5) Except where a formal investigation has been ordered, if in the opinion of the inspector the reputation of any person is likely to be adversely affected by the report, then it shall not be submitted to the Cabinet Secretary until—

- (a) that person, or if that person is deceased, then such person as appears to the inspector best to represent that person's interest has been served with a copy of the report or that part of it which affects him; and
- (b) that person or his representative has been given a period of twenty-eight days to make representations to the inspector either in person or in writing;
- (c) the inspector has considered any such representations and has notified the person concerned or his representative of his conclusions thereof, and of what changes, if any, he intends to make to the report; and
- (d) the person or his representative has been given a further period of twenty-eight days in which he may submit to the inspector an alternative text for any passages in the report which are critical of the person and remain in issue.

(6) No person shall disclose any information furnished to him pursuant to paragraph (5), or permit such information to be disclosed, to any other person, save with the prior consent in writing of the inspector.

(7) The inspector on submitting the report to the Cabinet Secretary shall refer to any section of the report or part thereof and shall set out the substance of any representations made in response, together with his conclusions and a record of any action he has taken, and shall also quote in full any alternative texts submitted under paragraph (5) (d), and if the Cabinet Secretary decides to publish the report, he shall publish any such texts with it as an appendix, unless in his opinion there is good reason not to do so.

**52. Release of information during investigation**

Notwithstanding the provisions of regulation 51, the inspector may at any time during the course of any investigation release information as to material facts if in his opinion it is necessary or desirable to do so.

**53. Recommendations**

(1) Recommendations may be made by the inspector at any time during the course of an investigation.

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(2) Recommendations shall be addressed to those persons or bodies who in the opinion of the inspector are most fitted to implement them and may be made public if the inspector considers that to do so is in the interests of safety.

#### **54. Procedure where an inquest or fatal accident inquiry is held**

(1) Where an inquest or fatal accident inquiry is to be held following an accident which has been subject to investigations, a report of the investigation may be made available to the inquest or fatal accident inquiry by the inspector.

(2) Where the investigation has taken the form of an inspector's inquiry and the procedure in paragraph (1) is followed, and the report has been put before the inquest or fatal accident inquiry, the inspector need not comply with regulation 52, but he shall not submit his report to the Cabinet Secretary until after the proceedings of the inquest or fatal accident inquiry and he shall include in his report the substance of evidence given at those proceedings as it relates to the inspector's findings.

#### **55. Summaries of investigations**

(1) The inspector shall prepare and publish collective summaries of investigations from time to time.

(2) A summary report of the circumstances of any accident which has been under investigation shall, if not published, be otherwise made available to any person requesting it who satisfies the inspector of his legitimate interest.

(3) A summary report shall not be published or otherwise made available if prosecution against any person in connection with the accident has begun, unless the inspector is satisfied that nothing in its content would prejudice a fair trial.

#### **56. Reopening of investigation**

(1) The chief inspector may cause any investigation to be re-opened either generally or as to any part thereof and he shall do so if in his opinion—

- (a) after the completion of the investigations new and important evidence has been discovered; or
- (b) there is reasonable ground for suspecting that a miscarriage of justice has occurred.

(2) Any investigation re-opened pursuant to paragraph (1) shall be subject to and conducted in accordance with the provisions of these Regulations relating to such an investigation.

#### **57. Extension of time**

The inspector, in respect of the periods of twenty-eight days prescribed in regulation 51 (5) (b) and (d), shall have the power to extend the said periods, and shall not unreasonably refuse to do so, and this power may be exercised notwithstanding that the prescribed period has expired.

#### **58. Penalties**

(1) A master, owner or officer who without reasonable cause fails to report an accident, serious injury or dangerous occurrence, as required by regulation 48 or fails to provide information as required by regulation 49 commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings.

(2) Any person who without reasonable cause fails to comply with the provisions of regulation 60, commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings.

(3) Any person who discloses or permits to be disclosed information in contravention of regulation 51 (6), commits an offence and shall be liable on conviction to a fine not exceeding three thousand shillings.

## PART VII – DISQUALIFICATION OF HOLDER OF SEAMANS CERTIFICATES

**59. Application**

This part shall apply in relation to any certificate of competence issued under section 79 of the Act and to any other document issued under the Act other than one certifying that a person is qualified as an officer.

**60. Notice of suspension or cancellation of certificate**

(1) A notice served by the Cabinet Secretary shall be given to the holder of the certificate in the Form set out in the Third Schedule to these Regulations.

(2) Service of such notice shall be effected either by serving the holder of the certificate concerned personally or by sending it to him at his last known address by registered post or by recorded delivery service.

**61. Representations**

(1) Within six weeks of the receipt of such notice or such longer period as the Cabinet Secretary may allow, the holder of the certificate may inform the Cabinet Secretary of his intention to make written or oral representations to the Cabinet Secretary.

(2) In the case of a claim to make oral representations, the Cabinet Secretary shall agree with the holder of the certificate on suitable date and place for the oral representations to be heard and if no such agreement is reached they shall be heard at the address specified in the third Schedule on the last working day of the period for representations allowed by this regulation.

(3) If oral representations are to be made, the holder of the certificate may be accompanied by a legal representative who may advise him or speak on his behalf.

(4) Representations, whether written or oral, shall be made within ten weeks of receipt of the notice.

**62. Notice of decision**

(1) The Cabinet Secretary shall give the holder of a certificate, notice of his decision in the form set out in the fourth Schedule to these Regulations.

(2) Service of the notice referred to in this regulation shall be effected either by serving the holder of the certificate concerned personally or by delivering it to his last known address, or by sending it by post to his last known address.

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## PART VIII – MEDICAL EXAMINATION

**63.**

[Revoked by Act No. 113 of 2012, s. 29.]

**64.**

[Revoked by Act No. 113 of 2012, s. 29.]

**65.**

[Revoked by Act No. 113 of 2012, s. 29.]

**66.**

[Revoked by Act No. 113 of 2012, s. 29.]

**67.**

[Revoked by Act No. 113 of 2012, s. 29.]

**68.**

[Revoked by Act No. 113 of 2012, s. 29.]

**69.**

[Revoked by Act No. 113 of 2012, s. 29.]

**70.**

[Revoked by Act No. 113 of 2012, s. 29.]

**71.**

[Revoked by Act No. 113 of 2012, s. 29.]

**72.**

[Revoked by Act No. 113 of 2012, s. 29.]

**73.**

[Revoked by Act No. 113 of 2012, s. 29.]

**74. Penalties**

(1) Any employer who contravenes regulation 66 commits an offence and shall on conviction be liable to a fine not exceeding ten thousand shillings.

(2) In any proceedings for an offence under this Regulation, it shall be a defence for the employer to show that all reasonable steps had been taken by him to ensure compliance with this Regulation.

## PART IX – RADIO PERSONNEL

**75. Radio personnel**

(1) Every ship shall carry a person or persons qualified in distress and safety radio communications as specified in paragraph (3) of this regulation.

(2) A qualified person or persons for the purpose of paragraph (1) shall be holders of the certificates approved by the Cabinet Secretary and one such person shall be designated by the master to have primary responsibility for radio communications during distress incidents.

(3) Every person in charge of performing radio duties on a ship required to participate in the GMDSS shall hold appropriate certificates related to the GMDSS area, issued or recognized by the Cabinet Secretary, in addition, every candidate for the certification under this Part of the Regulations for service on a ship which is required by SOLAS 74 as amended, to have radio installation shall—

- (a) not be less than 18 years;
- (b) have completed approved education;

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- (c) meet the standards of competence specified in section A-IV/2 of the STCW Code.

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 FIRST SCHEDULE

[r. 8]

## CRITERIA FOR APPROPRIATE CERTIFICATES

COLUMN 1	COLUMN 2
<i>Master and Deck Department</i>	<i>Regulation annexed to the STCW Convention</i>
Officer-in-charge of a navigational watch on any ship on voyages not limited to near-coastal voyages	Regulation 11/1.2
Master or chief mate on a ship of 3000 GT or more	Regulation 11/2.2
Master or chief mate on a ship of less than 3000 GT	Regulation 11/2.4
Officer-in-charge of a navigational watch on a ship of less than 500 GT engaged on near-coastal voyages	Regulation 11/3.4
Master on a ship of less than 500 GT engaged on near-coastal voyages	Regulation 11/3.6
<i>Engine Department</i>	<i>Regulation Annexed to STCW Convention</i>
Officer-in-charge of an engineering watch, in a manned engine-room, or designated duty engineer officer in a periodically unmanned engine-room, on a ship powered by main propulsion machinery of 750 kW propulsion power or more	Regulation 111/1.2
Chief engineer officer and second engineer officer on a ship powered by main propulsion machinery of 3000 kW propulsion power or more	Regulation 111/2.2
Chief engineer officer and second engineer officer on a ship powered by main propulsion machinery of between 750 and 3000 kW propulsion power	Regulation 111/3.2

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 SECOND SCHEDULE

[r. 48 (3)]

## DANGEROUS OCCURRENCES

1. Subject to paragraph 2 hereof, the following are dangerous occurrences required to be reported under regulation 48 (3) provided that they might have been liable, taking into account the circumstances of the occurrence, to cause serious injury or to cause damage to the health of any person—

- (a) the fall of any person overboard;
- (b) any fire or explosion;
- (c) the collapse or bursting of any pressure vessel, pipeline or valve or the accidental ignition of anything in a pipeline;
- (d) the collapse or failure of any lifting equipment, access equipment, hatch-cover, staging or bosun's chair or any associated load-bearing parts;
- (e) the uncontrolled release or escapes of any harmful substance or agent;
- (f) any collapse of cargo, unintended movement of cargo sufficient to cause a list, or loss of cargo overboard;

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- (g) any snagging of fishing gear which results in the vessel heeling to a dangerous angle;
- (h) the parting of a tow-rope;
- (i) any contact by a person with loose asbestos fibre except when full protective clothing is worn.

2. Occurrences which are accidents within the meaning of regulation 2 are not dangerous occurrences for the purposes of these Regulations.

THIRD SCHEDULE

[r. 60 (1)]

NOTICE OF INTENTION TO SUSPEND OR CANCEL CERTIFICATE

1. This notice is given in respect of your certificate of competence No. ....
2. The Cabinet Secretary gives you notice, pursuant to section 271(1) of the Merchant Shipping Act (Cap. 389) that it appears to him that you are unfit to be the holder of such a certificate and that he is considering the suspension or cancellation of your certificate.
3. You appear to be unfit to be the holder of such a certificate of competence for the following reasons:  
.....  
.....  
.....
4. You may within 6 weeks of receipt of this notice inform the Cabinet Secretary of your intention to make written or oral representations by completing and returning the final section of this notice. If at the end of that period you have not informed the Cabinet Secretary of your intention, the certificate will be cancelled without representations from you.
5. All communications concerning this notice should be addressed to the Chief Examiner, Ministry of Information, Transport and Communications, P.O. Box 52692, Nairobi.

Date of Service  
Ministry of Information,  
Transport and Communications.

I acknowledge receipt of your notice dated ..... concerning the proposed suspension/cancellation of my certificate of competence No. .... and hereby inform you that:

- (1) \* I intend to make written representations which will be sent to you before .....
- (2) \* I intend to make oral representations and will be ready to do so not later than .....; or
- (3) \* I do not wish to make any representations.

Signed .....  
Dated .....

\*Delete

N.B. If you inform the Cabinet Secretary that you wish to make written or oral representations you must make such representations within ten weeks of receipt of this notice. If at the end of that period you have not informed the Cabinet Secretary, your certificate will be dealt with without further communication to you.

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[Subsidiary]

FOURTH SCHEDULE

[r. 62(1)]

NOTICE OF DECISION CONCERNING SUSPENSION OR CANCELLATION OF CERTIFICATE

- 1. Notice is hereby given pursuant to section 271 of the Merchant Shipping Act that in relation to your certificate of competence\* No. .... the Cabinet Secretary after considering your representations, has decided:
(a) to suspend/cancel\* your certificate.
(b) not to suspend/cancel your certificate.
2. Your certificate is suspended from ..... for a period of .....
3. \*The cancellation of your certificate takes effect from .....
4. You are required to deliver your certificate to the Chief Examiner, at the Ministry of Information, Transport and Communications, Transcom House, Ngong Road, P.O. Box 52692, Nairobi, not later than .....
5. If you require your case to be dealt with by an inquiry, you must notify the Ministry of Information, Transport and Communications at the address below before the date specified in paragraph 4 above, and unless you withdraw your requirement, the suspension/ cancellation\* of your certificate will not take effect except as ordered in pursuance of the inquiry.

\*Delete if not applicable

Warning: A person who fails to deliver up a certificate for cancellation pursuant to sections 268 and 269 of the Merchant Shipping Act, commits an offence and is liable on conviction to a fine not exceeding KSh. 5,000.

FIFTH SCHEDULE

[r. 8(1)]

CERTIFICATE OF COMPETENCE

No. 000000

No. 000000

CERTIFICATE OF COMPETENCE

Designation of Certificate

Full Name of Holder:

This is to certify that the holder of this certificate is qualified as

Place of Birth:

and is entitled under the Merchant Shipping (Training, Certificate, Watchkeeping and Safe-Manning) Regulations, 2000 to serve in a merchant ship in any capacity of that class

Date of Birth

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\_\_\_\_\_ This Certificate of  
 Height \_\_\_\_\_ Competence is subject  
 to any endorsements  
 as to its period of  
 validity, limitation,  
 extension or additional  
 qualifications, where  
 such is a requirement  
 in accordance with the  
 above  
 Regulations.  
 Signature of Holder \_\_\_\_\_ Issued in recognition of  
 meeting the requirements  
 for issue of a certificate on  
 Date of Issue \_\_\_\_\_ Registrar of Ships \_\_\_\_\_  
 The Merchant Shipping  
 Act (Cap. 389) provides  
 penalties for the fraudulent  
 use or forgery of a  
 Certificate of Competence.

r. 8 (2)

No. 00000

No. 000000

CERTIFICATE OF ENDORSEMENT

Issued under the provisions of  
 the International Convention on  
 Standards of Training, Certification and  
 Watchkeeping for Seafarers, 1978, as  
 amended in 1995

The lawful holder of this certificate may  
 serve in the capacity or capacities as  
 \_\_\_\_\_

The Government of the Republic  
 of Kenya certifies that the present  
 certificate issued to:

with the following limitations only:  
 \_\_\_\_\_

Full Name of Holder: \_\_\_\_\_

Who has been found duly qualified  
 in accordance with the provisions of  
 regulations(s)  
 \_\_\_\_\_

\_\_\_\_\_ of the above Convention, as amended.

\_\_\_\_\_ Date of issue of this endorsement

\_\_\_\_\_  
 Registrar of ships

This certificate in its original form must be kept available on board the ship when  
 the holder is serving on such a ship in accordance with regulation 1-2 paragraph  
 9 of the Convention.



Merchant Shipping

[Subsidiary]

r. 8 (2)

No. 00000

Additional qualification(s)

Period of Validity

No. 00000

This Certificate is valid until:

[Empty box for Additional qualification(s)]

Date	Registrar of ships	stamp

Limitations and Extensions

SIXTH SCHEDULE

[r. 6(3)]

CERTIFICATE OF EQUIVALENT COMPETENCY

FORM 1

REPUBLIC OF KENYA

CERTIFICATE OF EQUIVALENT COMPETENCY

The Government of ..... certifies that ..... has been found duly qualified in accordance with the provisions of regulation ..... of the above Convention as amended, and has been found competent to perform the following functions, at the levels specified, subject to any limitations indicated until ..... or until the date of expiry of any extension of the validity of this certificate as may be shown overleaf.

<i>Function</i>	<i>Level</i>	<i>Limitation Applying (if any)</i>
-----------------	--------------	-------------------------------------

The lawful holder of this certificate may serve in the following capacity or capacities specified in the applicable safe manning requirements by the Cabinet Secretary.

<i>Capacity</i>	2.6 (3)
	<i>Limitations Applying (if any)</i>

Certificate No. .... issued on .....  
(Official seal)

\_\_\_\_\_  
*Signature of duly authorized official*

\_\_\_\_\_  
*Name of duly authorized official*

The original of this certificate must be carried on board the ship.

Date of birth of the holder of the certificate .....

Merchant Shipping

[Subsidiary]

Signature of the holder of the certificate .....

Photograph of the holder of the certificate:

The validity of this certificate is hereby extended until .....

(Official Seal) .....  
Signature of duly authorized official

Date revalidation .....  
Name of duly authorized official

The validity of this certificate is hereby extended until .....  
(Official Seal) .....

Signature of duly authorized official  
Date of revalidation .....  
Name of duly authorized official

\_\_\_\_\_

**THE MERCHANT SHIPPING (APPLICATION  
OF SAFETY CONVENTION, 1974) ORDER**

[Legal Notice 60 of 2004]

1. This Order may be cited as the Merchant Shipping (Application of Safety Convention, 1974) Order.

2. The Safety Convention, 1974, including the protocols and amendments thereto, being a convention to which Kenya is a party, is declared to be a convention applicable to Kenya under the Merchant Shipping Act.

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**THE MERCHANT SHIPPING (MARITIME SERVICE PROVIDERS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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3. Interpretation

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4. Role of the Authority
5. Qualifications for licensing
6. Application for licence
7. Membership to registered associations
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10. Appeals
11. Professional staff

PART III – DISCIPLINE

12. Professional misconduct
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15. Obligations of maritime service providers
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PART IV – MISCELLANEOUS PROVISIONS

17. Tariffs
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21. Authority may impose penalty upon admission of guilt
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SCHEDULES

- MARITIME SERVICE PROVIDERS AND THEIR SCOPE OF SERVICE
  - APPLICATION FOR A LICENCE AS A MARITIME SERVICE PROVIDER
  - LICENCE TO PRACTISE AS A MARITIME SERVICE PROVIDER
  - MINIMUM TERMS FOR SERVICE LEVEL AGREEMENTS
-



**THE MERCHANT SHIPPING (MARITIME SERVICE PROVIDERS) REGULATIONS**

[Legal Notice 112 of 2011]

## PART I – PRELIMINARY

**1. Citation**

These Regulations may be cited as the Merchant Shipping (Maritime Service Providers) Regulations.

**2. Application**

(1) These Regulations shall apply to—

- (a) the maritime service providers specified in the First Schedule whilst performing any of the services set out in that Schedule; and
- (b) such other maritime service providers as the Cabinet Secretary may *gazette* under section 2 of the Act.

(2) A licence granted to a clearing and forwarding agent under section 145 of the East African Customs Community Management Act, 2004, shall, in so far as it provides services in respect of maritime cargo, be deemed to be a licence under these Regulations and the provisions of regulations 5, 6, 8, 9 and 10 shall not apply to clearing and forwarding agents.

**3. Interpretation**

In these Regulations, except where the context otherwise requires—

"bill of lading" means a document signed by an ocean carrier or his representative and issued to a shipper that evidences the receipt of goods for shipment, contract of carriage and ownership or title of goods;

"cargo consolidator" means a person who accepts less than container load shipments from individual shippers, and then combines them for delivery to the carrier as a full container load container for shipment;

"cargo manifest" means a document that lists in detail all the bills of lading issued by a carrier or its agent or master for a specific voyage or a detailed summary of total cargo loaded on board a vessel;

"charterer" means a person, firm or company hiring a vessel for the carriage of goods or other purposes;

"clearing and forwarding agent" means any person licensed to act as an agent under section 145(1) of the East African Community Customs Management Act, 2004;

"Commissioner" has the same meaning as in the East African Community Customs Management Act, 2004;

"consignee" means an agent, company or person receiving an import consignment;

"consignor" means an agent, company or person sending or exporting a consignment;

"container" means a metallic container for stuffing cargo in transit and which conforms to standards set by the International Standards Organization;

"container freight station" means a common user facility with cargo handling facilities licensed to offer services for handling and temporary storage of import laden containers, and motor vehicles under customs control;

"container handling facility" means a container freight station or an empty container handling and storage depot;

"freight manifest" means a manifest which shows particulars of freight and charges;

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[Subsidiary]

"goods" includes all kinds of articles, wares, merchandise, livestock and currency;

"licence" means a licence issued under these Regulations;

"pad" means the addition by a ship's agent of extra charges to an invoice to make it higher than the appropriate charge;

"port service provider" means a person, in Kenya, engaged in the business of providing services of port facility, quay side, warehouse or other terminal facilities in connection with a common carrier or a water carrier;

"principal" means a person on whose behalf, another person acts as an agent in the business of maritime service provision;

"register" means the register maintained by the Authority under regulation 4(e);

"restrictive trade practices" means the restrictive trade practices described under the Competition Act (Cap. 504) or any other law for the time being in force in Kenya;

"service level agreement" means an agreement made in writing between a maritime service provider and a party which formally defines the level of service, performance and commitment by the parties to the terms thereof;

"shipper" means a consignor, exporter, or seller using shipping services to transport and deliver goods, or a non vessel owning common carrier that accepts responsibility for payment of all applicable charges under the service level agreement;

"shipping line" means any person who provides spa transport using his own or chartered vessels or hires slots or space from other vessels in operation or managing the business of shipping;

"ship's agent" means a person licensed by the Authority and appointed by a ship operator, including a ship owner or charterer, to act as its agent in Kenya in providing any of the services specified under regulation 2;

"tariff" means the actual rates, charges and surcharges applied by a maritime service provider in providing the transportation service.

## PART II – LICENSING

**4. Role of the Authority**

The functions of the Authority shall be to—

- (a) license maritime service providers;
- (b) promote fair competition among maritime service providers;
- (c) promote and enforce high standards of professional and ethical conduct;
- (d) formulate and promote the attainment of the highest standards of competence, and qualifications among respective maritime service providers;
- (e) maintain a register for persons licensed to practice as maritime service providers, the various categories of maritime service providers and to publish from time to time information relating to such register;
- (f) provide for a framework for consultations on the cost and quality of maritime transport services;
- (g) monitor the standards of infrastructure, equipment, facilities and services as the Authority may specify by notice in the *Gazette*; and
- (h) perform such other functions as specified under section 8(2)(h) of the Act.

**5. Qualifications for licensing**

(1) A person shall be eligible to be licensed as a maritime Qualifications for incorporated under the Companies Act (Cap. 486) in which not less than fifty-one percent of the share capital is held directly by a citizen of Kenya.



(2) Notwithstanding paragraph (1) any company which holds a licence to operate as a maritime service provider shall within eighteen months from the date of commencement of these Regulations, comply with the provisions of that paragraph.

(3) The maritime service provider referred to in paragraph (2) may, at any time within eighteen months from the date of commencement of these Regulations, apply for, and upon satisfying the requirements of regulation 11, be entitled to the grant of a licence under these Regulations.

(4) A ship's agent or cargo consolidator shall be eligible to be licensed under these Regulations if such agent or consolidator, is of good standing and its reputation as evidenced by a letter of recommendation from the principal.

(5) A container handling facility shall be eligible for licensing if it is located in an area where it does not inhibit accessibility to other users.

(6) A person shall in addition to the foregoing paragraphs, be eligible for licensing if the person—

- (a) has complied with the requirements of regulations 7 and 11; and
- (b) is financially sound evidenced by—
  - (i) financial resources adequate to its business evidenced by references from banks, financial institutes, auditors and reputable credit reference companies, to the satisfaction of the Authority; and
  - (ii) a minimum paid-up share capital as may be specified under paragraph (7).

(7) The Authority shall specify by notice in the *Gazette*, the minimum paid-up share capital to be maintained by a maritime service provider that is a body corporate.

(8) A maritime service provider shall, whenever requested to do so by the Authority, demonstrate that it has complied with paragraph (1).

(9) A person shall be not eligible for a licence or any renewal thereof if such person-

- (a) has been convicted of corruption, an economic crime or other criminal offence that amounts to a felony under the law of Kenya; or
- (b) has not complied with any of the provisions of this Act or any other law.

(10) Paragraph (1), (5), (6), (7) and (8) shall not apply to shipping lines.

## 6. Application for licence

(1) An application for a licence as a maritime service provider shall be made to the Authority in the form set out in the Second Schedule.

(2) The Authority may approve or reject an application and shall notify the applicant of its decision together with reasons within sixty days from the date of receipt of the application.

(3) Where the Authority approves an application for a licence or the renewal of a licence, the Authority shall, upon payment of such standard fee as it may determine, issue to the applicant the appropriate licence or renewal of the licence.

(4) A licence issued under these Regulations shall -

- (a) be in the form set out in the Third Schedule;
- (b) be valid for one year and shall, in any case, expire on the 31st of December, of each year;
- (c) be limited exclusively to use by the named licensee and shall not be transferred to any other person without prior approval of the Authority; and
- (d) be issued upon such other conditions as may be specified by the Authority in the licence.

(5) Any person who carries on the business of a maritime service provider without a valid licence commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding three years, or both such fine and imprisonment.

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[Subsidiary]

## **7. Membership to registered associations**

(1) A maritime service provider, other than a shipping line, who is licensed under Regulation 6 shall within sixty days of the issuance of the licence apply to join an association.

(2) For purposes of paragraph (1), an association shall be approved by the Authority if such association has filed with the Authority certified copies of its—

- (a) constitution;
- (b) certificate of registration;
- (c) register of members;
- (d) disciplinary procedures; and
- (e) details of registered office.

(3) An Association shall have the primary responsibility of providing and monitoring a code of conduct and standards of competence for the particular, category of maritime service providers through service level agreements and the Authority may revoke its recognition if in its opinion the Association is not carrying out its primary responsibility.

(4) This regulation shall come into operation after the expiration of twelve months after the commencement of these Regulations.

## **8. Renewal of licence**

(1) Any person who holds a licence may apply for its renewal subject to the requirements set out under this regulation.

(2) The application under paragraph (1) shall—

- (a) be made not later than sixty days before the date of expiry of the licence;
- (b) be accompanied by a non-refundable application fee as may, by notice in the *Gazette*, be specified by the Authority; and
- (c) be in the form set out in the Second Schedule.

(3) The Authority may approve or reject the application for the renewal of a license and shall notify the licensee of its decision before the expiry of sixty days from the date of lodging the application.

## **9. Fine, suspension or revocation of licence**

(1) A maritime service provider who—

- (a) fails to comply with the terms and conditions of the grant of the licence;
- (b) ceases to hold any of the qualifications specified in these Regulations;
- (c) fails to renew the licence within the period specified under regulation 8; or
- (d) fails to meet any of the standards specified in these Regulations;

commits an offence and shall be liable on conviction to a fine of not more than three million shillings.

(2) If despite the fine imposed under paragraph (1), a maritime service provider continues committing the offences mentioned in paragraph (1), the Authority may, subject to these Regulations, suspend or revoke the licence.

(3) Where the Authority suspends or revokes a licence issued under these Regulations, the Director-General shall notify the licensee of the decision of the Authority within fourteen days of the date of the decision.

## **10. Appeals**

(1) Any person whose application for a licence or renewal has been denied or whose licence has been suspended or revoked may, within twenty one days of receipt of the notice of such refusal, suspension or revocation, appeal to the Cabinet Secretary.

(2) Any person aggrieved by the Cabinet Secretary's decision may within fourteen days of such decision, make a further appeal to the High Court.

**11. Professional staff**

(1) A maritime service provider other than a shipping line shall have among its staff professionals qualified in accordance with paragraph (2).

(2) A person shall be deemed to be professionally qualified, if such person—

- (a) demonstrates competence in executing the tasks related to their area of maritime service; and
- (b) has passed such professional examinations relevant to the maritime service as offered by a professional institution of national or international repute as the Authority may from time to time publish in the *Gazette*.

(3) A maritime service provider shall, within five years from the date of its first licensing under these Regulations, ensure that at least sixty percent of its management staff have successfully sat and passed the professional examinations referred to in paragraph (2).

## PART III – DISCIPLINE

**12. Professional misconduct**

(1) It shall be professional misconduct for any maritime service provider

- (a) to fail to abide by a code of conduct set out by the recognized association;
- (b) to fail to apply a standard of competence set by the maritime providers association and approved by the Authority;
- (c) to fail to observe all laws and other regulations relevant to his duties;
- (d) to fail to exercise due diligence to guard against fraudulent and corrupt practices;
- (e) to engage in restrictive trade practices;
- (f) to fail to discharge his duties to his clients or customers with honesty, integrity and impartiality;
- (g) to fail to exercise due care when handling cargo on behalf of the customers or shippers;
- (h) to fail to exercise due care when handling monies on behalf of his principal;
- (i) attempt to influence the conduct of any official of the port, customs or any other person in any matter pending before such official or person or his subordinates by the use of threat, false accusation, duress or the offer of any inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;
- (j) to attempt to bribe or provide other illegal benefits to influence the behaviour of port, container freight station, customs personnel or functions of customs officers;
- (k) to fail to observe any other professional conduct as may be prescribed by the Authority.

(2) The Authority may, where it deems appropriate, suspend the licence of any person charged with a criminal offence pending the outcome of the proceedings.

**13. Changes in companies**

(1) Whenever a company holding a licence undergoes any change in its directors, company name, location or its shareholding, such a change shall be communicated by the company to the Authority within fourteen days of such change;

Provided that any change in shareholding shall be subject to regulation 5(1).

(2) The provisions of this regulation shall not apply to a shipping line.

(3) A person who contravenes the provisions of this regulation commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

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[Subsidiary]

#### **14. Service level agreement**

(1) A service level agreement for a maritime service provider under these Regulations shall contain the minimum standard terms specified in the Fourth Schedule.

(2) A service level agreement may, where necessary, in addition to the matters specified in paragraph (1), contain an undertaking as to the minimum facilities and equipment necessary for the delivery of maritime services in line with the service provider's operations.

#### **15. Obligations of maritime service providers**

(1) A maritime service provider shall—

- (a) provide its services in accordance with the relevant written laws and international standards pertaining to the maritime service;
- (b) observe business ethics and professional integrity;
- (c) inform the Authority in writing of any changes in the information provided in the application form, annexes thereto or authorization certificates within thirty days of the date of such change; and
- (d) have in place adequate liability insurance to cover all its professional liabilities.

(2) A person who contravenes the provisions of this regulation commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

#### **16. Disciplinary proceedings**

(1) Whenever the Authority—

- (a) is of the opinion that a marine service provider has committed a professional misconduct; or
- (b) receives a complaint or allegation that a marine service provider has committed an act of misconduct, the Authority shall commence an inquiry by issuing a notice in writing to that maritime service provider.

(2) The notice issued by the Authority under paragraph (1) shall—

- (a) state the Authority's opinion, or the complaint or allegation of misconduct received, as the case maybe; and
- (b) require the maritime service provider to submit, within; such time not being longer than thirty days, as may be specified in the notice, a response in writing.

(3) Upon receipt of the written response, or where no such a response has been received, within the time limit set out under paragraph (2)(b), the Authority shall inquire into the grounds set out in its notice under paragraph (1) or such of the grounds not admitted, as the case may be.

(4) The Authority may, in the course of the inquiry, consider such documentary evidence and take such oral evidence as maybe relevant or material to the inquiry, and may put any questions to any person tendering evidence for or against the maritime service provider.

(5) The maritime service provider shall be entitled to cross examine any person on the grounds forming the basis of the proceedings but where the Authority declines to examine any person Oil the ground that his or her evidence is irrelevant or immaterial, it shall record its reasons in writing.

(6) At the conclusion of the inquiry, the Authority shall prepare a report of its findings with appropriate orders.

(7) The Authority shall subject to paragraph (9) furnish the maritime service provider with a copy of its report ands the maritime service provider shall within a period of not more than thirty days from the date of receipt of the report, submit, in wriiing, any representations which it may have against the findings.

(8) The Authority, in making the report under, paragraph (6), may—

- (a) caution the maritime service provider; or

- (b) suspend the licence of the maritime service provider; or
- (c) revoke the licence of the maritime service provider; or
- (d) if there is a finding of an offence as provided in regulation 9(2), apply the sanctions provided thereunder.

(9) Where the maritime service provider is a clearing and forwarding agent, the Authority shall make such recommendations as may be appropriate to the Commissioner.

(10) The Authority may make any such order as to payment by any party of any costs or witness expenses and of the expenses of the Authority or the members thereof in connection with the hearing of any complaint as it may think fit.

(11) Any maritime service provider aggrieved by any decision or order of the Authority, may appeal to the Cabinet Secretary, with a further appeal to the High Court.

#### PART IV – MISCELLANEOUS PROVISIONS

### **17. Tariffs**

(1) The Authority may require a maritime service provider to Tariffs file with the Authority its tariffs showing the actual rates, charges and surcharges applied in providing all services rendered and the maritime service provider shall comply with such requirement within seven days of such requirement being made.

(2) A maritime service provider shall not amend the tariff as provided under paragraph (1) without notifying the Authority.

(3) No maritime service provider shall pad customs or other statutory fees charged to customers.

(4) Charges for services delivered locally shall be raised and paid for in Kenyan currency.

(5) Any person who contravenes the provisions of this regulation commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

### **18. Submission of information**

(1) The Authority may require or order any maritime service provider to file with it any report, cargo manifest, freight manifest, answers to questions, documentary material or other information that the Authority finds appropriate; and may require the response to such order to be made in such form and within such time as may be specified by the Authority.

(2) A maritime service provider shall submit copies of annual returns to the Authority within one month after the deadline for the filing of the annual reports.

(3) A maritime service provider who fails to file a report or document when required to do so by the Authority under paragraph (1) or who contravenes paragraph (2) commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

### **19. Inspection of premises**

(1) The Authority may inspect the premises of a maritime service provider for the purposes of promoting commitment to the advancement of excellence, professionalism as well as ethical standards of trade in all aspects of the business of the maritime service provider.

(2) Such visits shall focus on standards of customer care, complaints handling, supervision and management of the maritime service provider's facility.

(3) The maritime service provider shall allow free entry and exit to the premises of the maritime service provider and access to all records pertinent to the handling of cargo, ledgers, details of complaints received, copies of the maritime service provider's complaints procedure, terms of business, details of any risk management measures, contract documents and any other details which may be relevant for the visit.

(4) At the end of every visit, the Authority shall meet with the maritime service provider and summarize its findings.

[Subsidiary]

(5) The Authority shall keep records of each visit undertaken under this regulation, which shall include the particulars, description and recommendations made after each visit.

(6) Where any recommendations are made under this regulation, the Authority may within such time and in such manner as it shall specify, require the maritime service provider concerned to implement or cause to be implemented the recommendations contained in the record of visit.

(7) The Authority may suspend a maritime service provider's licence for any failure to implement a requirement as contained in paragraph (6) above.

(8) Any person who—

- (a) obstructs or hinders the Authority in the exercise of its powers or performance of its duties under this regulation; or
- (b) furnishes information or makes a statement to the Authority which he or she knows to be false or misleading; or
- (c) without good and reasonable excuse fails to implement the recommendations made pursuant to this regulation,

commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or both.

## **20. Marine cargo movement mechanism**

(1) The movement of cargo into any container freight station shall, subject to paragraph (2), be in accordance with the instructions of the shipper as contained in the bill of lading.

(2) The relevant port authority shall nominate the container freight station for movement of cargo where the bill of lading does not contain the instructions of the shipper.

(3) The nomination under paragraph (2) shall have due regard to an equitable, transparent and fair distribution of cargo, and the port authority shall, before making the nomination, take steps to ensure that the receiving container freight station has the capacity to receive the cargo having regard to space, personnel and equipment.

(4) Any person who contravenes this regulation commits an offence and is liable, on conviction, to a fine not exceeding five million shillings and shall in addition be liable to the affected cargo owners for all losses, fines, penalties, demurrage, storage charges or any other charges arising from such failure to comply.

## **21. Authority may impose penalty upon admission of guilt**

If a maritime service provider—

- (a) admits to the Authority that he has contravened any provisions of these Regulations or the Act, or that he has failed to comply with any provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

the Authority may, after such enquiry as it deems necessary, determine the matter upon such enquiry and may, without legal proceedings, order by way of a penalty the whole or any part of the said deposit to be forfeited.

## **22. Transitional provisions**

(1) Any action or thing done in respect of licensing of a maritime service provider immediately before the coming into force of these Regulations, shall be deemed to have been done under the corresponding provisions of these Regulations.

(2) Every person who immediately before the commencement of these Regulations, was a holder of a licence authorizing him to carry on the business of a maritime service provider shall, upon payment of the prescribed licence fees, continue carrying on such business for a period of six months from the date of commencement of these Regulations.

(3) The maritime service provider referred to in paragraph (2) may, any time within six months from the date of commencement of these Regulations, apply for, and upon satisfying the requirements of regulation 5 be entitled to the grant of a licence under these Regulations.

(4) Any person carrying on the business of a maritime service provider pursuant to paragraph (1) who elects not to apply for a licence or having applied for a licence has not satisfied the requirements of regulation 5 shall cease to carry on the business of a maritime service provider on the expiration of the period referred to in paragraph (2).

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## FIRST SCHEDULE

[r. 2 (1)(a)]

### MARITIME SERVICE PROVIDERS AND THEIR SCOPE OF SERVICE

#### 1. Ships agent services shall include—

- (a) all procedures relating to a vessel's entry and departure, pilotage and berthing;
- (b) the provision of port services through port operators, customs and other government agencies, firms or private individuals;
- (c) the procurement and processing of documents and activities required for the dispatch of cargo;
- (d) marine surveys, provision of ship stores, supplies, fresh water, cleaning of cargo holds, fumigation, supply of bunkers, ship repairs and other related services;
- (e) import and export shipments;
- (f) signing bills of lading, contracts of affreightment and issuing documents relevant to handling of cargo;
- (g) booking international sea passages and formalities for passenger's or tourist's embarkation or disembarkation;
- (h) attendance to marine casualties and arranging for salvage;
- (i) purchasing or forwarding ship's spare parts and stores;
- (j) collecting freight or charter hire where appropriate and all related financial matters;
- (k) customs and cargo documentation and forwarding of cargo;
- (l) procuring, processing the documentation and performing all activities required related to dispatch of cargo;
- (m) supply of services tot a ship while in port; and
- (n) such other services as the Authority may from time to time specify.

#### 2. Cargo consolidation services shall include—

- (a) the purchasing of transportation services from a carrier and offering such services for resale to other persons;
- (b) the paying of port-to-port or multimodal transportation charges;
- (e) entering into affreightment agreements with underlying shippers;
- (d) the issuing bills of lading or equivalent documents;
- (e) arranging for inland transportation and paying for inland freight charges on through transportation movements;
- (f) the paying of lawful compensation to ocean freight forwarders;
- (g) the leasing of containers; or
- (h) entering into arrangements with origin or destination agents.

#### 3. Container freight station services shall include—

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- (a) the storage of containerized and non-containerized cargo, empty containers, imported motor vehicles;
- (b) the stuffing and stripping of containers;
- (c) the loading and unloading of containers onto and off trailers;
- (d) the receiving and delivering of containers; and
- (e) any other operations relevant to the activities of a container freight station, as may be approved by the Authority.

**4. Shipping line services shall include—**

- (a) the offering of scheduled liner services for cargo carriage;
- (b) availing of containers for export of cargo;
- (c) the delivery of shipments to designated consignees, in as good condition as when received;
- (d) ensuring of the issuance of bills of lading to all cargo shipped onboard his vessel;
- (e) offering of seaworthy and well manned vessel at any given time of ship's voyage.

**5. Empty container depot services shall include the-**

- (a) receipt and temporary storage of empty containers;
- (b) issuance and delivery of empty containers;
- (c) inspection of returned containers' conditions;
- (d) estimation of container damage costs;
- (e) issuing of interchanges for containers received and issued; and
- (f) submission of daily reports of container movement to respective shipping lines agents.

**6. Port facility operator services shall include—**

- (a) vessel traffic service;
- (b) provision of pilotage;
- (c) provision of navigational aids along the coast of the Republic and within ports;
- (d) provision of tug boat services;
- (e) provision of berthing facilities;
- (f) stevedoring;
- (g) cargo handling;
- (h) terminal operations;
- (i) storage of cargo within a port;
- (j) tug services;
- (k) floating crane services;
- (l) berthing services;
- (m) fire fighting;
- (n) security;
- (o) radio and radar services;
- (p) waste disposal;
- (q) vessel repairs;
- (r) any other services provided within a port which are designated as such by the Authority by notice in the *Gazette*.

**7. Clearing and forwarding agent services shall include—**



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- (a) receiving advance notification of shipments, or other documents to banks, shippers or consignees as required;
- (b) preparing and processing of import and export declarations;
- (c) clearance and handling of shipments in accordance with the Kenya government import and export regulations;
- (d) arranging for warehousing of the goods;
- (e) arranging dispatch of goods as per the directions of the customer; and
- (f) handling freight and other monies advanced by customers for purposes of clearance of the shipments.

SECOND SCHEDULE

[r. 6(1)]

APPLICATION FOR A LICENCE AS A MARITIME SERVICE PROVIDER

1. Maritime service for which license is sought .....
2. Name of applicant .....
3. Postal address .....
4. Email address .....
5. Registration under Companies Act  
 Company Registration Number .....
- Date .....
6. Physical Address  
 Street ..... Plot No: ..... Building: .....
- Telephone No. ...., Telex No. ...., Fax No. ....
7. Particulars of foreign shareholding .....
8. Paid-up capital.....
9. What business other than that of a maritime service provider is carried on by the applicant?.....
10. Particulars of directors and shareholders  
 Full Names .....
- Designation/Position .....
- Nationality .....
- Postal address.....
- Academic qualifications .....
- Professional qualifications .....
- Years of experience.....
11. Particulars of previous registration  
 Registration No ..... Year .....
12. Has applicant or any of the applicant's partners, officers, directors, or shareholders ever  
 (a) been found in violation of any provisions of the Merchant Shipping Act?

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[Subsidiary]

Yes ..... No ..... or paid penalty in settlement for such violation?

Yes ..... No .....

- (b) filed or been involved in a bankruptcy proceeding, other than as a claimant, been declared bankrupt, been subjected to a tax lien, or had legal judgment rendered for a debt? Yes..... No.....
(c) been arrested, charged, convicted of, or forfeited collateral for any felony, misdemeanour or other violation? Yes..... No.....

If the answer is 'yes' give details including the number and type of offence(s) committed, place and date of offence(s), outcome(s) and (where appropriate) name of the convicting court(s) .....

13. Please provide full details of the regular shipping service's activities (including ports concerned, names of vessels assigned to the service, volume of traffic, shipping line's timetable, turnaround time of vessels etc).

Declaration and undertaking

- (a) I declare that to the best of my knowledge and belief the information I have provided in this application form and the attached is accurate and any accompanying documents are authentic
(b) I undertake that the registration issued will be carried on board the vessel and presented on request to the competent customs authorities.
(c) I undertake to notify the Authority of any changes in the shareholding and location of business premises.

Name in full: .....

Position/Designation: .....

Signature: ..... Date: .....

Stamp or Seal

The following must accompany the Application Form—

The application for registration should be accompanied by certified copies of the following documents for locally incorporated companies—

- (a) Certificate of Incorporation;
(b) Tax Compliance Certificate issued by the Kenya Revenue Authority Provided that this requirement shall not apply to a company incorporated within a period of less than twelve months preceding the date of lodging an application for a license under this Regulation.
(c) A company profile;
(d) Copies of the Memorandum and Articles of Association;
(e) Copies of Personal Identification Number certificate of the company and directors;
(f) Copies of Identity card or passport of all directors;
(g) Recent passport photographs of all the directors duly certified by a notary public;
(h) Agency agreement submitted in confidence between the agency and principal;
(i) Proof of office premises and communication facilities;
(j) Proposed tariff;
(k) Proof of a liability insurance cover.

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THIRD SCHEDULE

[r. 6(4)(a)]

LICENCE TO PRACTISE AS A MARITIME SERVICE PROVIDER  
KENYA MARITIME AUTHORITY  
ANNUAL LICENCE TO PRACTICE AS A MARITIME SERVICE PROVIDER

.....  
(Name and Address)

is hereby licensed to practice as (specify category of maritime servict provider) in accordance with the Merchant Shipping Act (Cap. 389)

Name of Premises .....

Plot No. .... Road ..... Town .....

Given at ..... on the ..... day of ..... of the year ..... 20 .....

.....  
(Director General, Kenya Maritime Authority)

This license expires on the 31st December, 20 .....

(See overleaf for conditions)

FOURTH SCHEDULE

[r. 14(1)]

MINIMUM TERMS FOR SERVICE LEVEL AGREEMENTS

1. Ships Agents—

- (a) submission of manifest or bay plan to Kenya Ports Authority and other statutory bodies with minimum delay and within the time stipulated in any relevant law for the time being in force;
- (b) registration of manifest with Kenya Revenue Authority within the time required by the relevant local law;
- (c) processing of container deposit refunds and other related charges;
- (d) key performance indicators;
- (e) issuance of cargo release documents for importers and/or shipping orders to exporters or;
- (f) such other standards as may be set by the Authority with the aim of securing the fastest release of cargo.

3. Shipping Lines—

- (a) period for transmission of manifests to local agents;
- (b) treatment of ship related delays such as waiting for export cargo at ship's request, changing crew, bunkering, documentation problems or others, if they impact on cargo operations;
- (c) key performance indicators;
- (d) any other activity as may be notified from time to time.

4. Container, Freight Stations—

- (a) period for transfer of container from the port to the container freight stations;
- (b) key performance indicators;
- (c) period for release of cargo from the container freight station to the consignee; and
- (d) any other activity as may be notified from time to time.

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**5. Empty Container Depots—**

- (a) period of receiving container to the depot from shippers;
- (b) period for release of empty container to shippers;
- (c) period of repatriation of empty containers to shipping lines;
- (d) key performance indicators;
- (e) any other activity as may be notified from time to time.

**6. Clearing and Forwarding Agents—**

- (a) preparation and lodging of entries for cargo clearance;
- (b) releasing of cargo from the shipping lines;
- (c) processing of port clearance documents;
- (d) key performance indicators;
- (e) other activities as may be prescribed.

**7. Port Service Operators—**

An undertaking on the following key performance indicators:

- (a) ship turn-round time;
- (b) ship waiting time;
- (c) berth occupancy rate;
- (d) import dwell time;
- (e) gang productivity;
- (f) ship productivity;
- (g) moves per crane-hour;
- (h) terminal throughput (tens and dwt);
- (i) other activities as may be prescribed.

**8. Cargo Consolidators**

- (a) Submission of house manifest to Kenya Revenue Authority and other statutory bodies;
- (b) Registration of house manifest with Kenya Revenue Authority;
- (c) submission of C11 to Kenya Revenue Authority and Kenya Ports Authority;
- (d) issuance of arrival notices and house bill of lading;
- (e) stuffing and de-stuffing of shipments;
- (f) booking of cargo;
- (g) key performance indicators;
- (h) other activities as may be prescribed.

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**THE MERCHANT SHIPPING (FEES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
2. Interpretation
3. Application
4. Payment of fees
5. Variable fees
6. Fees for waiting time
7. Fees for cancellation
8. Relocation Fees
9. Time of payment
10. Recovery of fees
11. Penalty for non-payment
12. Revocation of L.N. 150 of 1994.

SCHEDULES

SURVEY FEES

SURVEYORS' EXPENSES AND SPECIAL FEES

FEES FOR MISCELLANEOUS SERVICES

OVERSIGHT AND MONITORING FEES

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## THE MERCHANT SHIPPING (FEES) REGULATIONS

[Legal Notice 192 of 2011, Legal Notice 152 of 2015]

### 1. Citation

These Regulations may be cited as the Merchant Shipping (Fees) Regulations, 2011 and shall come into force on the date of publication.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Merchant Shipping Act (Cap. 389);

"dead weight" means the total mass of cargo, fuel, fresh water, etc. that a vessel can carry when she is floating in salt water with her summer load line at the water surface;

"deck officer" means an officer whose duties are connected with the deck department;

"DWT" means dead weight;

"dry dock" means excavated dock fitted with watertight entrance, from which water can be pumped to allow work to be done on the underwater portion of a docked vessel;

"GT" means gross tonnage;

"Inspector" means the person appointed as such under section 409 of the Act;

"ISM" code means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention;

"SOLAS" means the International Convention for the Safety of life at Sea, 1974, as amended from time to time;

"survey" means a visit on board a vessel to make a detailed examination, inspection or investigation to determine the validity of the relevant certificates and other documents, and the condition of the hull, equipment and machinery of the vessel and the members of the crew of the vessel;

"tonnage convention" means the International Convention on Tonnage Measurement of Ships, 1969;

"tons" means the gross tons, and the tonnage of a vessel with alternative gross tonnages shall be taken to be the larger of those tonnages;

"vessel" includes any vessel, boat, sailing vessel, or other vessel of any description used in navigation; and

"KOPP Certificate" means a Kenya oil pollution certificate issued pursuant to regulation 23;

### 3. Application

The fees specified in the Schedules shall be payable for the services provided or things done by the Authority as respectively specified upon request by any person under or for the purposes of the Act.

### 4. Payment of fees

(1) A person who requests to have a thing done or service rendered by the Authority under the Act, or, where there is no such request, the person for whose benefit the service is provided or thing done, shall pay the fees specified in these Regulations.

(2) Notwithstanding subregulation (1), in the case of a survey, a master, operator, owner, or agent of a ship shall be deemed to be the person for whose benefit the service is provided.

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[Subsidiary]

## **5. Variable fees**

(1) Where the fees for a particular service is not specified in these Regulations, the fee payable shall be determined on an hourly rate exclusive of the expenses incurred in the performance of the service.

(2) Where an amount payable to the Authority is based on the hourly rate, that rate shall be the sum of two hundred United States dollars, except outside office hours and on public holidays.

(3) A service taking less than an hour shall be charged for as one hour according to the scale.

(4) For services exceeding one hour, a half fee shall be charged for every half hour, or part thereof, according to the scale.

(5) Any person who wishes to have any service performed may prior to the commencement of the service, request the Authority to provide an estimate of the total fees payable, provided that such person pays for the expenses incurred in the provision of such estimates.

(6) Notwithstanding paragraph (5), if the Authority considers that the complexity of the service requested is such that it is not initially possible to make a reasonable estimate of the fees payable, the Authority may, with the agreement of the person requesting the service, undertake a provisional assessment of the service for the purposes of determining the total cost in question, which assessment shall be carried out at the hourly rate of fee.

## **6. Fees for waiting time**

Where an officer—

- (a) is available at the time and place appointed for the performance of a service, but is compelled to wait for a period in excess of half an hour after the appointed time before the service can be commenced; or
- (b) is providing a service and the service is interrupted on one or more occasions, for any reason attributable to the person requesting the service, the officer is compelled to wait for a total period in excess of half an hour before the service can be continued; or
- (c) has provided a service and is compelled, for any reason attributable to the person requesting the service, to wait for a period in excess of half an hour at the place where the service was provided;

the waiting time shall be paid for at the hourly rate for every ten minutes or part thereof.

## **7. Fees for cancellation**

Where a service is cancelled before completion, the person making the request for that service shall pay an amount of one hundred and twenty five United States dollars, in addition to the fee calculated in accordance with these Regulations.

## **8. Relocation Fees**

(1) If, in the performance of a service under these Regulations, an officer relocates to a place other than the normal station, an additional fee shall be payable for the expenses incurred by that officer for such relocation.

(2) Where a vessel in relation to which a service is to be provided is berthed, the travel time taken to and from the vessel shall be payable at an hourly rate.

## **9. Time of payment**

(1) Fees for services provided under these Regulations shall be paid within seven days after completion of the service.

(2) Where the fee payable is a fixed amount or is determined by a fixed rate of charge, the Authority may demand payment in advance of the performance of the service in question.



(3) Where a fee is payable at the hourly rate of charge, the Authority may demand a reasonable deposit thereof before commencement of the service, the balance to be paid in the manner provided under Regulation 3 on the completion of the service.

## 10. Recovery of fees

Where a fee due under these Regulations is not paid within seven days, the Authority may recover the same as a summary debt.

## 11. Penalty for non-payment

Without prejudice to any provision herein, where the amount owed to the Authority is not fully paid within one month from the day when it is due, the Authority shall impose a penalty of two percent per month for each month or part thereof that the amount remains unpaid.

## 12. Revocation of L.N. 150 of 1994.

The Merchant Shipping (Fees) Regulations, 1994, are revoked.

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### FIRST SCHEDULE

[r. 3]

#### SURVEY FEES

#### PART I - PASSENGER SHIPS

##### 1. Fees for vessels and Safety Certificate:

###### GROUP 1 SHIPS (0 -100 tons)

<i>From - To (tons)</i>		<i>Fee (USD.)</i>
0	100	\$150 plus \$0.5 per GT

###### GROUP 2 SHIPS (101 -500 tons)

<i>From-To (tons)</i>		<i>Fee (USD.)</i>
101	500	\$200 plus \$0.25 per GT

###### GROUP 3 SHIPS (501 — 50,000 tons)

<i>From- To (tons)</i>		<i>Fee (USD.)</i>
501	1,000	\$ 100 plus \$0.5 per GT
1,001	3,000	\$ 150 plus \$0.25 per GT
3,001	6,000	\$200 plus \$0.10 per GT
6,001	8,000	\$ 250 plus \$0.10 per GT
8,001	10,000	\$ 300 plus \$0.10 per GT
10,001	20,000	\$ 350 plus \$0.10 per GT
20,001	50,000	\$400 plus \$0.10 per GT

And in respect of a vessel whose tonnage exceeds 50,000 tons the fee shall be \$500 for the first 50,000 tons plus \$0.10 per GT ton or part thereof above 50,000 tons.

#### PART II - CARGO SHIP SAFETY CERTIFICATES

##### 1. For fees for Safety Construction Certificates

###### GROUP 1 SHIPS (0 -100 tons)

<i>From- To (tons)</i>		<i>Fee (USD.)</i>
0	100	\$125 plus\$ 0.25 per GT

###### GROUP 2 SHIPS (101 — 500 tons)

<i>From- To (tons)</i>		<i>Fee (USD.)</i>
101	500	\$175 plus\$ 0.5 per GT

###### GROUP 3 SHIPS (501 — 50,000 tons)

*Merchant Shipping*

[Subsidiary]

<i>From- To (tons)</i>		<i>Fee (USD.)</i>
501	1,000	\$ 75 plus \$0.5 per GT
1,001	3,000	\$ 125 plus \$0.25 per GT
3,001	6,000	\$ 175 plus \$0.10 per GT
6,001	8,000	\$ 225 plus \$0.1 0 per GT
8,001	10,000	\$ 275 plus \$0.10 per GT
10,001	20,000	\$ 325 plus \$0.10 per GT
20,001	50,000	\$ 375 plus \$0.10 per GT

In respect of a vessel whose tonnage exceeds 50,000 tons the fee shall be \$475 for the first 50,000 tons plus \$ 0.10 per GT ton or part thereof above 50,000 tons.

**PART III - SAFETY EQUIPMENT**

1. Fees for Safety Equipment Certificate:

(a) Safety equipment certificate: Per Tonnage

<i>From-To (tons)</i>		<i>Fee (USD)</i>
0	500	\$240
501	1,000	\$300
1,001	2000	\$360

In respect of a vessel whose tonnage exceeds 2000 tons the fee shall be \$ 10 for the first 2000 tons plus \$ 0.25 per GT ton or part thereof above 2000 tons.

(b) For a certified copy of certificate ..... USD 20

(c) For a partial inspection of the safety equipment of a cargo ship required to hold a safety equipment certificate - for each visit made to the ship on the application of the owner and for each visit made where the equipment is found to be defective ..... USD 200 per hour.

Maximum fee: appropriate to a full survey for safety equipment certificate prescribed under item 1(a) of these Regulations.

*Note.-1.* The fees prescribed by paragraph (a) includes the survey of life-saving appliances, fire appliances, pilot ladders and the lights and sound signal apparatus, and issue of the certificate.

2. Fees for Inspection of safety equipment, including, life-saving appliances, fire appliances and ladders on board ships not required to hold safety equipment certificates including ships not registered in Kenya and pleasure vessels)

(a) For a complete inspection on the application of the owner of the safety equipment and for the issue of a record of safety equipment for

GROUP I SHIPS (0-100 tons)

<i>From-To (tons)</i>		<i>For safety certificate USD</i>
0	10	40
11	20	80
21	30	120
31	40	160
41	50	200

<i>From- To (tons)</i>		<i>For safety certificate USD</i>
51	60	240
61	70	280
71	80	320
81	90	360
91	100	400

GROUP 2 SHIPS (101 — 500 tons)

<i>From-To (tons)</i>		<i>For safety certificate USD</i>
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*Merchant Shipping*

[Subsidiary]

101	200	440
201	300	480
301	400	520
401	500	560

## GROUP 3 SHIPS (501 — 50,000 tons)

<i>From- To (tons)</i>		<i>For safety certificate USD</i>
501	1,000	600
1,001	3,000	640
3,001	6,000	680
6,001	8,000	720
8,001	10,000	760
10,001	20,000	800
20,001	50,000	840

And in respect of a vessel whose tonnage exceeds 50,000 tons the fee shall be \$840 for the first 50,000 tons plus \$ 0.10 per GT ton or part thereof above 50,000 tons.

- (b) For a partial inspection on the application of the owner, or for the inspection of the ship where the equipment is found to be defective, or as a result of changes or modification in the equipment—
- (i) For each visit made to the ship ..... USD 100
- (ii) Maximum fees the total fees payable under paragraph (a) appropriate to the ships tonnage.
- (c) For an additional copy of the record of safety equipment ..... USD 20

## 3. Radio: fees for safety radio certificate and safety radio exemption certificate.

- (a) For a safety radio certificate, or qualified safety radio certificate, together with exemption certificate, but not including Radio Surveyor' fee:
- (i) For ships whose tonnage does not exceed 500 tons ..... USD 50
- (ii) For ships whose tonnage exceeds 500 tons USD 50 and an additional \$0.25 for every ton above 500.
- (b) For an exemption safety radio certificate only ..... USD 125
- (c) For a copy of a safety radio certificate ..... USD 25

## 4. Load line and seaworthiness

- (a) Fees for Load Line Certificates

- (i) For classed ships-

<i>From-To (tons)</i>		<i>Fees (USD.)</i>		
		<i>Issue of Certificate</i>	<i>Renewal of Certificate*</i>	<i>Annual Survey</i>
0	50	30	15	15
51	100	105	40	40
101	500	150	65	65
501	1,000	180	90	90
1,001	3,000	225	115	115
3,001	6,000	315	140	140
6,001	8,000	360	165	165
8,001	10,000	405	190	190
10,001	20,000	450	215	215
20,001	50,000	495	240	240
50,001 and above		600	265	265

\*If Survey is carried out concurrently with Classification Survey.

- (ii) For un-classed ships -

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<i>From (tons)- To (tons)</i>		<i>Fees (USD.)</i>		
		<i>Issue of Certificate</i>	<i>Renewal of Certificate*</i>	<i>Annual Survey</i>
0	50	60	60	15
51	100	120	120	40
101	500	210	210	65
501	1,000	375	375	90
1,001	3,000	520	520	115
3,001	6,000	690	690	140
6,001	8,000	800	800	165
8,001	10,000	910	910	190
10,001	20,000	1100	1100	215
20,001	50,000	1800	1800	240
50,001 and above		2000	2000	265

\*If Survey is carried out concurrently with Classification Survey.

(iii) Fees relating to other surveys

	<i>Service</i>	<i>Fee (USD)</i>
1.	Annual survey of a ship over 300 tons (classed or un-classed) which is carried through in one operation:- When only one visit is necessary	The standard fee in paragraph (a).
	(ii) When more than one visit is necessary	The standard fee in paragraph (a) plus USD 125
2.	Annual survey of a ship (classed or un-classed) which is not carried through in one operation	The standard fee in paragraph (a)(i) or (a)(ii) above plus the fee specified below
3.	Partial annual survey of a ship requiring one visit:-	
	i. For ships with a tonnage not exceeding 300 tons	USD 125
	ii. For ships with a tonnage exceeding 300 tons	USD 165
4.	Partial annual survey of a ship requiring more than one visit:-	
	i. For ships with a tonnage not exceeding 300 tons	USD 25
	ii. For ships with a tonnage exceeding 300 tons	USD 65

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- 5. Survey of a classed ship for renewal of the load line certificate, when the survey is not carried out at the same time as the classification survey half the appropriate fee in column 1 of paragraph (a)
- 6. Survey for the issue of renewal of the load line certificate if the survey is carried out at the same time as survey for passenger certificate
  - (i) Classed ship No fee
  - (ii) Un-classed ship half the fee in column 4 or 5 of paragraph (a)(ii)
- 7. Annual load line survey if the survey is carried out at the same time as survey for a passenger certificate (for a classed or un-classed ship) No fee
- 8. Survey not being a full survey for a change of freeboard consequent upon minor alterations, classed or un-classed ship the fee in column 2 of paragraph (a)
- 9. In special cases, for a partial survey and the issue or renewal of a certificate for twelve months or less one half of the appropriate fee in either column 1 or 4 of paragraphs (a)(i) and (a)(ii)
- 10. Certified copy of a certificate of approval of load line USD 25

**5. Fees for the survey of ships detained for unseaworthiness after a routine inspection or Port state control or complaint of the crew.**

<i>From (tons) - To (tons)</i>	<i>Fee(USD)</i>
0 - 500	\$500
501 - 1,000	\$1250
1,001 - 1,500	\$2000

- (a) And in respect of a vessel whose tonnage exceeds 1,500 tons the fee shall be \$2000 for the first 1,500 tons plus \$0.25per ton for each ton above 1,500 tons or part thereof.
- (b) For each visit to conduct a survey of a ship which is detained for being unmarked or improperly marked with load lines or for failure to deliver up an expired load line certificate ..... USD 200
- (c) Closing a deficiency after Port State Control inspection ..... USD 200 per hour

NOTE. —Item 2 of this Part applies when such a ship is detained or is found in a condition where she would normally be detained under section 302 of the Act.

**6. Fees for Survey of Wrecks**

- (a) For the survey before re-registry of a ship

<i>From (tons)- To (tons)</i>	<i>Fee(USD)</i>
0 - 500	\$350
501 - 1,000	\$700



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- of dangerous goods and explosives in ships
5. Inspection of compartments for suitability for the stowage of explosives \$260
6. Certificate stating that the compartment is satisfactory for the carriage of explosives \$260
7. Inspection before loading commences, of fittings for the carriage of grain cargo and for a certificate stating that the grain cargo has been loaded in accordance with the ship's plan for loading of grain cargoes \$260
8. Certified copy of inspection certificates \$25
9. IOPP (International Oil Pollution Prevention Certificate)/KOPP (Kenya Oil Pollution Prevention Certificate)

(1) The following fees shall be payable for the survey of a vessel for an IOPP certificate:

- (a) Initial or renewal survey where the period of validity of the certificate is five years —
- (i) Fishing vessel — USD 50;
- (ii) Vessel (other than an oil tanker) of over 500 tons-USD 300 plus \$0.25 per ton;
- (iii) Oil tanker of over 150 tons, up to 5 000 DWT- USD 300 plus \$ 0.5 per ton;
- (iv) Oil tanker of over 5 000 DWT - USD 400 plus \$0.5 per ton.
- (b) Annual survey- USD 150;
- (c) Intermediate or additional survey - USD 250

10. Verification of oil spill response capability and the suitability of an oil tanker to import or to export oil into/from Kenyan waters

(1) A fee of USD 250 shall be payable for the verification of evidence to show that the importer or exporter of oil subscribes to a national and international oil spill response organization and that the oil shall be carried in a sound oil tanker in all respects.

11. Fees for Survey of Ships in Dry Dock

For the survey of the hull in dry dock and for the issue of dry docking certificate-Ships holding passenger vessel certificate either issued by or recognized by the Cabinet Secretary for—

(a) GROUP 1 SHIPS <i>in Dry Dock</i>		
From – To (tons)		Fee (USD)
0	100	\$ 75 plus \$0.5 per GT
(b) GROUP 2 SHIPS <i>in Dry Dock</i>		
From – To (tons)		Fee (USD.)
101	500	\$125 plus \$0.25 per GT

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(c) GROUP 3 SHIPS *in Dry Dock*

From - To (tons)		Fee (USD.)
501	1,000	\$ 70 plus \$0.5 per GT
1,001	3,000	\$ 120 plus \$0.25 per GT
3,001	6,000	\$ 170 plus \$0.10 per GT
6,001	8,000	\$220 plus \$0.10 per GT
8,001	10,000	\$ 270 plus \$0.10 per GT
10,001	20,000	\$ 320 plus \$0.10 per GT
20,001	50,000	\$ 370 plus \$0.10 per GT

And in respect of a vessel whose tonnage exceeds 50,000 tons, the fee shall be \$370 for the first 50,000 tons plus \$0.10 for each 5,000 tons or part thereof above 50,000 tons.

(d) Other ships ..... One Quarter of the fees for 12 months' certificate prescribed in items 1(a) and 1(b) plus USD 20 for each.

(e) For a copy of the dry docking certificate ..... USD 25

**NOTES:**

1. These fees cover any number of visits that a surveyor may require to make before granting his declaration, and the survey of the hull,- boilers and propelling machinery, and the inspection of the equipment of the ship including the lights and sound signals.
2. In any case in which the duration has been limited by the surveyor's declaration, owing to special reasons rendering one or more surveys necessary during the ensuing twelve months, the total fees paid for certificates covering the period of twelve consecutive months shall not exceed that payable for a twelve months' certificate.
3. The fees for vessels cover, in whole or in part, the fee for the survey of a ship for load line if the two surveys are carried out concurrently; but the fees do not, however, cover the inspection of the crew accommodation or the measurement for tonnage.

**Part IV - CREW ACCOMMODATION**

(a) Fees for the inspection of crew accommodation-for each visit to the ship ..... USD 160

(b) Fees for the inspection of crew accommodation at the same time as a survey for tonnage measurement of seaworthiness prior to re-registry, or in consequence of an un-justified complaint from the crew ..... No fee.

**PART V - TONNAGE MEASUREMENT**

Fees for Measurement of Ships' Tonnage

(a) For measurement under Rule 1 of the First Schedule to the Act (which covers first measurement of a Kenya ship and re-measurement, including under deck tonnage) for-

<i>A ship which exceeds (tons)</i>	<i>A ship which does not exceed (tons)</i>	<i>Fee (USD)</i>
0	5	\$50
6	10	\$ 80
11	20	\$120
21	50	\$200
51	100	\$220

And in respect of a vessel whose tonnage exceeds 100 tons the fee shall be \$220 for the first 100 tons plus \$ 10 for each 50 tons or part thereof above 100 tons.

(b) For measurement under Rule II of the First Schedule to the Act half the fee in (a)

(c) For measurement not involving under deck tonnage for one of the following re-measurements:-alterations on the upper deck; alterations in the engine room; spaces



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referred to in section 60(3) of the Act (light and air spaces) or spaces referred to in section 61(1) of the Act.

<i>A ship which exceeds (tons)</i>	<i>A ship which does not exceed (tons)</i>	<i>Fee (USD)</i>
0	5	\$50
6	10	\$ 80
11	20	\$120
21	50	\$200
51	100	\$220

And in respect of a vessel whose tonnage exceeds 100 tons, the fee shall be USD 220 for the first 100 tons plus USD 10 for each 50 tons or part thereof above 100 tons.

**PART VI - REGISTRY AND MARKINGS  
REGISTRATION, TRANSFER AND MORTGAGES**

**1. FEES FOR REGISTRATION AND LICENSING OF VESSELS**

**A. Registration for vessels of 50 GRT or more tonnage**

- (a) Initial registration of vessel irrespective of size - US\$ 500;
- (b) Change of name of a vessel - US \$ 50;
- (c) Fee of ownership of a vessel - US \$ 150;
- (d) Bill of sale - US\$ 100;
- (e) Discharge of mortgage - US\$ 250;
- (f) Registration a new as a result of alteration to vessel - US\$ 500;
- (g) Registration of alteration to vessel except registry a new as a result of such alteration - US\$250;
- (h) Provisional registration - US\$ 200;
- (i) Replacement of registration certificate US\$ 150;
- (j) Registration of initial and only mortgage - US\$ 350;
- (k) Transfer of mortgage – US\$ 350
- (l) Registration of second and each additional mortgage –US\$ 250;
- (m) The registration of a notice of intended mortgage - US\$ 100;
- (n) Licensing of unregistered vessel of 50 GT or more - US\$.500 ;
- (o) Witnessing of declaration before registrar of vessels - US\$.10

**B. Unregistered vessels (vessels of less than 50 GT and vessels exempted from registration under section 14 (2) of the Act)**

- (1) (a) Sailing vessels and vessels propelled by oars or paddles—  
of up to 4 meters in length - US\$ 0.5  
for every meter or part thereof, over 4 meters - US\$ 0.1
- (b) Mechanically propelled vessels and vessels tilled with auxiliary engines
  - (i) Up to and including 4 meters in length US\$.10
  - (ii) For every meter or part thereof over 4 meters,US\$.1
- (2) (a) Fees for change of name of vessel –US\$. 20
- (b) fees for change of particulars of license – US\$.20;
- (c) fees for transfer of license – US\$.20;

(3) For initial registry, registry a new and transfer of registry for:

<i>From-To (tons)</i>		<i>Fee (USD)</i>
0	25	\$100
26	50	\$150
51	100	\$200

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101	500	\$300
501	1,000	\$500

• And in respect of a vessel whose tonnage exceeds 1000 tons, the fee shall be USD 500 for the first 500 tons plus USD 40 for each 500 tons or part thereof above 100 tons.

• Annual vessel fee, US\$ 20 for initial 1,000 tons and for every 100 tons or part thereof, over 1,000 tons, \$0.25

(4) For transfer of mortgage, transfer by bill of sale, mortgage and discharge of mortgage for-

<i>From- To (tons)</i>		<i>Fee (USD)</i>
0	25	\$20
25	50	\$80
50	100	\$120
100	500	\$160
500	1,000	\$200

And in respect of a vessel whose tonnage exceeds 500 tons, the fee shall be USD 200 for the first 1,000 tons plus USD 40 for each 500 tons or part thereof above 1,000 tons.

(5) Additional Registry fees:

	<i>Service</i>	<i>Fees (USD)</i>
1.	For issue of certificate of registry at first registry and on any subsequent occasion where a fresh certificate is issued	\$300
2.	For inspecting the register book (this should be interpreted as inspecting the register book as it relates to any one particular ship)	\$60
3.	For certified copy of the particulars entered on the registry of a ship together with a certified statement showing the ownership and any encumbrance at the time being	\$80
4.	Transcripts which are required to show the particulars of ownership at some particular date as distinct from date of issue and transcripts of a closed register (this fee is in addition to that charges in (3))	\$100
5.	For the inspection of the Markings of ship	\$50
6.	For authorizing the change of name of a ship	\$20
7.	For change to particulars ship's Register	\$ 15

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8.	Issue of endorsement certificate if sent by courier or abroad	\$20
9.	Issue of endorsement certificate if sent by other means than courier	\$15
10.	Addition or removal of or amendment to an endorsement	\$20
11.	Issue of an updated Continuous Synopsis Record (CSR) and new certificate of registry including change of particulars	\$100
12.	Supply of Prescribed Forms used in connection with Registry Bill of sale	\$10
13.	Supply of Prescribed Forms used in connection with Registry Declaration of ownership	\$ 15
14.	For a copy of license	\$25
15.	Issuance of provisional registration	\$200

## NOTE

This fee includes the inspection of markings, the change of name on the load line certificate, and in the case of ships holding passenger certificate, the issue of fresh declarations and passenger certificates showing the new name and any alterations in ownership and port of registry. The fee also covers the replacement or endorsement of safety certificates, safety equipment certificates, safety radio certificates or exemption certificates.

**PART VII - MANUAL AND PLANS (ASSESSMENT AND APPROVAL)**

The fees for the assessment and approval of manuals shall be charged in accordance with this part.

	<i>Service</i>	<i>Fees(USD)</i>
1.	Assessment and approval of any ship's security plan	USD 150
2.	Assessment and approval of any manual, operating plan or similar (other than ship's security plan)	USD 80
3.	Re-approval of any plan or manual above	USD60
4.	Crew accommodation- Plan approval (including where requested the issue of a crew accommodation document of compliance)	USD 120
5.	Continuous synopsis record	USD80

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6.	Condition Assessment Scheme Statement of compliance, CAS Final Report and Review Records	USD 150
7.	Procedures and Arrangements Manual	USD80
8.	Shipboard Marine Pollution Emergency plan for Noxious Liquid substances	USD80
9.	Safe manning certificates	USD500
	1. Passenger ship	USD500
	2. other ships	
10.	Document of Authorization for the Carriage of Grain	USD 130
11.	Document of Compliance with the Special Requirements for Ships Carrying Dangerous Goods	USD 130

**PART VIII - CERTIFICATES OF COMPETENCY**

	<i>Service</i>	<i>Fees (USD)</i>
1.	For a certificate exempting a ship from carrying the prescribed certificate of competency during the currency of the agreement	USD 200
2.	For a license for the holder of a foreign certificate of competency to serve in a Kenya ship	USD 130
3.	Rating Certificate of Competency ("Certificate of Competency") STCW Certificates ANNEX I	SEE ANNEX I
4.	Amendment to and re-issue of an endorsement recognizing a non Kenyan Certificate of Competency if due to application error	USD20
5.	Replacement of lost Certificate of Competency	USD 100
6.	Certification of officers on ships of 500GT or more (unlimited tonnage and area of operation) Master/Chief mate 3rd mate	USD 130 USD60
7.	Certification of officers on ships of 500GT and below	USD 100 USD50

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- (limited tonnage and area of operation)  
Master/Chief mate 3rd mate
8. Certification of officers on ships powered by means of propulsion of 3000kw or more Chief Eng./ 2nd Eng 3rd Eng USD 130 USD60
9. Certification of officers on ships powered by means of propulsion of 3000kw and below Master/Chief mate 3rd mate USD 100 USD50

**PART IX - ORAL EXAMINATIONS FEES***The fees payable are as follows:*

- |    | <i>Examination</i>   | <i>Fee (USD)</i> |
|----|--|------------------|
| 1  | Re-sit of exams  | USD60            |
| 2. | Application for a letter of eligibility  | USD30            |
| 3. | Cancellation of exams before eligibility is issued   | USD20            |
| 4. | Cancelation of exams after eligibility is issued   | USD20            |
| 5. | Examination for officers on ships of 500GT or more (unlimited tonnage and area of operation) Master/Chief mate 3rd mate  | USD50<br>USD30   |
| 6. | Examination for officers on ships of 500GT or below (unlimited tonnage and area of operation) Master/Chief mate 3rd mate | USD30<br>USD20   |
| 7. | Examination for officers on ships powered by means of propulsion of 3000kw or more' Chief Eng./ 2nd Eng 3rd Eng          | USD50<br>USD30   |
| 8. | Examination for officers on ships powered by means of propulsion of 3000kw and below Chief Eng./ 2nd Eng 3rd Eng         | USD30<br>USD20   |

NOTE:

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*Certification is in accordance with STCW 78 as amended.***PART X - ACCREDITATION OF MARITIME TRAINING INSTITUTIONS**

1. Fees for the accreditation of a maritime training institutions in the following levels
  - i. Certificate Craftmanship USD 800 per biennium
  - ii. Diploma USD 1000 per triennium
  - iii. Undergraduate USD 2000 per quinquennial
  - iv. Postgraduate USD 2000 per twinnium
2. Fees for the assessment exams USD 100
3. Fees for issuance of professional certificates USD 60
4. Fees for licensing Seafarers recruitment agencies or ship representative placing seafarers on a ship ..... USD1000p.a

Special Service: Special services will be charges at cost USD 1000

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**SECOND SCHEDULE**

[r. 3]

**SURVEYORS' EXPENSES AND SPECIAL FEES****PART I - SURVEYORS' EXPENSES**

Except where otherwise stated, and apart from the overtime fees referred to in Part III. no separate fees shall be charged for surveyor's expenses in respect of surveys undertaken within the sixteen kilometers of the port where the surveyor is stationed. In cases where a surveyor is called for a survey or inspection by the owner, and is prepared to carry it out, but is prevented from doing so by circumstances which are within the control of the owner, his servants or agents to prevent, the surveyor's expenses must be paid.

**PART II - SURVEYS AWAY FROM HOME STATION**

When a survey is made at a distance of more than 16 kilometers from the port as which the surveyor is stationed, a special fee must be paid in addition to the surveyor's traveling expenses and subsistence. The special fee is USD 15 for every 24 hours or part of 24 hours during which the surveyor is absent from the port at which he is stationed.

**PART III - OVERTIME CHARGES**

Whenever surveyors are called upon to perform services out of office hours, application should be made by the owners, or their agents, to the Senior Surveyor of the port. The application must include an undertaking to pay the overtime charges.

**(a) Overtime Fees**

Overtime is charged according to the following scale-

On weekdays-

From 6 am to 8 a.m. and 5 p.m to 6 p.m per hour USD 200 per hour

Before 6 a.m and after 6 p.m. per hour USD 200 per hour

On Sundays and public holidays per hour USD 200 per hour

A service taking less than an hour will be charged for as one hour according to the scale. For services exceeding one hour, a half fee will be charged for every half, or part thereof, according to the scale.

For inspections in connection with the illumination from the ship of the lifeboats in the process of an after dark launching, and for tests of lifeboat searchlights and lifebuoy lights, one-half of the above fees will be charged.

**(b) Office Hours**

Office hours are from 8 a.m to 5 p.m and if reasonable notice of the survey and inspections has been given, and official arrangements have not allowed the work to be done within office hours, no overtime fees is payable.

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THIRD SCHEDULE

[r. 3]

FEEES FOR MISCELLANEOUS SERVICES

**PART I - SHIPPING OFFICE SERVICES**

**(a)** For the engagement or discharge of seamen before a shipping master or his duly appointed deputy

**(i)** for each of the first hundred men engaged ..... USD 10

**(ii)** for each man engaged in excess of 100 ..... USD 5

**(iii)** for each man discharged in excess of 100 ..... USD 5

**(b)** Additional fees for the engagement and discharge of seamen on board ship; the fees specified in this paragraph shall be charged in addition to those specified in paragraph (a) The fees charged for and visit of shipping master or his duly appointed deputy to a ship for the purpose of the engagement or discharge of such seamen, subject to a minimum fee of USD 20, shall be-

**(i)** For each of the first 10 men engaged or discharged ..... USD 5

**(ii)** Where more than 10 men but not more than 30 are engaged or discharged ..... USD 2

**(iii)** For every 30 or fraction of 30 men engaged or discharged in excess of 50..... USD 2

Provided that if any seaman are engaged on board a ship immediately after they been discharge aboard that ship, the additional fee will be half that specified above.

**(c)** For attendance on board, by request, to render service independent of the number of seamen on board (e.g to attest the insertion of a new clause in the agreement) ..... USD 15

**(d)** Attesting alterations in an agreement with seaman: for each alteration in respect of each seaman concerned ..... USD 5

**(e)** Certifying the desertion of seamen (for each seaman) ..... USD 5

**(f)** Receiving a return of the birth or death of any person on board a ship and endorsing the ship's agreement accordingly .....USD 5

**(g)** Taking custody of a ship's papers, making any necessary endorsement thereon and giving the certificate required by the Act USD 5

**(h)** Endorsement on bill of owner for payment of wages ..... USD 5

**(i)** Rendering accounts of wages, etc., of seamen left behind or deserted ..... USD 5

**(j)** Attesting the execution of a seamen's will ..... USD 5

**(k)** Attesting any entry in the official log-book of a ship if entry is not required by law ..... USD 5

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- (l) Endorsing a memorandum of change of master upon the certificate of registry and witnessing his signature on the agreement with the crew..... USD 15
- (m) Every endorsement on ship's papers not otherwise provided for ..... USD 15
- (n) Granting a certificate not otherwise provided for: for every 1000 words or fraction thereof ..... USD 5
- (o) Inspection of provisions and water (to be paid by master if provisions or water are condemned otherwise by complainant USD 60
- (p) For seaman's Record Book and Identity Documents —
- (i) Initial issue ..... USD 20
  - (ii) Replacement, if book is lost other than by Shipwreck or fire onboard ..... USD 25
  - (iii) Additional fee for each entry ..... USD 2
- (q) Crew lists for vessels of under 125 tons where the number of the crew does not exceed 5 persons ..... USD 40
- for each person in excess of 5 ..... USD 5
- (r) For annexing the seal of office and signature to any document not mentioned in or otherwise provided for by this Schedule ..... USD 5
- (s) Consultancy fees per session ..... USD 15
- (t) Superintendence over grounded or stranded vessel ..... USD 200 per hour
- (u) Superintendence over wrecks USD 1000

**PART II – OVERTIME FEES**

- (a) Attendance outside during the usual office hours-

For attendance at the shipping office or on board ship (including time spent traveling to and from the ship) outside the usual office hours, the following special charges are made in addition to the ordinary fees.

Weekdays (per hour) ..... USD 10

Sundays or public holidays (per hour)..... USD 15

Service occupying less than an hour will be charged for one hour, according to the scale.

Where a service occupies more than one hour but not an exact number of hours the charge will be-

- (i) If the period in excess of an exact number of hours is 30 minutes or less, half the appropriate fee for one hour;
  - (ii) If the period in excess is more than 30 minutes, the appropriate fee for 1 hour.
  - (iii) If from unforeseen circumstances the duty cannot be stated at the hour stated on the form of application or cannot be completed without interruption, the time during which the officers remain idle will be charged for at half the usual overtime rate.
- (b) Waiting time during office hours-

When the engagement or discharge of a crew takes place on board ship during office hours and is not started at the time stated on the form of application or cannot be completed without interruption, a charge at the rate of USD 5 per half an hour will be made if the waiting time amounts to a half hour or more. No charge will be made if waiting time is less than a half an hour.

Where, however, it amounts to, or exceeds half an hour the charge will be calculated to the nearest half an hour; thus, a charge of USD 5 will be made for a wait of from 30 to 45



minutes, USD 10 for a wait of from 45 to 75 minutes and so on. If the waiting time extends beyond office hours, a charge for that part of the waiting time will be calculated separately at the rate shown in Part III (a).

Notes:

1. Application for any surveys, tests, etc., mentioned in the First Schedule must be made in writing to the Authority.
2. Except where surveys are undertaken by the surveyor to any approved classification society, the appropriate fees must be paid before any survey, inspection or service can be undertaken. In cases where the exact fees cannot be calculated in advance (e.g. the for tonnage measurement), a substantial deposit based on the estimated fees must be paid. Any outstanding balance of fees or expenses must be paid before a certificate is issued or a service is completed.
3. Unless otherwise stated fees and expenses should be paid to the shipping master at the local shipping office. Fees and expenses should never be paid to surveyors or other officers.
4. An official receipt should be obtained for all payment. A copy of a receipt can be obtained for a charge of USD 10
5. Charges for copies of certificates supplied to consuls should be at the rate of USD 10
6. The expression "tons" whenever it is used in any of the Schedules means gross tons.

**PART III - FEES FOR OTHER CERTIFICATES**

1. Ship's Security Certificate ..... USD 210
2. Safety Management Certificate ..... USD 500
3. Company ISM document of compliance ..... USD 500
4. Assessment and extension of any certificate under this part ..... USD 100
5. Certificate of compliance (with ISPS Code) — Port facility ..... USD 200
6. Offshore Research and Exploration Certificate ..... USD 200
7. Voyage Date Recorder System — Certificate of compliance ..... USD 100
8. Certificate of Insurance or other Financial Security in respect of Civil Liabilities for Oil Pollution Damage ..... USD 50 plus 0.25 per GT
9. Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk ..... USD 200
10. Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk-USD 200
11. High Speed Craft Safety Certificate .....USD 130
12. Permit to Operate High Speed Craft .....USD 60
13. Certificate of Fitness for the Carriage of INF Cargo .....USD 130
14. Nuclear Cargo Ship Safety Certificate or Nuclear Passenger Ship Safety Certificate ..... USD 250
15. Special Purpose Ship Safety Certificate ..... USD 110
16. Certificate of Fitness for Offshore Support Vessels ..... USD 130
17. Diving System Safety Certificate ..... USD 150
18. Dynamically Supported Craft Construction and Equipment ..... USD 200
19. Mobile offshore Drilling Unit Safety Certificate .....USD 20
20. Wing-in-Ground Craft Safety Certificate ..... USD 130

Merchant Shipping

[Subsidiary]

21. Permit to Operate Wing-in-Ground Craft ..... USD 60

FOURTH SCHEDULE

[r. 3]

OVERSIGHT AND MONITORING FEES

(1) Shipping Line

- (a) Application fee.....USD 15
- (b) Registration.....US\$ 3000
- (c) Annual renewal fee.....US\$ 1000

(2) Shipping Agent or consolidator

- (a) Application fee.....USD 5
- (b) License fee.....USD 250 p.a

(3) Shipper

	<i>Imports Rate per ton (USD)</i>	<i>Exports Rate per ton (USD)</i>
1. Petroleum And Products	\$0.3	\$0.25
2. Liquid Bulk	\$ 0.3	\$0.25
3. Dry Bulk	\$ 0.5	\$0.25
4. General Cargo		
i. Loose Cargo	\$ 1.25	\$0.50
ii. Machinery(Non Containerized)	\$ 1.25	\$0.50
iii. Vehicles (Non Containerized)	\$ 1.25	\$0.50
iv. Containerized Cargo	\$ 1.50	\$0.75
TEU(20') standard	\$ 1.75	\$0.75
TEU(40') standard	\$2.00	\$0.75
TEU(40') hiszh cube		
5.EXEMPTED CARGOES	No Fee	No Fee
ANNEX 1		
STCW 95' Certificates		
Mandatory		
1.	Proficiency in personal survival techniques	US\$ 10
2.	Fire prevention and fire fighting	US\$ 10
3.	Elementary first aid	US\$ 10
4.	Personal safety and social responsibilities	US\$ 10
5.	Life skills	US\$ 10
Other:		
1.	ECDIS	US\$ 5
2.	GMDSS	US\$ 5
3.	Medical First Aid	US\$ 5
4.	Medical care	US\$ 5
5.	Radar plotting and use if ARPA	US\$ 5

*Merchant Shipping*

[Subsidiary]

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6.	Integrated Bridge System	US\$ 5
7.	Survival Craft and Rescue Boats	US\$ 5
8.	Advanced fire fighting	US\$ 5
9.	Certificate of medical fitness	US\$ 5
10.	Replacement of lost certificates	US\$ 15
11.	Rating forming part of a Navigation watch	US\$ 5
12.	Rating forming part of a Engineering watch	US\$ 5
13.	Compass adjuster	US\$ 20
14.	Extension of validity of certificate of competency and Qualification	US\$ 10

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**THE MERCHANT SHIPPING (PORT STATE CONTROL) REGULATIONS**

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**THE MERCHANT SHIPPING (PORT STATE CONTROL) REGULATIONS**

[Legal Notice 191 of 2011]

## PART I – GENERAL

**1. Citation**

These Regulations may be cited as the Merchant Shipping (Port State Control) Regulations, 2011, and shall come into operation on such date as the Cabinet Secretary may, by notice in the *Gazette*, appoint.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

"Authority" has the same meaning under these Regulations as in section 2 of the Kenya Maritime Authority, 2006;

"clear grounds" means evidence which in the professional judgement of an inspector warrants a more detailed inspection of a ship, its equipment or its crew including in particular criteria listed in the First Schedule;

"Convention" includes—

- (a) the International Convention on Load Lines, 1966 (LL 66),
- (b) the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74),
- (c) the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (MARPOL 73/78),
- (d) the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW),
- (e) the Convention on the International Regulations for Preventing Collision at Sea, 1972 (COLREG 72),
- (f) the International Convention on Tonnage Measurement of Ships, 1969;
- (g) the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No. 147), and
- (h) the Maritime Labour Convention, 2006 ("MLC"), and with the Protocols and amendments to these Conventions and related Codes of mandatory status, in force;

"Convention enactments" means the Act and Regulations made, under the Act, which implement the Conventions;

"expanded inspection" means an inspection as specified in Regulation 7;

"fishing vessel" has the meaning given by section 2 of the Act;

"flag administration" in relation to a ship means the administration of the State whose flag the ship is entitled to fly;

"inspector" means a person duly authorised by the Authority to carry out inspections required by these Regulations;

"Kenyan ship" has the meaning given by section 2 of the Act;

"member state" means a State or Territory the maritime authority of which is a party to a Memorandum of Understanding;

"more detailed inspection" means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in Regulation 6(3) to an in-depth inspection covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures;

[Subsidiary]

"Memorandum of Understanding" means the Memorandum of Understanding on Port State Control in the Indian Ocean Region, signed in South Africa on 8 June 1998;

"offshore installation" means a fixed or floating platform operating in the territorial waters or the Exclusive Economic Zone of Kenya;

"owner" includes, in relation to a ship, any operator, manager, charterer or agent of the ship;

"port authority" has the same meaning as in section 2 of the Act;

"ship" includes hovercraft;

"stoppage of an operation" means a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous.

## PART II – PROCEDURE FOR PORT STATE CONTROL

### 3. Application

(1) Subject to subregulation (2), this Part applies to any seagoing ship—

- (a) in a port in Kenya or at an offshore installation; or
- (b) anchored off such a port or such an installation, and
- (c) the crew of a ship referred to in paragraph (a) or (b).

(2) This Part shall not apply to—

- (a) a Kenyan ship,
- (b) a fishing vessel,
- (c) a ship of war,
- (d) a naval auxiliary,
- (e) a wooden ship of a traditional build,
- (f) a Government ship used for non-commercial purposes; or
- (g) pleasure craft not engaged in trade.

(3) In the case of a ship below 500 gross tonnage, to the extent to which a Convention does not apply, an inspector shall, without prejudice to any other powers under any Convention enactment, take such action as may be necessary to ensure that the ship is not clearly hazardous to safety, health or the environment, and shall in applying of this subregulation be guided by 1B to the Memorandum of Understanding.

(4) When inspecting a ship pursuant to Regulation 5 to 8 no favourable treatment shall be given to a ship flying the flag of a State which is not a party to a Convention or to the crew of such a ship than that given to a ship flying the flag of a State which is a party to that Convention, or to the crew of such a ship.

(5) A power of inspection or detention conferred by a Convention enactment shall in addition to its effect as stated, be exercisable in relation to a ship which—

- (a) is at an offshore installation, or
- (b) is anchored off an offshore installation or a port in Kenya where the ship is one to which this Part applies.

(6) Where—

- (a) a ship to which this Part applies is detained under a Convention enactment, or
- (b) the master of such a ship is served with a detention notice under such an enactment, section 435 of the Act shall apply in relation to the ship as if any reference to proceeding to sea were a reference to proceeding contrary to the detention notice and references to sending or taking to sea were construed accordingly

(7) In this Regulation "Kenyan waters" has the meaning given by section 2 of the Act.



#### 4. Competent Authority

(1) The Kenya Maritime Authority is designated the competent authority for Kenya for the purposes of this Part.

(2) In relation to a member state "competent authority" means the national maritime administration maintained by that State for the inspection of ships.

(3) In relation to a State other than a member State "competent authority" means any authority designated as such by that State.

#### 5. Inspection Commitments

(1) The Authority shall carry out an annual total number of inspections corresponding to at least 25% of the number of individual ships to which this Part applies and which entered its ports during a representative calendar year.

(2) In selecting ships for inspection the Authority shall give priority to the ships referred to in the Second Schedule.

(3) The Authority shall refrain from inspecting a ship which has been inspected by the competent authority of any member State within the previous six months,

Provided that this subregulation shall only apply where—

- (a) the ship is not in a category listed in the Second Schedule;
- (b) no deficiencies have been reported, following a previous inspection; and
- (c) no clear grounds exist for carrying out an inspection.

(4) The provisions of subregulation (3) shall not apply to any of the operational controls specifically provided for in the Convention enactments.

#### 6. Inspection procedure

(1) In carrying out an inspection referred to in Regulation 5 the inspector shall as a minimum—

- (a) check the certificates and documents listed in the Third Schedule;
- (b) satisfy himself of the overall condition of the ship, including the engine room accommodation and hygiene conditions.

(2) The inspector may examine all relevant certificates and documents, other than those listed in the Third Schedule, which are required to be carried on board in accordance with the Convention enactments.

(3) Whenever there are clear grounds for believing, after the inspection referred to in subregulations (1) and (2), that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention enactment, a more detailed inspection shall be carried out, including further checking of compliance with on board operational requirements.

(4) The inspector shall observe the relevant procedures and guidelines for the control of ships specified in the Fourth Schedule.

#### 7. Expanded inspection of certain ships

(1) Where there are clear grounds for a more detailed inspection of a ship belonging to the categories listed in Section A of the Fifth Schedule an expanded inspection shall be carried out taking into account the guidelines in section B of the Fifth schedule.

(2) A ship referred to in subregulation (1) shall be subject to an expanded inspection by any of the competent authorities of the member States only once during a period of 12 months, but the ship may be subject to the inspection provided for in Regulation 6(1) and (2).

(3) Subject to subregulation (2), in the case of a passenger ship operating on a regular schedule in or out of a port in Kenya an expanded inspection of the ship shall be carried out before the ship starts operating, and every 12 months thereafter by the Authority subject to consultation with the competent authority of a member State, where the ship operates to ports in that member State.

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[Subsidiary]

## **8. Report of inspection to the master**

(1) On completion of an inspection, a more detailed inspection, or an expanded inspection, the master of the ship shall be provided by the inspector with a document in the form specified in Annex 3 to the Memorandum of Understanding, giving the results of the inspection and details of any decisions taken by the inspector, and of corrective action to be taken by the master, owner or operator.

(2) In the case of deficiencies warranting the detention of a ship, the document to be given to the master in accordance with subregulation (1) shall include information about the future publication of information concerning the detention in accordance with Regulation 16.

## **9. Rectification and detention**

(1) The owner shall satisfy the Authority that any deficiencies confirmed or revealed by an inspection referred to in Regulations 6 or 7 are or will be rectified in accordance with the Conventions.

(2) (a) In case of deficiencies which are clearly hazardous to safety, health or the environment, the inspector shall detain the ship, or require the stoppage of the operation in the course of which the deficiencies have been revealed, using powers of detention in the Convention enactments as appropriate, or issuing a prohibition notice under section 435 of the Act, as the case may be.

(b) A detention notice may—

- (i) include a direction that a ship shall remain in a particular place, or shall move to a particular anchorage or berth; and
- (ii) specify circumstances when the master of the ship may move his ship from a specified place for reasons of safety or prevention of pollution.

(3) The detention notice or stoppage of an operation shall not be lifted until the Authority establishes that the ship can, subject to any necessary conditions, proceed to sea or the operation be resumed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat to or harm to the marine environment.

(4) Without prejudice to any other requirement in the Convention enactments, when exercising his professional judgement as to whether or not a ship should be detained the inspector shall apply the criteria set out in the Sixth Schedule.

(5) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the inspector may, in addition to detaining the ship, suspend the inspection of the ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

(6) Without prejudice to any other requirement in the Convention enactments, in the event that an inspection referred to in Regulation 7 or 8 gives rise to detention, the Authority shall immediately inform, in writing, the flag administration or the Consul or, in his absence, the nearest diplomatic representative of the State of the flag administration, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognized organizations responsible for the issue of the ship's certificates shall also be notified where relevant.

(7) The provisions of these Regulations shall be without prejudice to the additional requirements of the Conventions concerning notification and reporting procedures related to port State control.

(8) When carrying out inspections under these Regulations, the inspector shall make all possible efforts to avoid undue detention or delay of a ship.

## **10. Procedure applicable in the absence of ISM code**

(1) Where an inspection reveals that a copy of the document of compliance or the safety management certificate required by the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) are not on board a vessel to which the ISM Code is applicable at the date of inspection, the inspector shall detain the ship.

- (2) Notwithstanding the absence of the documentation referred to in subregulation (1)—
- (a) where the inspection reveals no other deficiencies warranting detention of a ship, the Authority may lift the detention order for the purpose of avoiding port congestion, and shall immediately inform the competent authorities of the member States accordingly, and
  - (b) where deficiencies referred to in Regulation 9(2) are found and cannot be rectified in the port of detention, the relevant provisions of Regulation 4 shall apply.

(3) A ship which proceeds to sea from any port in any member State following release in order to avoid port congestion under subregulation (2) shall not enter any port in Kenya until the owner provides evidence to the satisfaction of the competent authority of the member State where the ship was detained that the ship fully complies with the requirements of the ISM Code.

(4) Notwithstanding the provisions of subregulation (3), access to a specific port may be permitted in situations referred to in Regulation 14(8).

## **11. Detention procedure**

Regulations 12 and 13 shall apply in relation to the exercise the power of detention in any Convention enactment.

## **12. Arbitration**

(1) Any question as to whether any of the matters specified in relation to a ship in a detention notice in pursuance of a power of detention to which this Regulation applies in connection with any opinion formed by the inspector constituted a valid basis for that opinion shall, where the master or owner of the ship so requires by a notice given to the inspector within 21 days from the service of the detention notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.

(2) Where a notice is given by the master or owner of the ship in accordance with subregulation (1), the giving of the notice shall not have the effect of suspending the operation of the detention notice.

(3) The arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention notice which appears to him to be relevant as to whether the ship was or was not liable to be detained.

(4) Where on a reference under this Regulation the arbitrator decides as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion the arbitrator shall either cancel the detention notice or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the notice in its original form.

(5) The arbitrator shall include in his decision a finding as to whether or there was not a valid basis for the detention of the ship.

(6) A person shall not be qualified for appointment as an arbitrator under this Regulation unless the person—

- (a) holds a certificate of competence as a master mariner or as a marine engineer officer Class I, or its equivalent;
- (b) is a naval architect;
- (c) is an Advocate of the High Court of Kenya of at least 10 years' standing and holds a post-graduate qualification in maritime law; or
- (d) has special experience in matters related to shipping, or the fishing industry, or port activities.

(7) In connection with his functions under this Regulation an arbitrator shall have the powers conferred on a surveyor or by the Act.

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[Subsidiary]

### 13. Compensation

- (1) Where on a reference under Regulation 12 relating to a detention notice—
  - (a) the arbitrator decides that the owner of the ship has proved that any matter therein did not constitute a valid basis for the inspector's opinion; and
  - (b) it appears to him that the owner has proved that there were no reasonable grounds for the inspector to form that opinion, the arbitrator shall award the owner of the ship such compensation in respect of any loss suffered in consequence of the detention of the ship as the arbitrator may deem fit.
- (2) Any compensation awarded under this Regulation shall be payable by the Authority.

### 14. Follow-up to inspections and detentions

(1) Where deficiencies referred to in Regulation 9(2) cannot be rectified in the port of inspection, the Authority may allow the ship to proceed to the nearest appropriate repair yard available as chosen by the master and the responsible parties, provided that the conditions determined by the competent authority of the flag state and agreed by the Authority are complied with to ensure that the ship proceeds without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(2) In the circumstances referred to in subregulation (1), the Authority shall notify the competent Authority of the State where the repair yard is situated, the parties referred to in Regulation 9(5) and any other authority as appropriate, of all the conditions for the voyage.

(3) The notification of the parties referred to in subregulation (2) shall be in accordance with Annex 2 to the Memorandum of Understanding.

(4) Where the Authority receives notification from the competent authority of another member State ("the notifying authority") in respect of a ship which the Authority allows to proceed to a repair yard in Kenya the Authority shall inform the notifying authority of the action it has taken.

(5) A ship to which this Regulation applies which proceeds to sea from any port in any member State—

- (a) without complying with the conditions determined by the competent authority of the member state in the port of inspection; or
- (b) which fails to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard; shall not enter any port within Kenya until the owner provides evidence to the satisfaction of the competent authority of the member State where the ship was found defective that the ship fully complies with all applicable requirements of the Conventions

(6) The subregulation (5) applies to a ship, detained in a port in a member State after inspection, which reveals deficiencies which are clearly hazardous to safety, health or the environment, and which has been allowed by the competent authority to proceed to the nearest appropriate repair yard.

(7) Where a ship proceeds to sea from a port in Kenya without complying with the conditions determined by the Authority in accordance with subregulation (1), the Authority shall immediately alert the competent authorities of all the other member states.

(8) Where a ship to which subregulation (5) applies is to proceed to a repair yard in Kenya but fails to call into the repair yard indicated, the Authority shall immediately alert the competent authorities of all the other member States.

(9) Notwithstanding the provisions of subregulation (5), access to a specific port may be permitted by the Authority in the event of *force majeure* or overriding safety considerations, or to reduce or minimize the risk of pollution or to have deficiencies rectified, provided adequate measures to the satisfaction of the Authority are implemented by the owner or the master of the ship to ensure safe entry.

**15. Professional profile of inspectors**

(1) Inspections under these Regulations shall be carried out only by inspectors who fulfil the criteria specified in the Seventh Schedule.

(2) Where an inspector does not possess the required professional expertise he shall be assisted by any person with the required professional expertise.

(3) An inspector and any person assisting him shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall an inspector be employed by or undertake work on behalf of non-governmental organisations which issue statutory and classification certificates or which carry out the surveys necessary for the issuance of those certificates to ships.

(4) An inspector shall carry a personal document in the form of an identity card issued by the Authority, which shall include the following information:

- (a) name of the issuing authority;
- (b) full name of the holder of the identity card;
- (c) an up-to-date picture of the holder of the identity card;
- (d) the signature of the holder of the identity card; and
- (e) a statement to the effect that the holder of the identity card is authorised to carry out inspections in accordance with shipping Convention enactments.

**16. Reports from pilots and port authorities**

(1) A Kenyan pilot, engaged in the berthing or unberthing of a ship to which this Part applies in Kenya or engaged on such a ship bound for a port within a member state, shall immediately inform the port authority or the Authority, whenever they learn in the course of their normal duties that there are deficiencies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

(2) In subregulation (1), "Kenyan pilot" means a pilot authorised by a port authority.

(3) Where a port authority, when exercising its normal duties, learns that such a ship within its port has deficiencies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, that port authority shall immediately inform the Authority.

**17. Publication of detentions**

(1) The Authority shall, as a minimum, publish on a quarterly basis information concerning ships to which this Part applies detained during the previous 3-month period and which have been detained more than once during the past 24 months.

(2) The information required under subregulation (1) shall include the following—

- (a) the name of the ship;
- (b) the name of the ship owner or the operator of the ship;
- (c) the International Maritime Organization number;
- (d) the flag state;
- (e) the classification society, where relevant;
- (f) where applicable, any other Party which has issued certificates to such ship in accordance with the Conventions on behalf of the flag State;
- (g) the reason for detention; and
- (h) port and date of detention.

**18. Reimbursement of costs**

(1) The costs of any inspection which results in the detention of a ship to which Part I applies, and any subsequent inspection relating to the deficiencies which led to the detention and all costs relating to any inspection carried out by the Authority for the purposes of, or in connection with Regulation 14(5) shall be charged to the owner or his representative in Kenya.

*Merchant Shipping*

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[Subsidiary]

(2) Any detention made pursuant to these Regulations shall not be lifted until any fees payable in respect of any inspection leading to it or arising from it have been paid, or the Authority has been provided with sufficient security for the fees.

**19. Offences**

(1) Where there is any contravention of a direction made pursuant to Regulation 9(2) in respect of a ship, the owner and master of the ship commits an offence, and upon conviction, is liable to a fine not exceeding one hundred thousand shillings or to imprisonment of a period not exceeding twelve months, or to both such fine and imprisonment.

(2) Where a ship—

- (a) fails to proceed to the yard specified in Regulation 14(1); or
- (b) enters a port in contravention of Regulation 14(5);

the owner and master commits an offence, and upon conviction, is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(3) Where a person obstructs an inspector or any person assisting the inspector he commits an offence and upon conviction, is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(4) Any pilot who contravenes Regulation 16(1) commits an offence and upon conviction, is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(5) Any port authority official who contravenes Regulation 16(1) or 16(3) commits an offence and upon conviction, is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

(6) It shall be a defence for a person charged under this Regulation to prove that the person charged took all reasonable steps to avoid committing the offence.

**20. Authority may impose penalty upon admission of guilt**

(1) If any person —

- (a) admits to the Authority that he or she has failed to comply with any provision of these Regulations or Act, or that he or she has failed to comply with any such provision with which it was his or her duty to comply;
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him/her, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question,

the Authority may, after such an enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by the way of a penalty the whole or any part of the said deposit to be forfeited.

(2) There shall be the right of appeal to the Cabinet Secretary from a determination or order by the Authority under subregulation (1) whereby a penalty exceeding five hundred thousand shillings is imposed, provided that such right is exercised within a period of three months from the date of such determination or order.

(3) The imposition of a penalty under subregulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the same offence shall thereafter be competent.

(4) Nothing in this Regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

PART III – INSPECTION OF FAMILIARITY OF  
CREW WITH OPERATIONAL PROCEDURES

**21. Inspection of operational procedures**

(1) Ships when in ports in Kenya and also in the case of Kenyan ships when elsewhere shall be subject to inspection for the purpose of checking that the master and crew are familiar with essential procedures and operations relating to the safety of the ship.

(2) Section 230 of the Act shall apply in relation to a ship in a port in Kenya as if, in subsection (1), after "articles on board" there were inserted "the familiarity of the crew with essential procedures and operations relating to the safety of their ship".

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FIRST SCHEDULE

[r. 2]

EXAMPLES OF "CLEAR GROUNDS" FOR A MORE DETAILED INSPECTION

1. Ships identified in the Second Schedule with the exception of paragraph 1;
2. A report or notification by another member state;
3. A report or complaint by the master, a crew member, or any person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Authority deems the report or complaint to be manifestly unfounded; the identity of the person lodging the report or the complaint must not be revealed to the master or the shipowner of the ship concerned;
4. The ship has been involved in a collision on its way to the port;
5. The Oil Record Book has not been properly kept;
6. The ship has been accused of an alleged violation of the provisions on discharge of harmful substances or effluents;
7. During examination of the certificates and other documentation, (see Regulation 6(1)(a) and (2)), inaccuracies have been revealed;
8. Indications that the crew members are unable to comply with the requirements of the Conventions on the minimum level of training of seafarers;
9. Evidence of cargo and other operations not being conducted safely, or in accordance with International maritime Organization guidelines, e.g. the content of oxygen in the inert-gas mains supply to the cargo tanks is above the prescribed maximum level;
10. Failure of the master on an oil tanker to produce the record of the oil discharge monitoring and control system for the last ballast voyage;
11. Absence of an up-to-date muster list, or crew members not aware of their duties in the event of fire or an order to abandon ship.

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SECOND SCHEDULE

[rr. 5 (2), 6(1)]

SHIPS TO BE CONSIDERED FOR PRIORITY INSPECTION

1. Ships visiting a port in the Memorandum of Understanding region for the first time or after an absence of 12 months or more from a port in the Memorandum of Understanding region.
2. Ships which have been permitted to leave the port of a member state on condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period.

*Merchant Shipping*

[Subsidiary]

3. Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation pursuant to Regulation 16.
4. Ships which are in a category for which an expanded inspection is required by Regulation 7.
5. Ships which have been suspended from their class for safety reasons in the course of the preceding six months.

## THIRD SCHEDULE

[r. 6(1)]

## LIST OF CERTIFICATES AND DOCUMENTS

1. International Tonnage Certificate (1969);
2. Passenger Ship Safety Certificate;
3. Cargo Ship Safety Construction Certificate;
4. Cargo Ship Safety Equipment Certificate;
5. Cargo Ship Safety Radiotelegraphy Certificate;
6. Cargo Ship Safety Radio Certificate;
7. Exemption Certificate;
8. Cargo Ship Safety Certificate;
9. Document of Compliance (SOLAS 74, Regulation 11-2/54);
10. International Certificate of Fitness for Carriage of Liquefied Gases in Bulk;
11. International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;
12. International Oil Pollution Prevention Certificate;
13. International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;
14. International Load Line Certificate (1966);
15. International Load Line Exemption Certificate;
16. Oil Record Book, Parts I and II;
17. Shipboard Oil Pollution Emergency Plan;
18. Cargo Record Book;
19. Minimum Safe Manning Document;
20. Certificates of Competency including dangerous goods endorsement;
21. Medical Certificates, (see Maritime Labour Convention, 2006, Appendix A5-concerning Medical Examination of Seafarers);
22. Stability information including grain loading information and document of authorisation;
23. Safety Management Certificate and Document of Compliance issued in accordance with The International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Maritime Organization Resolution A.741 (18));
24. Certificates as to the ship's hull strength and machinery installations issued by the classification society in question, only to be required where the ship maintains its class with a classification society;



25. Survey report files (in case of bulk carriers or oil tankers in accordance with resolution A.744 (18));
26. For ro-ro passenger ships, information on the A/A max ratio;
27. Document of authorization for the carriage of grain;
28. Special Purpose Ship Safety Certificate;
29. High-Speed Craft Safety Certificate and permit to operate High-Speed Craft;
30. Mobile offshore Drilling Unit Safety Certificate;
31. For oil tankers, the record of the oil discharge monitoring and control system for the last ballast voyage;
32. The muster list, fire control plan, and, for passenger ships, a damage control plan;
33. Ship's log-book with respect to the records of tests and drills and the log for records of inspection and maintenance of life-saving appliances and arrangements;
34. Procedures and Arrangements Manual (chemical tankers);
35. Cargo Securing Manual;
36. Certificate of Registry or other document of nationality;
37. Garbage Management Plan;
38. Garbage Record Book;
39. Bulk Carrier Booklet (SOLAS Chapter VI, Regulation 7);
40. Reports of previous port state control inspection;
41. Maritime Labour Certificate; and
42. Declaration of Maritime Labour Compliance.

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#### FOURTH SCHEDULE

[r. 6(4)]

#### PROCEDURES FOR THE CONTROL OF SHIPS

1. Procedures for Port State Control (International Maritime Organization Resolution A.787(19), as amended);
  2. Principles of Safe Manning (International Maritime Organization Resolution A.481 (XII)) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2);
  3. Procedures for the Control of Ships and Discharges under Annex II to MARPOL 73/78 (International Maritime Organization Resolution MEPC 26 (23));
  4. The Provisions of the International Maritime Dangerous Goods Code;
  5. International Labour Organization (ILO) publication "Inspection of Labour Conditions on Board Ship: Guidelines for Procedure";
  6. Annex 1 to the IOMOU Guidelines for Surveyors.
-

*Merchant Shipping*

[Subsidiary]

## FIFTH SCHEDULE

[r. 7(1)]

## A. CATEGORIES OF SHIPS SUBJECT TO EXPANDED INSPECTION

1. Oil tankers, 5 years or less from the date of phasing out in accordance with MARPOL 73/78, Annex 1, Regulation 13G, i.e.

- (a) a crude oil tanker of 20,000 tonnes deadweight and above or a product carrier of 30,000 tonnes deadweight and above, not meeting the requirements of a new oil tanker as defined in Regulation 1(26) of Annex I to MARPOL 73/78, will be subject to expanded inspection 20 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, or 25 years after that date, if the ship's wing tanks or double-bottom spaces not used for the carriage of oil meet the requirements of Regulation 13G(4) of the Annex, unless it has been reconstructed to comply with Regulation 13F of the same Annex;
- (b) an oil tanker as mentioned above meeting the requirements of a new oil tanker as defined in Regulation 1(26) of Annex I to MARPOL 73/78 will be subject to expanded inspection 25 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, unless it complies with or has been reconstructed to comply with Regulation 13F of that Annex;

2. Bulk carriers, of over 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates;

3. Passenger ships;

4. Gas and chemical tankers older than 10 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

**B. NON-MANDATORY GUIDELINES FOR EXPANDED INSPECTION OF CERTAIN CATEGORIES OF SHIPS**

To the extent applicable the following items may be considered as part of an expanded inspection, Inspectors must be aware that it may jeopardize the safe execution of certain on-board operations, e.g. cargo operation, if tests having a direct effect thereon, are required to be carried out during such operations.

## 1. SHIPS IN GENERAL (CATEGORIES IN SECTION A):

- Black-out and start of emergency generator;
- Inspection of emergency lighting;
- Operation of emergency fire-pump with two fire hoses connected to the fire main-line;
- Operation of bilge pumps;
- Closing of watertight doors;
- Lowering of one seaside lifeboat to the water;
- Test of remote emergency stop for e.g. boilers, ventilation and fuel pumps;
- Test of steering gear including auxiliary steering gear;
- Inspection of emergency source of power to radio installations;
- Inspection and, to the extent possible, test of engine-room separator.

## 2. OIL TANKERS

In addition to the items listed under Section B (1), the following items may also be considered as part of the expanded inspection for oil tankers:

- Fixed-deck foam system;

- Fire-fighting equipment in general;
- Inspection of fire dampers to engine room, pump room and accommodation;
- Control of pressure of inert gas and oxygen content thereof;
- Check of the Survey Report to identify possible suspect areas requiring inspection.

### 3. BULK CARRIERS

In addition to the items listed under Section B(1), the following items may also be considered as part of the expanded inspection for bulk carriers—

- Possible corrosion of deck machinery foundations;
- Possible deformation or corrosion of hatch covers;
- Possible cracks or local corrosion in transverse bulkheads;
- Access to cargo holds;
- Check of the Survey Report File to identify possible suspect areas requiring inspection.

### 4. GAS AND CHEMICAL TANKERS

In addition to the items listed under section B(1), the following items may also be considered as part of the expanded inspection for gas and chemical tankers:

- Cargo tank monitoring and safety devices relating to temperature, pressure and hullage;
- Oxygen analysing and explosimeter devices, including their calibration; availability of chemical detection equipment (bellows) with an appropriate number of suitable gas detection tubes for the specific cargo being carried:
- Cabin escape sets giving suitable respiratory and eye protection, for every person on board (if required by the products listed on the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable);
- Check that the product being carried is listed in the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable;
- The fixed fire-fighting installations on deck, whether they be foam or dry chemical or other as required by the product carried.

### 5. PASSENGER SHIPS

In addition to the items listed under section B(1), the following items may also be considered as part of the expanded inspection for passenger ships:

- Testing of fire detection and alarm system;
- Testing of proper closing of fire doors;
- Test of public address system;
- Fire drill where, as a minimum, all sets of fireman's outfits must be demonstrated and part of the catering crew take part;
- Demonstration that key crew members are acquainted with the damage control plan.

Where deemed appropriate the inspection may be continued while the ship is on passage to or from the port in Kenya, with the consent of the shipmaster or the operator. Inspectors must not obstruct the operation of the ship, nor must they induce situations that, in the master's judgement could endanger the safety of the passengers, the crews and the

*Merchant Shipping*

[Subsidiary]

## SIXTH SCHEDULE

[r. 9(4)]

## CRITERIA FOR DETENTION OF A SHIP

## Introduction

Before determining whether deficiencies found during an inspection warrant detention or the ship involved, the inspector shall apply the criteria mentioned below in items 1 and 2.

Section 3 includes examples of deficiencies that may for themselves warrant detention of the ship involved.

**1. Main Criteria**

When exercising his professional judgement as to whether or not a ship should be detained the inspector must apply the following criteria:

*Timing:*

Ships which are unsafe to proceed to sea must be detained upon the first inspection irrespective of how much time the ship will stay in port.

*Criterion:*

The ship is detained if its deficiencies are sufficiently serious to merit an inspector returning to satisfy himself that they have been rectified before the ship sails.

The need for the inspector to return to the ship is a measure of the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the Authority must verify one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

**2. Application of main criteria**

(1) When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention the inspector must assess whether—

- (a) The ship has relevant, valid documentation;
- (b) The ship has the crew required in the Minimum Safe Manning Document.

(2) During inspection the inspector must further assess whether the ship or crew is able to—

- (a) navigate safely throughout the forthcoming voyage;
- (b) safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage;
- (c) operate the engine room safely throughout the forthcoming voyage;
- (d) maintain proper propulsion and steering throughout the forthcoming voyage;
- (e) fight fires effectively in any part of the ship if necessary during the forthcoming voyage;
- (f) abandon ship speedily and safely and effect rescue if necessary during the forthcoming voyage;
- (g) prevent pollution of the environment throughout the forthcoming voyage;
- (h) maintain adequate stability throughout the forthcoming voyage;
- (i) maintain adequate watertight integrity throughout the forthcoming voyage;
- (j) communicate in distress situations if necessary during the forthcoming voyage;
- (k) provide safe and healthy conditions on board throughout the forthcoming voyage.

(3) Where the answer to any of these assessments is negative, taking into account all deficiencies found, the ship shall be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

(4) To assist the inspector in the use of these guidelines, there follows a list of deficiencies, grouped under relevant conventions or Codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not intended to be exhaustive.

### **3.1 General**

**3.** (1) Ships flying the flag of States not party to a Convention or not having implemented another relevant instrument are not entitled to carry the certificates provided for by the Convention or other relevant instrument. However, absence of the required certificates should not by itself constitute reason to detain these ships, but, in applying the "no more favourable treatment" clause, substantial compliance with the provisions is required before the ship sails.

### **4. Areas under the SOLAS Convention**

(1) Failure of the proper operation of propulsion and other essential machinery, as well as electrical installations.

(2) Insufficient cleanliness of engine room, excess amount of oily-water mixtures in bilges, insulation of piping including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements.

(3) Failure of the proper operation of emergency generator, lighting, batteries and switches.

(4) Failure of the proper operation of the main and auxiliary steering gear.

(5) Absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching arrangements.

(6) Absence, non-compliance or substantial deterioration of fire detection system, fire alarms, firefighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use.

(7) Absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers.

(8) Absence, non-compliance or serious deterioration of lights, shapes or sound signals.

(9) Absence or failure of the proper operation of the radio equipment for distress and safety communication.

(10) Absence or failure of the proper operation of navigation equipment, taking the provisions of SOLAS Regulation V/12(o) into account.

(11) Absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that electronic charts may be used as a substitute for the charts.

(12) Absence of non-sparking exhaust ventilation for cargo pump rooms.

### **5. Areas under the IBC Code**

(1) Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information.

(2) Missing or damaged high-pressure safety device.

(3) Electrical installations not intrinsically safe or not corresponding to code requirements.

(4) Sources of ignition in hazardous locations.

(5) Contraventions of special requirements.

(6) Exceeding of maximum allowable cargo quantity per tank.

(7) Insufficient heat protection for sensitive products (16.6).

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[Subsidiary]

**6. Areas under the IGC Code**

(1) Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information.

(2) Missing closing devices for accommodations or service spaces.

(3) Bulkhead not gastight.

(4) Defective air locks.

(5) Missing or defective quick-closing valves.

(6) Missing or defective safety valves.

(7) Electrical installations not intrinsically safe or not corresponding to code requirements.

(8) Ventilators in cargo area not operable.

(9) Pressure alarms for cargo tanks not operable.

(10) Gas detection plan and/or toxic gas detection plant defective.

(11) Transport of substances to be inhibited without valid inhibitor certificate.

**7. Areas under the LOAD LINES Convention**

(1) Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out.

(2) A recognized case of insufficient stability.

(3) The absence of sufficient and reliable information, in an approved form, which by rapid and simple means, enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided.

(4) Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors.

(5) Overloading.

(6) Absence of draft mark or draft mark impossible to read.

**8. Areas under the MARPOL Convention, Annex I.**

(1) Absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements.

(2) Remaining capacity of slop and/or sludge tank insufficient for the intended voyage.

(3) Oil Record Book not available.

(4) Unauthorized discharge bypass fitted.

**9. Areas under the MARPOL Convention, Annex II.**

(1) Absence of the P & A Manual.

(2) Cargo is not categorized.

(3) No cargo record book available.

(4) Transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate.

(5) Unauthorized discharge by-pass fitted.

**10. Areas under the STCW Convention**

Number, composition or certificate of crew not corresponding with safe manning document.

**11. Areas under the ILO Conventions**

- (1) Insufficient food for voyage to next port.
- (2) Insufficiency portable water for voyage to next port.
- (3) Excessively unsanitary conditions on board.
- (4) No heating in accommodation of a ship operating in areas where temperatures may be excessively low.
- (5) Excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways/accommodations.
- (6) Areas which may not warrant a detention, but where cargo operation may be suspended.
- (7) Failure of the proper operation or maintenance of inert gas system, cargo-related gear or machinery are considered sufficient grounds for stopping cargo operation.

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SEVENTH SCHEDULE

[r. 15 (1)]

MINIMUM CRITERIA FOR INSPECTORS

1. The inspector shall be authorised to carry out port state control by the Authority.
3. A person shall be qualified to be an inspector if the person has completed a minimum of one year's service as flag State an inspector dealing with surveys and certification in accordance with the Conventions and—
  - (a) holds—
    - (i) a certificate of competency as a master, enabling that person to take command of a ship of 1,600 GT or more
    - (ii) a certificate of competency as chief engineer, enabling him to take up that task on board a ship whose main power plant has a power equal or superior to 3,000 KW,
  - (b) has passed an examination as a naval architect, mechanical engineer or an engineer to any maritime fields and worked in that capacity for at least five years;
  - (c) has served for a period of not less than five years at sea as officer in the deck or engine-department respectively, or
  - (d) holds a relevant university degree or an equivalent training, and—
    - (i) has been trained and qualified at a school for ship safety inspectors, and—
    - (ii) has served at least two years as a flag State inspector dealing with surveys and certification in accordance with the Conventions; or
  - (e) Where the class or classes of ship are specified, has successfully completed an approved course for ship safety and port state control inspectors, and
  - (f) is able to communicate orally and in writing with seafarers in the language most commonly spoken at sea; and
  - (g) has appropriate knowledge of the provisions of the international conventions, Memorandum of Understanding, national legislation and of the relevant procedures on port state control.





**THE MERCHANT SHIPPING (LICENSING OF VESSELS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Title
2. Interpretation
3. Application for licence
4. Form of licence
5. Conditions of licence
6. Marking of vessels
7. Change of ownership of vessel
8. Change of name, designation or operation of vessel
9. Permanent relocation of a vessel, etc.
10. Regulations on small vessel safety
11. Offences and penalties
12. Director General may impose penalty upon admission of guilt
13. Licences issued before commencement of regulations
14. Applications made before commencement of regulations

SCHEDULES

FORMS





**THE MERCHANT SHIPPING (LICENSING OF VESSELS) REGULATIONS**

[Legal Notice 48 of 2012]

**1. Title**

These regulations may be cited as the Merchant Shipping (Licensing of Vessels) Regulations.

**2. Interpretation**

In these regulations, unless the context otherwise requires—

"Act" means the Merchant Shipping Act (Cap 389);

"proper officer" means a person authorised by the Registrar, and is for that purpose properly identified by and given identification card issued by the Authority;

"Registrar" means the Director-General of the Authority.

**3. Application for licence**

(1) An application for a licence under section 57 of the Act or for the renewal of a licence shall be in accordance with Form 1 in the Schedule.

(2) An applicant for a licence under subregulation (1) above shall provide evidence that the applicant is the owner, or is authorised by the owner, of the vessel.

**4. Form of licence**

A licence shall, where it does not form part of the relevant local safety certificate—

- (a) be in accordance with Form 2 set out in the Schedule, and
- (b) be endorsed on the local safety certificate of the vessel in respect of which it is issued.

**5. Conditions of licence**

A licence issued under these regulations shall cease to be valid when the local safety certificate on which it is endorsed ceases to be valid.

**6. Marking of vessels**

The owner of a vessel or the owner's representative shall ensure that the official number assigned to the vessel by the proper officer and the name of the vessel (if any) are inscribed and continued, in the manner directed by the proper officer, on such features of the vessel as the proper officer may direct.

**7. Change of ownership of vessel**

(1) If during the period of validity of a licence issued under these regulations there is a change of ownership of the vessel to which that licence applies, the new owner of the vessel shall notify the proper officer accordingly in writing, as provided in section 58 (3) of the Act.

(2) Notification under sub-regulation (1) shall be dated and signed by the new owner of the vessel; or

(3) the owner's representative and shall specify—

- (a) the official number, name and designation of the vessel;
- (b) the full name and address of the previous owner;
- (c) the full name and address of the new owner; and
- (d) the date on which the change occurred.

(4) Where the owner of a licenced vessel or the owner's representative fails to comply with subregulation (1) the licence of the vessel shall be deemed to have been cancelled.

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[Subsidiary]

(5) The new owner or the owner's representative shall apply for a license in accordance with regulation 3 within seven (7) days of the notification of the change of ownership, or within such other time as may be allowed by the Director-General, and the new owner shall at the same time forward the applicable local safety certificate to the proper officer for issuance of new licence.

(6) The proper officer is to return the local safety certificate in respect of the vessel duly endorsed to the new owner of the vessel.

### **8. Change of name, designation or operation of vessel**

(1) If during the period of validity of a licence under these regulations there is a change in the name, designation or operation of the vessel to which that licence applies, the owner of the vessel shall notify the change, in accordance with subregulation (2), to the nearest proper officer within a period of seven (7) days or such longer period as may be allowed by the Director-General after the date on which the change occurred.

(2) Notification under subregulation (1) shall be dated and signed by the owner of the vessel and shall specify—

- (a) the official number of the vessel;
- (b) the previous name, designation or operation of the vessel;
- (c) the new name, designation or operation of the vessel;
- (d) the full name and address of the owner of the vessel; and
- (e) the date on which the change occurred.

(3) Where there is a change of name, the owner shall at the time of notification forward the applicable local safety certificate to the proper officer for endorsement of the change.

(4) Where there is a change of designation or operation of a vessel, the owner shall apply for a license in accordance with regulation 3 within seven (7) days of notification of the change or within such other time as may be allowed by the Director-General, and the owner shall at the same time forward the appropriate local safety certificate to the proper officer for issuance of new licence.

### **9. Permanent relocation of a vessel, etc.**

(1) If during the period of validity of a licence issued under these regulations, a vessel to which that licence relates—

- (a) is permanently relocated from one port to another; or
- (b) for any reason, ceases to be a vessel to which section 57 of the Act applies,

the owner of the vessel shall report the relocation or the event contemplated in paragraph (b), as the case may be, in accordance with subregulation (2) to the nearest proper officer within a period of seven (7) days from the date on which the relocation or event occurred.

(2) A report under subregulation (1) shall be dated and signed by the owner of the vessel and shall specify the official number, name and designation of the vessel and—

- (a) in the case of a vessel which has been permanently relocated from one port to another—
  - (i) the previous home port of the vessel;
  - (ii) the new home port of the vessel; and
  - (iii) the date on which the relocation occurred; or
- (b) in the case of a vessel which, for any reason, has ceased to be a vessel to which section 57 of the Act applies—
  - (i) the home port of the vessel;
  - (ii) the date on which the cessation occurred; and
  - (iii) the reason for the cessation.

**10. Regulations on small vessel safety**

For matters contemplated under section 59 (a) to (h) of the Act, the provisions of the regulations relating to the safety of small vessels shall apply to the extent that the provisions of those Regulations cover those matters.

**11. Offences and penalties**

A person who contravenes, or fails or refuses to comply with, regulations 6, 7(1), 8(1) or 9(1) commits an offence and shall be liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a period not exceeding six months, or to both.

**12. Director General may impose penalty upon admission of guilt**

(1) If any person—

- (a) admits to the Director-General that that person has contravened any provision of the Act or these Regulations, or that has failed to comply with any such provision with which it was his/her duty to comply;
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of not exceeding the maximum fine which may be imposed upon conviction for the contravention or failure in question,

the Director-General may, after such enquiry as the Director-General deems necessary, determine the matter summarily and may, without legal proceedings, order by way of a penalty the whole or part of the said deposit to be forfeited.

(2) The imposition of a penalty under subregulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of vessels, shares therein or goods.

**13. Licences issued before commencement of regulations**

A licence issued under section 57 of the Act before the commencement of these regulations shall be deemed to have been issued under these Regulations, and, subject to the terms and conditions of its issue, is valid for the period for which it was issued.

**14. Applications made before commencement of regulations**

An application for a licence under section 57 of the Act or for the renewal of a licence under the Act, being an application made, but not finally dealt with, before the commencement of these regulations, shall be deemed to have been made under these regulations.

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SCHEDULE

[r. 3]

FORMS

**FORM I**

REPUBLIC OF KENYA  
 KENYA MARITIME AUTHORITY  
 MERCHANT SHIPPING ACT  
**APPLICATION FOR LICENCE**  
 (Section 57 and 58)

I hereby apply for a licence for the vessel the particulars of which are furnished in this form.

Merchant Shipping

[Subsidiary]

I declare that the particulars as furnished hereunder are true and correct to the best of my knowledge and belief, true and correct:

PARTICULARS

- (a) Name of Applicant .....
- (b) Name of Vessel .....
- (c) Full names and address of owner of vessel .....  
.....
- (d) Particulars of the Vessel:  
 Official No. .... Year of Registry .....  
 Port of Registry ..... Year Built .....  
 Length ..... Breadth ..... Depth .....  
 .....
- (e) Full Name and address of ship builder .....
- (f) Expiry date of previous Licence (if any) .....
- (g) Intended Operational area of the vessel .....

Signature of Applicant ..... Date .....

Before Me: Commissioner for Oaths/Notary Public)

)  
)  
)  
)  
)  
)  
)

Signature of Applicant (in case of an individual)

Company Seal and Signature of two directors or a director and the Company Secretary (in case of a company)

FOR OFFICIAL USE ONLY

Entry in Register made on ...../...../..... (DD/MM/YYYY)

At ..... (time)

Issuing Officer (print name) .....

FORM 2

(r. 4)

REPUBLIC OF KENYA  
KENYA MARITIME AUTHORITY  
MERCHANT SHIPPING ACT  
(CAP. 389)

VESSEL LICENCE

ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 57 OF THE MERCHANT SHIPPING ACT (CAP. 389)

Name of Vessel .....

*Merchant Shipping*

[Subsidiary]

Owner .....

Owner's Address .....

Length ..... Breadth ..... Depth ..... Girth .....

Type .....

Engine ..... HP .....

Trade .....

Maximum Number of Persons

Tonnage .....

Fee Paid ..... Date .....

.....  
*Registrar of Ships  
and Seafarers*

\_\_\_\_\_





**THE MERCHANT SHIPPING (RADIOCOMMUNICATIONS) REGULATIONS**

## ARRANGEMENT OF REGULATIONS

## PART I – GENERAL

*Regulation*

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3. Application
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5. Equivalents and exemptions
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9. Installation of a distress panel
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13. Additional radio equipment to be provided for area A3 ships  
*ALTERNATIVE A*  
*ALTERNATIVE B*
14. Additional radio equipment to be provided for area A4 ships
15. Registration of radiocommunication equipment
16. Radio watches
17. Installation of a distress panel
18. Service ability and maintenance requirements
19. Radio personnel
20. Radio records
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24. Interference with reception and other installations
25. Changing of batteries
26. Serviceability and maintenance requirements
27. VHF radiotelephone station
28. Provision of VHF radiotelephone antennas
29. Sources of energy (VHF radiotelephone installation)
30. Use of VHF radiotelephone installation
31. VHF Radio watches
32. Radiotelephone station
33. Provision of radiotelephone antennas
34. Range of radiotelephone transmitter
35. Sources of energy (Radiotelephone ship).
36. Radio watch (Radiotelephone ship)
37. Radiotelephone operators
38. Radio records (Radiotelephone ship)

*Merchant Shipping*

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[Subsidiary]

## PART IV – RADIO LIFE-SAVING EQUIPMENT

- 39. Two-way VHF radiotelephone apparatus
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PART V – RADIOCOMMUNICATION REQUIREMENTS  
FOR SHIPS OF LESS THAN 25 TONS AND  
PLEASURE VESSELS OF LESS THAN 100 TONS

- 41. Mandatory communication equipment

## PART VI – ENFORCEMENT

- 42. Inspection etc. of Convention ships not registered or licensed Kenya
- 43. Ships not to be detained in certain cases
- 44. Offences and penalties
- 45. Director-General may impose penalty upon admission of guilt

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## SATELLITE EPIRBs

SERVICEABILITY AND MAINTENANCE REQUIREMENTS OF RADIO  
EQUIPMENT UNDER THE GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM  
(GMDSS)

## EQUIPMENT TESTS AND RESERVE POWER CHECKS

GMDSS RADIO LOG

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**THE MERCHANT SHIPPING (RADIOCOMMUNICATIONS) REGULATIONS**

[Legal Notice 117 of 2012]

## PART I – GENERAL

**1. Citation**

These Regulations may be cited as the Merchant Shipping (Radiocommunications) Regulations.

**2. Interpretation**

(1) In these Regulations, unless the context otherwise requires—

"Admiralty List of Radio Signals" means the document so entitled published by the United Kingdom Hydrographer of the Navy and any subsequent List containing the like information which the Hydrographer of the Navy considers relevant from time to time which replaces the Admiralty List of Radio Signals or replaces any subsequent list containing the like information; and any reference to any such List includes a reference to any United Kingdom Admiralty Notice to Mariners amending the same which the Hydrographer of the Navy considers relevant from time to time;

"area A2 ship" means a ship which goes to sea in sea area A1 only and includes Cargo ships of less than 300 GT, pleasure vessels not engaged in trade and fishing vessels;

"area A2 ship" means a ship which goes to sea in sea area A2 only, or in sea areas A1 and A2;

"area A3 ship" means a ship which goes to sea in sea area A3 only, or in sea area A3 and also in sea area A1 or A2 or both those sea areas;

"area A4 ship" means a ship which goes to sea in sea area A4 only, or in sea area A4 and also in one or more of sea areas A1, A2 and A3;

"bridge-to-bridge communications" means safety communications between ships from the position from which the ships are normally navigated;

"cargo ship" in these regulations means any ship that is not—

- (a) a passenger ship;
- (b) a fishing vessel; or
- (c) a pleasure vessel;

"certificated" radio operator" means a person qualified as specified in regulation 19, as a VHF radiotelephone operator, radiotelephone operator, or radio officer;

"conning position" means the place on the bridge with a commanding view of the ship and its position used by navigators when commanding manoeuvring and controlling the ship;

"continuous watch" means a radio watch which is not interrupted other than for brief intervals when the ship's receiving capability is impaired or blocked by its own communications or when the facilities are under periodical maintenance or checks;

"contravene", in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

"COSPAS-SARSAT satellite service" means a satellite aided search and rescue system designed to locate distress beacons transmitting in the 406 MHz band and on other frequencies;

"direct-printing telegraphy" means an automated telegraphy technique which complies with the relevant recommendations in the First Schedule;

"DSC" means Digital Selective Calling being a technique using digital codes which enables a radio station to establish contact with, and transfer information to, another station or group of stations, and complying with the relevant recommendations as specified in the First Schedule;

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"DSC watch" means listening for an audible alarm from a ship's DSC equipment on VHF (Channel 70), MF (2187.5 kHz) or HF (8414.5 kHz), and on at least one of the distress and safety DSC frequencies 4207.5 kHz, 6312 kHz, 12577 kHz or 16804.5 kHz;

"dugout canoe" means a boat or canoe made of hollowed tree trunk;

"EPIRB" means an emergency position indicating radiobeacon capable of transmitting a distress alert through the COSPAS/SARSAT polar orbiting satellite service operating in the 4.06 MHz band or through the INMARSAT geostationary satellites operating in the 1.6 GHz band, the emissions of which are intended to facilitate search and rescue operations;

"fishing vessel" means any of the following classes of vessels used for catching fish or other living resources of the sea or inland waters for financial gain or reward:

- (a) Class A-fishing vessels of 45 metres or more in length making voyages outside waters under Kenyan jurisdiction;
- (b) Class B-fishing vessels of less than 45 metres in length making voyages outside waters under Kenyan jurisdiction;
- (c) Class C-fishing vessels, other than of class D, making voyages exclusively within waters under Kenyan jurisdiction;
- (d) Class D-fishing vessels making voyages exclusively within waters under Kenyan jurisdiction, not more than 40 nautical miles from shore; and
- (e) Class R vessels operating only in inland waters;

"general radiocommunications" means operational and public correspondence traffic, other than distress, urgency and safety messages, conducted by radio;

"GMDSS" means the Global Maritime Distress and Safety System;

"GMDSS general operator's certificate" and "GMDSS restricted operator's certificate" means the certificates respectively so called in the Radio Regulations, issued in accordance with these Regulations, and which, in relation to a Kenyan ship, shall be issued under the authority of the Communications Commission of Kenya;

"GMDSS ship" means a ship to which Part II of these Regulations applies;

"Non-GMDSS ship" means a ship to which parts III, IV and V of these regulations applies;

"HF" means the frequency spectrum between 3000 kHz and 30 MHz;

"inland waters vessel" means a vessel operating in inland waters;

"inland Waters" means navigable waters within Kenya other than waters of the Indian Ocean and includes canals, lakes, rivers, water courses, inlets, reservoirs and has.

"INMARSAT" means the Organisation established by the Convention on the International Maritime Satellite Organisation (INMARSAT) adopted on 3rd September 1976, as amended;

"International NAVTEX service" means the co-ordinated broadcast and automatic reception on 518 kHz of maritime safety information by means of narrow-band direct-printing telegraphy using the English language;

"locating" means the finding of ships, aircraft, units or persons in distress;

"maintenance" means and activity intended to keep a radio installation in efficient working condition, and includes tests, measurements, replacements, adjustments and repairs;

"maritime safety information" means navigational and meteorological warnings, meteorological forecasts and other urgent safety related messages broadcast to ships;

"mobile satellite service" means a radiocommunications service between—

- (a) mobile earth stations and one or more space stations or between space stations used by this service; or
- (b) mobile earth stations by means of one or more space stations;

and this service may also include feeder links necessary for its operation:

"MF" means the frequency spectrum between 300kHz and 3000 kHz:

"non-Convention ship" means—

- (a) a passenger ship that is not foreign-going;
- (b) a cargo ship of 300 tons or more that is not foreign-going;
- (c) a cargo ship of less than 300 tons;
- (d) a fishing vessel;
- (e) a pleasure vessel; or
- (f) wooden ships of traditional build.

"non-GMDSS ship" means any ship other than a GMDSS ship;

"operator" includes master, and any charterer or agent of the ship;

"polar orbiting satellite service" means a service which is based on polar orbiting satellites which receive and relay distress alerts from satellite EPIRBs and which provides their position;

"radar transponder" means a survival craft radar transponder for search and rescue between ships or aircraft and survival craft;

"radio communication" means telecommunication by means of radio waves;

"radio communications service" means a service as defined in the Radio Regulations involving the transmission, emission and/or reception of radio waves for specific telecommunication purposes;

"radio installation" means any radio installation provided on board a ship in compliance with these regulations, including its associated antennas, inter-connecting circuits and, where appropriate, sources of energy;

"radio log" means the diary of the radio communication service required to be kept by regulation 20;

"radiotelephone station" means the place on board a ship where a radiotelephone installation is located;

"Radio Regulations" are accumulation of agreements reached at the World or regional radio conferences of the International and Telecommunication Union as amended;

"Safety Convention" shall have the meaning assigned to it in the Act;

"satellite EPIRB" means an EPIRB which is in the mobile-satellite service;

"sea area A1" means an area within the radiotelephone coverage of at least one VHF coast station in which continuous DSC alerting is available;

"sea area A2" means an area, excluding sea area A1, within the radiotelephone coverage of at least one MF coast station in which continuous DSC alerting is available;

"sea area A3" means an area, excluding sea areas A1 and A2, within the coverage of an INMARSAT geostationary satellite in which continuous alerting is available;

"sea area A4" means an area outside sea areas A1, A2 and A3;

"service" means, in relation to a reference to any particular type of radio service, a reference to that service as defined in the Radio Regulations;

"ship earth station" means a mobile earth station in the maritime mobile-satellite service located on board ship;

"ship station" means a mobile station in the maritime mobile satellite service located on board a vessel which is not permanently moored, other than a survival craft station;

"similar stage of construction" means the stage at which—

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

"survival craft" means a vessel that is capable of sustaining the lives of persons in distress after abandoning ship;

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"survival craft station" means a mobile station in the maritime mobile-satellite service intended solely for survival purposes and located on any lifeboat, life-raft or other survival equipment.

"VHF" means the frequency spectrum between 30 MHz and 300 MHz;

"VHF coast station" means a radio communication service located on the coast offering services in the very high frequency band (30-300 MHz);

"waters under Kenyan jurisdiction" means waters comprising—

- (a) the internal, inland and territorial waters of Kenya; and
- (b) the exclusive economic zone.

(2) For the purposes of these regulations a ship shall be deemed to be making a voyage or to be at sea at any time when it is not securely ashore or moored in a safe berth.

### 3. Application

(1) Subject to this regulation, these regulations shall apply to—

- (a) ships that are registered or licensed in Kenya wherever they may be; and
- (b) other ships while they are in Kenya or its inland waters.

(2) Regulations 4, 5, 6 and Part II apply to Convention ships and class A fishing vessels.

(3) Regulations 4, 5, 6 and Part III apply to non-Convention ships, other than class A fishing vessels.

(4) Parts IV and V apply both to Convention ships and to non-Convention ships.

(5) Notwithstanding paragraph (1)(a), these regulations shall not apply to a ship that is registered or licensed in Kenya while it is in the waters of a country other than Kenya where their provisions are inconsistent with the laws of that country.

(6) Notwithstanding the provisions, of these regulations only Part V shall apply to—

- (a) ships of less than 25 tons; or
- (b) pleasure vessels of less than 100 tons.

(7) Subject to subregulation (6), regulations 4, 5, 6 and Part VI shall apply to vessels provided in that subregulation.

### 4. Ships and persons in distress

Nothing in these Regulations shall prohibit any ship, survival craft or person in distress from using and means at their disposal to attract attention, make known their position or obtain help.

### 5. Equivalent and exemptions

(1) Where these Regulations require that a particular fitting, material, appliance or apparatus, or type thereof, shall be fitted or carried in a ship, or that any particular provision shall be made, the Director-General may permit any other fitting, material, appliance or apparatus or type thereof to be fitted or carried, or any other provision to be made in that ship where he is satisfied by trial thereof or otherwise that such other fitting, material, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by these Regulations.

(2) The Director-General may exempt any individual ship or class or description of ships from any of the provisions of Parts II and III of these Regulations, on such terms, if any, as he may specify and may, on reasonable notice, alter or cancel any such exemption.

### 6. Performance standards

(1) Subject to subregulation (2), radio equipment required by these regulations shall—

- (a) in the case of Convention ships, comply with performance standards not inferior to the relevant performance standards adopted by the IMO and specified by the Authority in the First Schedule to these Regulations or in a marine notice as having been so adopted; and

- (b) in the case of non-Convention ships, comply with such performance standards as may be specified by the Authority in a marine notice; and
- (c) in either case, be of a type approved by the Communications Authority of Kenya.

(2) In respect of a ship entitled to fly the flag of a Convention State, subregulation (1)(c) does not apply to equipment of a type approved by or on behalf of the competent maritime authority of that State.

(3) Every approval given pursuant to this regulation-

- (a) must be given in writing;
- (b) must specify the date on which it takes effect and the conditions (if any) on which it is given; and
- (c) may, after reasonable notice, be altered or cancelled.

## PART II – GMDSS SHIP REQUIREMENTS

### 7. Functional Requirements

Every ship, to which this Part applies, while at sea, shall be required to be capable of,

- (a) transmitting ship-to-shore distress alerts by at least two separate and independent means, using different radiocommunication service, other than by the means provided for in regulations 11(1)(a) and 13(1)(d)(iii) Alternative A;
- (b) receiving shore-to-ship distress alerts;
- (c) transmitting and receiving ship-to-shore distress alerts;
- (d) transmitting and receiving search and rescue co-ordinating communication;
- (e) transmitting and receiving on-scene communication;
- (f) transmitting and receiving signals for locating;
- (g) transmitting and receiving maritime safety information;
- (h) transmitting and receiving general radio-communications to and from shore-based radio systems or networks;
- (i) transmitting and receiving bridge-to-bridge communication.

### 8. Installation, location and control of radio equipment

(1) Every radio installation shall —

- (a) be so located that no harmful interference of mechanical, electrical or other origin affects its proper use, and so as to ensure electromagnetic compatibility and avoidance of harmful interaction with other equipment and systems;
- (b) be so located as to ensure the greatest possible degree of safety and operational availability;
- (c) be protected against harmful effects of water, extremes of temperature and other adverse environmental conditions;
- (d) be provided with reliable, permanently arranged electrical lighting, independent of the main and emergency sources of electrical power, for the adequate illumination of the radio controls for operating the radio installation; and
- (e) be clearly marked with the call sign, the ship station identity and other codes as applicable for the use of the radio installation.

(2) Control of the VHF radiotelephone channels shall be immediately available on the navigating bridge convenient to the position from which the ship is normally navigated and where appropriate, facilities shall be available to permit radio-communications from the wings of the navigating bridge, and portable VHF equipment may be used to meet the latter provision.

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(3) Each radio transmitter and receiver fitted in accordance with these Regulations shall be provided with a suitable antenna or antennas, which shall be so constructed and sited as to enable each transmitter and receiver to perform its intended communication function effectively.

## **9. Installation of a distress panel**

(1) In every passenger ship to which this regulation applies a distress panel shall be installed at the conning position.

(2) A distress panel shall—

- (a) contain either,
  - (i) a single button for all radio communications installations on board; or
  - (ii) a separate button for each radio communication installation on board which, when pressed, initiates a distress alert using all radio communication installations required on board for that purpose.
- (b) clearly and visually indicate whenever any such button or buttons referred to in paragraph (a) have been pressed; and
- (c) provide visual and aural indication of any distress alert or alerts received on board and indicate through which radio communication service the distress alert or alerts have been received.

(3) Means shall be provided to prevent inadvertent activation of the button or buttons on the distress panel.

(4) Where the satellite EPIRB required by regulation 10(1)(f) is used as the secondary means of initiating a distress alert pursuant to these Regulations and is not capable of being remotely activated, an additional EPIRB shall be installed in the wheelhouse near the conning position.

(5) Information on the ship's position shall be continuously and automatically provided to all relevant radiocommunication equipment included in the initial distress alert when the button or buttons on the distress panel is pressed.

## **10. Radio equipment to be provided for all sea areas**

(1) Every ship shall be provided with—

- (a) a VHF radio installation capable of transmitting and receiving—
  - (i) DSC on the frequency 156.525 MHz (Channel 70) and means shall be provided to initiate the transmission of distress alerts on Channel 70 from the position from which the ship is normally navigated; and
  - (ii) radiotelephony on the frequencies 156.300 MHz (Channel 6), 156.650 MHz (Channel 13) and 156,800 MHz (Channel 16);
- (b) VHF radio installation capable of maintaining a continuous DSC watch on Channel 70 referred to above which may be separate from, or combined with, that required by subparagraph (a)(i) of this subregulation;
- (c) a radar transponder capable of operating in the 9 GHz band, which—
  - (i) shall be stowed in such a manner that it can be easily utilised; and
  - (ii) may be one of those required for a survival craft in accordance with the prescribed regulations;
- (d) where the ship is at sea in any area in which an international NAVTEX service is provided, a receiver capable of receiving international NAVTEX service broadcasts;
- (e) where the ship is at sea in any area of INMARSAT coverage but in which an international NAVTEX service is not provided, a radio facility for reception of maritime safety information by the INMARSAT enhanced group calling system;



- (f) subject to the provisions of regulation 12(3) a satellite EPIRB complying with the requirements of the Second Schedule.

(2) Every passenger ship to which this subregulation applies shall be provided with means for two-way on-scene radio communication for search and rescue purposes capable of operating solely on the aeronautical frequencies 121.5 MHz and 123.1 MHz from the position from which the ship is normally navigated.

### 11. Additional radio equipment to be provided for area A1 ships

(1) In addition to meeting the requirements of regulation 10, every A1 area ship shall be provided with a radio installation capable of initiating the transmission of ship-to-shore distress alerts by operation from the position from which the ship is normally navigated, operating either—

- (a) on VHF using DSC which requirement may be fulfilled by the VHF EPIRB required by subregulation(3) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated;
- (b) through the polar orbiting-satellite service on 496MHz, which requirement may be fulfilled by the satellite EPIRB, required by regulation 10(1)(f) when it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated;
- (c) where the ship is at sea within coverage of MF coast stations equipped with DSC, on MF using DSC;
- (d) on HF using DSC; or
- (e) through the INMARSAT geostationary satellite service; this service may be fulfilled by—
  - (i) an INMARSAT ship earth station; or
  - (ii) the satellite EPIRB required by regulation 10(1)(f) where it is installed close to or capable of remote activation from which the position from which the ship is in normally navigated.

(3) The VHF radio installation, required by regulation 10(1)(a) shall also be capable of transmitting and receiving general radiocommunications using radiotelephony.

(4) Area A1 ships may, in lieu of being provided with the satellite EPIRB required by regulation 10(1)(f) be provided with an EPIRB which is-

- (a) capable of transmitting a distress alert using DSC on VHF channel 70 and providing for locating by means of a radar transponder operating in the 9 GHz band;
- (b) installed in an easily accessible position;
- (c) ready to be manually released and capable of being carried by one person into a survival craft;
- (d) capable of floating free if the ship sinks;
- (e) capable of being activated manually; and
- (f) automatically activated when afloat.

### 12. Additional radio equipment to be provided for area A2 ships

(1) In addition to meeting the requirements of regulation 10, every area A2 ship shall be provided with—

- (a) an MI-radio installation capable of transmitting and receiving, for distress and safety purposes, on the frequencies—
  - (i) 2.187.5 kHz using DSC; and
  - (ii) 2.182 kHz using radiotelephony;
- (b) radio installation capable of maintaining a continuous DSC watch on the frequency 2.187.5 kHz such installation may be separate from or combined with, that required by subparagraph (a)(i); and

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- (a) the equipment specified in subregulation (3)(b); or
- (b) the satellite EPIRB where it is installed close to or capable of remote activation from the position from which the ship is normally navigated:

(2) Means shall be provided to initiate transmission of distress alerts by the radio installations specified in subregulations (1)(a) and (1)(c) from the position from which the ship is normally navigated.

(3) The ship shall, in addition, be capable of transmitting and receiving general radiocommunication using radiotelephony or direct-printing telegraphy by either—

- (a) a radio installation operating on working frequencies in the bands between 1,605 kHz and 4,000 kHz or between 4,000 kHz and 27,500 kHz, which requirement may be fulfilled by the addition of this capability to the equipment required by subregulation(1)(a): or an INMARSAT ship earth station.

**13. Additional radio equipment to be provided for area A3 ships**

(1) In addition to meeting the requirements of regulation 10, every area A3 ship shall be provided with either of the following equipment—

**ALTERNATIVE A**

- (a) an MF radio installation capable of transmitting and receiving, for distress and safety purposes, on the frequencies—
  - (i) 2,187.5 kHz using DSC; and
  - (ii) 2,182 kHz using radiotelephony;
- (b) an INMARSAT ship earth station capable of—
  - (i) transmitting and receiving distress and safety communications using direct printing telegraphy;
  - (ii) initiating and receiving distress priority calls;
  - (iii) maintaining watch for shore-to-ship distress alerts, including those directed to specifically defined geographical areas;
  - (iv) transmitting and receiving general radiocommunications, using either radiotelephony or direct-printing telegraphy;
- (c) a radio installation capable of maintaining a continuous DSC watch on the frequency 2,187.5 kHz which may be separate from or combined with that required by subregulation(b)(i); and
- (d) means of initiating the transmission of ship-to-shore distress alerts by a radio service operating either—
  - (i) through the polar orbiting satellite service on 406 MHz; this requirement may be fulfilled by the satellite EPIRB, required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated;
  - (ii) on HF using DSC; or
  - (iii) through the INMARSAT geostationary satellite service, either by an additional ship earth station or by the satellite EPIRB required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated, or the following equipment—

**ALTERNATIVE B**

- (b) an MF/HF radio installation capable of transmitting and receiving, for distress and safety purposes, on all distress and safety frequencies in the bands between 1,605 kHz and 4,000 kHz and between 4,000 kHz and 27,500 kHz—
  - (i) using DSC;
  - (ii) using radiotelephony; and
  - (iii) using direct-printing telegraphy;

- (c) equipment capable of maintaining DSC watch on 2,187.5 kHz, 8,414.5 kHz and on at least one of the distress and safety DSC frequencies 4,207.5 kHz, 6,312 kHz, 12,577 kHz or 16,804.5 kHz; the equipment shall be such that it shall be possible at any time to select any of these DSC distress and safety frequencies; this equipment may be separate from, or combined with, the equipment required by subparagraph (a);
- (d) means of initiating the transmission of ship-to-shore distress alerts by a radiocommunication service other than HF operating either—
  - (i) through the polar orbiting satellite service on 406 MHz; this requirement may be fulfilled by the satellite EPIRB, required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated; or
  - (ii) through the INMARSAT geostationary satellite service; this requirement may be fulfilled by—
    - (aa) an INMARSAT ship earth station; or
    - (bb) the satellite EPIRB, required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated; and
- (e) in addition, means of transmitting and receiving general radiocommunications using radiotelephony or direct printing telegraphy shall be provided by an MF/HF radio installation operating on working frequencies in the bands between 1,605 kHz and 4,000 kHz and between 4,000 and 27,500 kHz; this requirement may be fulfilled by the addition of this capability in the equipment required by sub paragraph (a).

(2) Means shall be provided to initiate transmissions of distress alerts from the position from which the ship is normally navigated by the radio installations specified in subparagraphs (a), (b) and (d) of ALTERNATIVE A and (a) and (c) of ALTERNATIVE B of this regulation.

#### **14. Additional radio equipment to be provided for area A4 ships**

(1) In addition to meeting the requirements of regulation 10, every area A4 ship shall be provided with the radio installations and equipment specified in ALTERNATIVE B in regulation 13(1), except that the equipment required by (c)(ii) of ALTERNATIVE B shall not be accepted as an alternative to that required by regulation (c)(i) of ALTERNATIVE B, which shall always be provided.

(2) ships required to comply with subregulation(1) shall in addition comply with the requirements of regulation 13(2).

#### **15. Registration of radiocommunication equipment**

Every owner and operator of a ship to which these regulations apply shall ensure that every' radiocommunication equipment carried on the ship (whether or not carried in compliance with statutory requirements) is registered with a competent authority and that the registered particulars are correct.

#### **16. Radio watches**

- (1) Every ship shall while at sea maintain a continuous watch—
  - (a) on VHF DSC channel 70, where the ship, in accordance with the requirements of regulation 10 (1)(b), is fitted with VHF radio installation; and
  - (b) on the distress and safety DSC frequency 2.187.5 kHz, where the ship, in accordance with the requirements of regulation 12(1)(h) or subregulation(c) of ALTERNATIVE A in regulation 13, is fitted with an MF radio installation;

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## 17. Installation of a distress panel

(1) There shall be available at all times while the ship is at sea a supply of electrical energy sufficient to operate the radio installations and to charge any batteries used as part of a reserve source or sources of energy for the radio installations.

(2) A reserve source or sources of energy shall be provided on every ship to which this Part applies, to supply radio installations, used for the purpose of conducting distress and safety radiocommunications, in the event of failure of the ship's main and emergency sources of electrical power.

(3) The reserve source or sources of energy shall be capable of simultaneously operating—

- (a) the VHF radio installation required by subregulation(1)(a) of regulation 10 and,
- (b) as appropriate for the sea area or sea areas for which the ship is equipped, either—
  - (i) the MF radio installation required by subregulation(1)(a) of regulation 12;
  - (ii) the MF/HF radio installation required by subregulation(a) of ALTERNATIVE B in regulation 13 or regulation 14; or
  - (iii) the INMMSAT ship earth station required by subregulation(a) of ALTERNATIVE A in regulation 13;

and any of the additional loads mentioned in subregulations (6), (7) and (10) for a period of at least—

- (a) one hour on ships provided with an emergency source of electrical power; or
- (b) six hours on ships not provided with an emergency source of electrical power,
- (c) where such source of power complies with all the provisions of the relevant regulations made under this Act, as appropriate, including the supply of such power to the radio installations.

(3) The reserve source or sources of energy need not be capable of supplying independent HF and MF radio installations simultaneously.

(4) The reserve source or sources of energy shall be independent of the propelling power of the ship and the ship's electrical system.

(5) Where, in addition to the VHF installation, two or more of the other radio installations, referred to in subregulation(2), can be connected to the reserve source or sources of energy, such sources shall be capable of simultaneously supplying, for the period specified, as appropriate, in subregulations (2)(a) or (2)(b) the VHF radio installation and either—

- (a) all other radio installations which can be connected to the reserve source or sources of energy at the same time; or
- (b) where only one of the other radio installations can be connected to the reserve source or sources of energy at the same time as the VHF radio installation, whichever of the other radio installations will consume the most power.

(6) The reserve source or sources of energy may be used to supply the electrical lighting required by regulation 8(1)(d).

(7) Where a reserve source of energy consists of a rechargeable accumulator battery or batteries—

- (a) a means of automatically charging such batteries shall be provided which shall be capable of recharging them to minimum capacity requirements within 10 hours; and
- (b) the capacity of the battery or batteries shall be checked, using an appropriate method, at intervals not exceeding 12 months when the ship is not at sea.

(8) The siting and installation of accumulator batteries which provide a reserve source of energy shall be such as to ensure—

- (a) the highest degree of service;
- (b) a reasonable lifetime;
- (c) reasonable safety;
- (d) that battery temperatures remain within the manufacturer's specifications whether under charge or idle; and
- (e) that when fully charged, the batteries will provide at least the minimum required hours of operation under all weather conditions.

(9) Where an uninterrupted input of information from the ship's navigational or other equipment to a radio installation required by this Part is needed to ensure its proper performance, means shall be provided to ensure the continuous supply of such information in the event of failure of the ship's main or emergency source of electrical power.

(10) For the purpose of calculating the required capacity of the reserve source of energy, the total current used in calculations shall be equal to the highest sum of all the radio installations which simultaneously can be connected to the source of energy, based on the following-

- (a) the current consumption of the VHF receiver;
- (b) one fifth of the current consumption of the VHF transmitter;
- (c) the current consumption of a MF or MF/HF receiver and of the transmitter when it is in condition that operation of the "press to transmit" switch will make it ready for immediate transmission;
- (d) one third of the current which may be drawn by a MF or MF/HF transmitter for speech transmission on the frequency at, which the current consumption of the transmitter is at a maximum;
- (e) the current consumption of an INMARSAT ship earth station when it is receiving transmissions;
- (f) one quarter of the current which may be drawn by an INMARSAT ship earth station when it is transmitting in the mode at which the current consumption is at a maximum; and
- (g) the total current consumption of all additional loads to which the reserve source may supply energy in times of distress or emergency.

## 18. Service ability and maintenance requirements

(1) Radio equipment required under this Part shall be so designed that the main units can be replaced readily, without elaborate recalibration or readjustment.

(2) Where appropriate, equipment shall be so constructed and installed that it is readily accessible for inspection and on-board maintenance purposes.

(3) Adequate tools and spares shall be provided on board the ship to enable the equipment to be properly operated and maintained.

(4) Adequate tools and spares shall be provided on board the ship to enable the equipment to be properly operated and maintained.

(5) The radio equipment must be maintained to provide the availability of the functional requirements specified in regulation 7 and to meet the performance standards recommended by the IMO for such equipment, as specified pursuant to regulation 6(1)(a).

(6) On ships while at sea the availability of equipment shall be ensured as required in the Third Schedule,

- (a) The master of every ship to which this Part applies, being a ship that is registered or licensed in the Kenya, must designate a person (in this subregulation called the designated person), being a person qualified as described in regulation 19(2), who is to have the function of carrying out, while the ship is at sea, the appropriate tests and checks specified in the Fourth Schedule.

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- (b) Where any of the radio installations required by these Regulations are not in working order, the designated person shall inform the Master and record details of the deficiencies in the Radio Log referred to in regulation 20(1).

**19. Radio personnel**

(1) Every ship to which this Part applies shall carry the number of radio operators required by the Merchant Shipping (Safe Manning) Regulations, each of whom must be qualified for distress and safety radio communication purposes as specified in subregulations (3) or (4), as appropriate. Such person or persons shall be holders of certificates specified in the Radio Regulations as appropriate.

(2) A person is qualified for the purposes of subregulation(1) where—

- (a) On area A1 ships the person qualified as mentioned in subregulation (1) shall hold at least a GMDSS restricted operator's certificate issued in accordance with subsection D of Section IIIA of Article 55 of the Radio Regulations.
- (b) On area A2, area A3 and area A4 ships the person qualified as mentioned in subregulation (1) shall hold at least a GMDSS general or operator's certificate issued in accordance with subsection C of Section IIIA of Article 33 of the Radio Regulations or equivalent.

(2) The master of every passenger ship to which this Part applies must designate at least one such person as mentioned in subregulation (2) to perform only radiocommunications duties during distress incidents.

(3) The master of every ship to which this Part applies, other than a passenger ship, must designate one such person as mentioned in subregulation (2) to have primary responsibility for radiocommunications during distress incidents.

**20. Ratio records**

(1) There shall be kept in respect of every ship to which this Part applies a record, hereinafter referred to as "the GMDSS Radio Log", of the matters specified in the Fifth Schedule.

(2) The Master shall inspect and sign each day's entries in the GMDSS Radio Log.

(3) The GMDSS radio log shall form part of the ship's official logbook, but shall be kept separate from the official logbook, and, for the purposes of section 198 of the Act, it shall be deemed to be a document relating to the ship.

(4) The Master of a ship shall, on demand, produce to a surveyor or a proper officer, the Radio Log required to be kept on the ship. A master who fails to comply with this regulation shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

**21. Position-updating**

If radio equipment required by this Part is capable of automatically providing the ship's position when transmitting a & distress alert, the ship's position and the time the ship was at that position must be made available for transmission by the radio equipment—

- (a) from a navigation receiver, if one is fitted; or
- (b) manually, at intervals not exceeding four hours, while the ship is at sea.

**22. Exemption from Part II**

(1) The Director-General may exempt any ship, on such terms as he/she may specify, from a provision in Regulations 10, 11, 12, 13 or 14.

(2) When considering whether to exempt a ship, the Director-General shall take into account the effect of such exemption on the ship's ability to maintain proper communication for distress and safety purposes.

(3) An exemption may be granted under subregulation (1) only—

- (a) if the circumstances in relation in safety are such as to render the full application of regulation 10, 11, 12, 13 or 14 as the case may be, unreasonable or unnecessary; or
- (b) in exceptional circumstances, for a single voyage outside the sea area or sea areas for which the ship is equipped.

(4) The Director-General may, after reasonable notice, alter or cancel any exemption granted under subregulation (1).

(5) The Authority must, within 30 days after the first day of January in each year, submit to the IMO a report showing all exemptions granted under this regulation during the previous calendar year in respect of ships to which the Safety Convention applies and giving the reasons for granting them.

#### PART III – NON-GMDSS SHIP REQUIREMENTS

### 23. Provision of radio equipment

(1) Every ship to which this Part applies must be provided with a VHF radiotelephone installation that includes a transmitter and a receiver.

(2) Every ship to which this Part applies, being-

- (a) a passenger ship;
- (b) a cargo ship of 100 tons or more;
- (c) a cargo ship of less than 100 tons making a voyage more than 40 nautical miles from shore; or
- (d) a class B or C fishing vessel, must be provided with a radiotelephone installation that includes—
  - (i) a transmitter and a receiver;
  - (ii) a radiotelephone alarm signal generating device; and
  - (iii) during the period expiring on the fourth anniversary of the commencement of these regulations, either—
    - (A) a 2182 kHz radiotelephone distress frequency watch receiver; or
    - (B) a receiver capable of receiving international NAVTEX service broadcasts; and
  - (BB) after that period, a receiver of the kind referred to in item (aa) (B).

(2) A satellite EPIRB of the kind referred to in regulation 10(1)(f) must be provided—

- (a) on every ship to which this Part applies making a voyage outside waters under Kenyan jurisdiction;
- (b) after the period expiring on the second anniversary of the commencement of these regulations, on every ship to which this part applies, being-
  - (i) a new ship, other than a fishing vessel; or
  - (ii) a class C fishing vessel; and
- (c) after the period expiring on the fourth anniversary of the commencement of these regulations, on every ship to which this Part applies, being—
  - (i) an existing ship, other than a fishing vessel; or
  - (ii) a class D fishing vessel.

### 24. Interference with reception and other installations

(1) At no time while the ship is at sea is the operation of a radio installation required by this Part to prevent in any way the efficient operation of any other equipment installed on board the ship.

(2) At no time while the ship is—

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- (a) at sea; or
- (b) in a port when a radio watch is required by the master, is the operation of any equipment in the ship to affect the efficient reception of radio signals by means of a radio installation required by this Part.

(3) Where in respect of any ship to which this Part applies it is impracticable to erect efficient and properly installed antennas for broadcast receivers that do not interfere with the efficiency of the ship's radio installation, the ship must be provided with a communal antenna system for broadcast receivers.

**25. Changing of batteries**

(1) Where batteries are provided as a source of energy for any part of the radio equipment required by this Part, means must be provided on board the ship for charging such batteries from the ship's main source of electrical power. The charging facilities must be adequate to ensure that the batteries can be fully charged within a period of 16 hours:

Provided that where more than one battery is provided and each has sufficient capacity to comply with regulation 34(2), the charging facilities must be adequate to ensure that each battery can be fully charged within a period of 16 hours, but not necessarily simultaneously.

(2) Where practicable, the batteries must be fully charged on every occasion immediately before the ship leaves port:

**26. Serviceability and maintenance requirements**

(1) Radio equipment required by this Part must be in an efficient working condition-

- (a) whenever the ship goes to sea; and
- (b) at all times when the ship is at sea, unless there is a defect in the equipment and maintenance is being carried out or such maintenance is not practicable.

(2) Where any additional equipment, which is not required by this Part, is provided, it must be of such design that any malfunction of any part of that equipment will not adversely affect the operation of the radio equipment required by this Part.

(3) Where appropriate, radio equipment required by this Part must be so constructed and installed that it is readily accessible for inspection and on-board maintenance purposes.

(4) Adequate tools, testing equipment and spare parts, but at least those specified in Annex I of the First Schedule, must be provided on board the ship to enable the equipment to be maintained.

(5) Spare parts must be appropriately labelled and must be stowed so as to be readily accessible.

(6) Adequate information, at least in the English language, must be provided on board the ship to enable the equipment to be properly operated and maintained.

(7) In respect of ships to which this Part applies, being ships that are registered or licensed in Kenya, there must be available on board—

- (a) a rigging plan of the fitted antennas showing—
  - (i) elevation and plan views of the antennas; and
  - (ii) the dimensions of transmitting antennas; and
- (b) complete information on the wiring of the radio installation showing all cable interconnections and terminations.

(8) In all ships to which this Part applies a radiotelephone operator must, while at sea, carry out the appropriate equipment tests and battery and reserve energy checks specified in the Fourth Schedule. Where the ship has two or more radiotelephone operators, the master must designate one of them to carry out those tests and checks.

(9) If any of the radio equipment required by this Part is not in a working condition, the radiotelephone operator discovering the deficiency must without delay report that fact to the master and record the details of the deficiency in the ship's official logbook or in the radio log required by regulation 38, as the case may be required.



**27. VHF radiotelephone station**

(1) The VHF radiotelephone station must be located in the upper part of the ship. Control of the VHF channels required for navigational safety must be immediately available on the navigation bridge convenient to the conning position and, where necessary, facilities such as portable two-way VHF radio equipment must be available to permit radiocommunications from the wings of the navigation bridge.

(2) A card of instructions giving a clear summary of the distress, urgency and safety procedures must be displayed in full view of each VHF radiotelephone operating position.

**28. Provision of VHF radiotelephone antennas**

Every ship to which this Part applies must be provided with an antenna suitable for the efficient radiation and reception of signals in the frequency band 156.025-162.025 MHz. The antenna must be vertically polarised and, so far as practicable, have an unobstructed view in all directions.

**29. Sources of energy (VHF radiotelephone installation)**

(1) At all times while a ship to which this Part applies is at sea and at all reasonable times when it is in port, there must be available a source of energy sufficient to operate the VHF radiotelephone installation at its nominal rated output power.

(2) Where batteries are provided as a source of energy for any part of the VHF radiotelephone installation, they must have the capacity required by subregulation (1) and must be maintained at all times while at sea in such condition as to be able to supply continuously for at least six hours a total current equal to the sum of—

- (a) the current consumption of the VHF receiver; and
- (b) one fifth of the current consumption of the VHF transmitter.

(3) In every ship to which this Part applies, being a fishing vessel of 24 metres or more in length or a passenger ship, means must be provided, where practicable, to operate the VHF radiotelephone installation from an alternative source of energy situated in the upper part of the ship, unless the source of energy referred to in subregulation (1) is situated there. The alternative source of energy may be the reserve source of energy required by regulation 35(3), in which case the VHF usage thereof is to be limited to distress, urgency and safety communications.

(4) Where provision is made for operating the VHF radiotelephone installation from alternative sources of energy, clearly indicated means must be provided for rapid change from one source of energy to another.

**30. Use of VHF radiotelephone installation**

Every radiotelephone operator using the VHF radiotelephone installation must have practical knowledge of operating the VHF equipment and general knowledge of the Radio Regulations applying to VHF radiotelephone communications and specifically that part of those Regulations relating to distress signals and traffic, alarm, urgency and safety signals.

**31. VHF Radio watches**

(1) Every ship to which this Part applies, while at sea, must maintain a continuous watch on the navigation bridge on the frequency 156.8 MHz (VHF channel 16).

(2) This radio watch may be discontinued -

- (a) when the receiver is being used for traffic on a frequency other than 156.8 MHz;
- (b) when the ship is maintaining watch on a frequency other than 156.8 MHz for the purpose of a port operation, ship movement or safety of navigation service;
- (c) when, at the direction of the master, the watch is being maintained elsewhere in the ship; or

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(d) if, in the opinion of the master, the watch is prejudicial to the safety of the ship.

(3) Where the radio watch is discontinued pursuant to subregulation (2) (c) or (d), entries must be made in the ship's official logbook or in the radio log required by regulation 37, as the case requires, of the times and duration for which the watch on the navigation bridge was discontinued and of the circumstances in which the watch was transferred elsewhere or in which the safety of the ship was prejudiced, as the case may be.

(4) A written summary shall be maintained of all communications relating to distress, urgency and safety traffic received or transmitted on the VHF radiotelephone installation during the radio watch.

(5) Every ship to which this Part applies, while at sea, must maintain a radio watch for broadcasts of maritime safety information on the appropriate channel or channels on which such information is broadcast for the area in which the ship is being navigated.

### **32. Radiotelephone station**

(1) The radiotelephone station must be in the upper part of the ship and must be so sited that it is protected to the greatest possible extent from interference and noise that might impair the accurate reception of messages and signals.

(2) There must be an efficient means of two-way communication, independent of the ship's main communication system and main source of electrical power, between the radiotelephone station and any other place from which the ship is normally navigated.

(3) A reliable clock must be securely mounted in such a position that the entire dial can easily be observed from the radiotelephone operating position. The marking of the silence periods must be clearly visible.

(4) A reliable emergency light, independent of the system that supplies the normal lighting of the radiotelephone installation, must be provided and permanently arranged so as to be capable of providing adequate illumination of the operating controls of the radiotelephone installation, the clock required by subregulation (3) and the card of instructions required by subregulation (6). The emergency light must be controlled by two way switches clearly labelled to indicate purpose, placed respectively near an entrance to the room in which the radiotelephone installation is fitted and at the operating position in that room;

Provided that where the radiotelephone installation is fitted on the navigation bridge, only the switch at the operating position needs to be provided.

(5) Where a source of energy for the radiotelephone installation consists of a battery or batteries, means must be provided at the radiotelephone station to indicate continuously whether the battery voltage is adequate to supply energy for the radiotelephone installation.

(6) A card of instructions, at least in the English language, giving a clear summary of the radiotelephone distress, urgency and safety procedures must be displayed in full view of each radiotelephone operating position.

(7) Means must be provided at the radiotelephone station for testing, without radiation of signals, the proper functioning of—

- (a) the radiotelephone alarm signal generating device, by ensuring that the device can modulate efficiently the radiotelephone transmitter; and
- (b) the muting circuits of the radiotelephone distress frequency watch receiver, if provided.

### **33. Provision of radiotelephone antennas**

(1) Every radiotelephone in a ship must be provided with suitable antennas and insulators. Where wire antennas are suspended between supports liable to whipping, they must be protected against breakage. In addition, every such ship must carry—

- (a) if the radiotelephone antenna is a supported wire antenna a spare antenna completely assembled for rapid replacement of the radiotelephone antenna; or

- (b) if the radiotelephone antenna is not a supported wire antenna, a spare antenna of similar electrical characteristics, and the necessary means to erect an antenna.

(2) A suitable antenna must be provided for, and normally be connected to, the radiotelephone distress frequency watch receiver, if provided.

#### **34. Range of radiotelephone transmitter**

(1) The normal range of the radiotelephone transmitter required by this Part must not be less than 150 nautical miles on the frequency 2182 kHz. The range is normally to be determined by calculation of the metre-amperes (which is the product of the maximum height of the antenna in metres, measured from the lead-out insulator, and the current in amperes, measured at the base of the antenna), but if an antenna arrangement causes difficulty in determining the range of a transmitter by calculation, it must be determined by trial.

(2) A radiotelephone transmitter is to be taken to comply with subregulation (1) if the product calculated in accordance with that subregulation is not less than—

- (a) 7.5 metre-amperes, in the case of an antenna having a horizontal top-length of not less than 50 per cent of its maximum height, measured from the lead-out insulator; or
- (b) 12.8 metre-amperes, in the case of any other antenna.

(3) The radiotelephone transmitter must have a minimum rated output power of not less than 100 watts peak envelope power, measured between the transmitter final stage and the antenna tuning unit.

#### **35. Sources of energy (Radiotelephone ship).**

(1) At all times while a radiotelephone ship is at sea and at all reasonable times when it is in port, there must be available a main source of energy sufficient to operate the radiotelephone installation over the normal range required by regulation 34(1).

(2) Where batteries are provided as a source of energy, they must have the capacity required by subregulation (1) and must be maintained at all times while at sea in such condition as to be able to supply continuously for at least six hours a total current equal to the sum of—

- (a) the current consumption of the radiotelephone receiver and of the transmitter when it is in a condition that operation of the "press to transmit" switch will make it ready for the immediate transmission of speech;
- (b) one third of the current that may be drawn by the radiotelephone transmitter for speech transmission on the frequency at which the current consumption of the transmitter is at a maximum;
- (c) the current consumption of all additional loads to which the battery may supply energy in time of distress or emergency; and
- (d) where the source of energy is also used by the VHF radiotelephone installation, the current consumption of the VHF radiotelephone receiver and one fifth of the current consumption of the VHF radiotelephone transmitter.

(5) In respect of radio installations in radiotelephone ships, being fishing vessels of 24 metres or more in length or passenger ships, a reserve source of energy must be provided in the upper part of the ship unless the main source of energy is situated there.

(6) The reserve source of energy, if provided, may be used to supply only—

- (a) the radiotelephone installation;
- (b) the emergency light required by regulation 32(4);
- (c) the device for generating the radiotelephone alarm signal by automatic means;
- (d) the VHF radiotelephone installation;
- (e) a number of low power emergency circuits that are confined to the upper part of the ship, if such circuits are adequately fused and capable of being

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readily disconnected from the reserve source of energy, and that source has sufficient capacity to carry the additional load; and

- (f) the receiver required by items (aa)(B) and (bb) of regulation 23(2)(iii).

### **36. Radio watch (Radiotelephone ship)**

Every radiotelephone ship that is provided with a radiotelephone distress frequency watch receiver must, while at sea, maintain a continuous watch on the radiotelephone distress frequency at the place on board from which the ship is normally navigated.

### **37. Radiotelephone operators**

Subject to section 170(4) of the Act, every ship to which this Part applies must carry the number of appropriately qualified radiotelephone operators as specified in regulation 15 of the Merchant Shipping (Safe Manning) Regulations, 2012.

### **38. Radio records (Radiotelephone ship)**

(1) The radio log required by the Radio Regulations for a radiotelephone ship shall be kept at the place where radio watch is maintained during the voyage.

(2) Every radiotelephone operator and every master, officer or crew member, when carrying out a radio watch in accordance with regulation 36, must enter in the Non GMDSS radio log the information specified in Part 2 of the Fifth Schedule.

(3) The radiotelephone operator or, if there is more than one operator, the one designated by the master, must inspect and sign each day the entries in the radio log for that day, confirming that the requirements of this Part have been complied with.

(4) The master must inspect and sign each day's entries in the radio log.

(5) The master must, on demand, produce the radio log for inspection by a surveyor or a proper officer.

(6) The radio log forms part of the ship's official logbook, but is to be kept separate from the official logbook, and, for the purposes of section 198 of the Act, is deemed to be a document relating to the navigation of the ship.

## **PART IV – RADIO LIFE-SAVING EQUIPMENT**

### **39. Two-way VHF radiotelephone apparatus**

(1) Three portable two-way VHF radiotelephone apparatus must be provided on every Convention ship, other than a cargo ship of less than 500 tons.

(2) Two portable two-way VHF radiotelephone apparatus must be provided—

(a) on every Convention ship that is a cargo ship of 300 tons or more but less than 500 tons; and

(b) on every non-Convention ship that is—

(i) a passenger ship;

(ii) a cargo ship of 300 tons or more; or

(iii) a fishing vessel of 24 metres or more in length.

(3) One portable two-way VHF radiotelephone apparatus must be provided on every non-Convention ship that is—

(a) a cargo ship of less than 300 tons; or

(b) a fishing vessel of less than 24 metres in length.

(4) The portable two-way VHF radiotelephone apparatus required by subregulations (1), (2) and (3) must be made watertight through integral design and may also be used for on-board radiocommunication if it is capable of operating on appropriate frequencies.

(5) If a fixed two-way VHF radiotelephone apparatus is provided in a survival craft, it must comply with the appropriate performance standards specified pursuant to regulation 6.

(6) The battery included in survival craft fixed radio equipment must not be used for any purpose other than the operation of such equipment and the searchlight carried in the survival craft.

#### 40. Radar transponders

(1) One radar transponder must be carried on each side every Convention ship, other than a cargo ship of less than 500 tons.

One radar transponder must be carried:

- (a) on every non-Convention ship; and
- (b) on every Convention ship that is a cargo ship of less than 500 tons.

(2) The radar transponders required by this regulation must be capable of operating in the 9 GHz band and must be stowed so as to enable rapid placement in a survival craft.

#### PART V – RADIOCOMMUNICATION REQUIREMENTS FOR SHIPS OF LESS THAN 25 TONS AND PLEASURE VESSELS OF LESS THAN 100 TONS

#### 41. Mandatory communication equipment

(1) Every ship to which this Part applies while at sea shall be capable of—

- (a) transmitting and receiving ship-to-shore distress alert;
- (b) receiving shore to ship distress alert;
- (c) transmitting and receiving search and rescue co-ordinating communication; and
- (d) transmitting and receiving on-scene communication.

(2) Every ship to which this Part applies must be provided with a VHF radiotelephone installation that includes a transmitter and a receiver.

#### PART VI – ENFORCEMENT

#### 42. Inspection etc. of Convention ships not registered or licensed Kenya

(1) When considering whether a Convention ship that is neither registered nor licensed in the Republic of Kenya complies with the requirements of these regulations, a proper officer or a surveyor, as the case may be, need not satisfy himself in relation to—

- (a) regulation 6 (1)(a), if the equipment is of a type approved by the competent maritime authority of the State whose flag the ship is entitled to fly and that State is a Convention State: or

(2) Regulation 6(1)(c), if the ship is entitled to fly the flag of a Convention State.

#### 43. Ships not to be detained in certain cases

No ship may be detained in a port where repair facilities are not readily available, because of malfunction of the equipment for providing general radio communications referred to in regulation 8, if the ship is capable of performing all distress and safety functions as required by that regulation.

#### 44. Offences and penalties

(1) If a radiotelephone operator or a person designated under regulation 19(3) or (4) contravenes any provision of these regulations imposing a duty on him, he commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a period not exceeding six (6) months: and if any person, being the owner or master of the ship, permits such a contravention, he or she also commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve (12) months;

(2) If these regulations are contravened in any other respect in relation to any ship, the owner and master of the ship each commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve (12) months.

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**45. Director-General may impose penalty upon admission of guilt**

(1) If a person—

- (a) admits to the Director-General that he has failed to comply with the requirements of these regulations, or that he has failed to comply with any such requirement with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for failure to comply, the Director-General may, after such inquiry as he deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or an part of the said deposit to be forfeited to the Authority.

(2) The imposition of a penalty under subregulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in these regulations shall in any way affect liability to forfeiture of ships, shares therein or goods.

## FIRST SCHEDULE

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## STANDARDS OF PERFORMANCE OF RADIO EQUIPMENT

<i>Equipment<sup>1</sup></i>	<i>IMO Assembly Resolution</i>	
	<i>Equipment installed before 23 November 1996</i>	<i>Equipment installed on or after 23 November 1966</i>
Narrow-band direct printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships	A.525(13)	A.525(13)
Narrow-band direct-printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships (MSI) by HF	A.700(17)	A.700(17)
Ship earth stations capable of two-way communications	A.698(17)	A.808(19)
Shipborne VHF radio installations capable of voice Communication and digital selective calling	A.609(15)	A.803(19)3
Shipborne MF radio installations capable of voice Communication and digital selective calling	A.610(15)	A.804(19)3

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Shipborne MF/HF radio installations capable of voice communication, narrow-band direct printing and digital selective calling	A.613(15)	A.806(19)1
Float-free satellite emergency position-indicating radio beacons (EPIRBs) operating on 406 MHz <sup>5</sup>	A.763(187)	A.810(19)
Survival craft radar transponders for use in search and rescue operations	A.697(17)	A.802(19)
Float-free VHF emergency position indicating radio beacons <sup>5</sup>	A.612(15)	A.805(19)
Inmarsat Standard-C ship earth stations capable of	A.663(16)	A.807(19)E
Float-free satellite emergency position indicating radio beacons operating through the geostationary satellite system on 1.6 GHz <sup>5</sup>	A.661(16)	A.812(19)

*Notes:*

1. All equipment shall conform with the general requirements for shipborne radio equipment forming part of the Global Maritime Distress and Safety System (GMDSS) and for electronic navigational aids, IMO Assembly Resolution A.694 (17).
2. Equipment installed on or after 1 January 2001 to conform with the amendments adopted through IMO Maritime Safety Committee (MSC) Resolution MSC (68)68 Annex 1.
3. Equipment installed on or after 1 January 2001 to conform with the amendments adopted through IMO Maritime Safety Committee (MSC) Resolution MSC (68)68 Annex 2.
4. Equipment installed on or after 1 January 2001 to conform with the amendments adopted through IMO Maritime Safety Committee (MSC) Resolution MSC (68)68 Annex 3.
5. Float-free release and activation arrangements for emergency radio equipment shall conform with the Assembly resolution A.662(16).
6. Equipment installed on or after 1 January 2001 to conform with the amendments adopted through IMO Maritime Safety Committee (MSC) Resolution MSC (68)68 Annex 4.
7. Equipment installed before 4 November 1994 may conform with IMO Assembly resolution A.695(17).

**Standards of Performance for marine radio equipment to be installed on Kenya ships**

<i>Installation</i>	<i>IMO Resolution Number</i>	<i>Sub-system</i>	<i>Specifications (Notes 1 and 2)</i>
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Narrow-band direct-printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships	A.525(13)	Not applicable	ETS 300:065 September 1992 or MPT 1257
Narrow-band direct-printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships (MSI) by HF.	A.700(17)	Not applicable	ETS 300:065 September 1992
Ship earth stations capable of two-way communications (Note 3) "A" and "B"	A.808(19)	Not applicable	INMARSAT
Performance standards for float-free release and activation arrangements for emergency radio equipment	A.662(16)	Not applicable	Specification incorporated in equipment standards
Performance standards for enhanced group call equipment	A.664(16)	Not applicable	Specification incorporated in equipment standards for INMARSAT standard-C
Survival craft radar transponders for use in search and rescue operations	A.802(19)	Not applicable	BS EN 61097-1:1993 or ETS 300:151
Shipborne VHF radio installations capable of voice communication and digital selective calling	A.803(19)	Transceiver Facility (Fixed)  Digital Selective Calling Facility  Watchkeeping Facility	Draft prETS 300:162 February 1997 Edition 2 or MPT 1252 ETS 300:338 November 1995 or MPT 1262 PrEN 301:033 May 1997 Edition 1.1.1 (Note 4)



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Shipborne MF radio installations capable of voice communication and digital selective calling	A.806(19)	Transceiver Facility	ETS 300:373 August 1995 or MPT 1262
		Digital Selective Calling Facility	ETS 300:338 November 1995 or MPT 1262
		Narrow Band Direct Printing Facility	FAS 300:067 November 1990 or MPT 1257
		Watchkeeping Facility	PrEN 301:033 May 1997 Edition 1.1.1 (Note 4)
Shipborne MF/HF radio installations capable of voice communication, narrow-band direct-printing and digital selective calling	A.806(19)	Transceiver Facility	ETS 300:373 August 1995 or MPT' 1224
		Digital Selective Calling Facility	ETS 300:338 November 1995 or MPT 1262
		Narrow Band Direct Printing Facility	ETS 300:067 November 1990 or MPT 1257
		Watchkeeping Facility	PrEN 301:033 May 1997 Edition 1.1.1 (Note 4)
Float-free VHF emergency position-indicating radio beacons	A.805(19)	Not applicable	Refer to [Country] maritime administration
Inmarsat standard-C ship earth station capable of Transmitting and Receiving direct printing communications (Note 2)	A.807(19)	Not applicable	ETS 300:460 May 1996. or MPT 1260
Performance standard for survival craft two-way VHF radiotelephone apparatus	A.809(19)	Not applicable	ETS 300:225 April 1997 Edition 2 or MPT 1274
Float-free emergency position- indicating radio beacons (EPIRBs) operating on 406 MHz	A.810(19)	Not applicable	ETS 300:066 September 1996 Edition 2 or MPT 1259
Performance standards for a shipborne	A.811(19)	Not applicable	Tested by inspection on

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integrated radiocommunications system (IRCS) when used in the GMDSS			hoard ship. No type approval.
Float-free emergency position- indicating radio beacons operating through the geostationary Inmarsat satellite system on 1.6 GHz (Note 3)	A.812(19)	Not applicable	ETS 300:372 May 1996

*Notes:*

1. All equipment must conform to the general requirements for shipborne radio equipment forming part of the Global Maritime Distress and Safety System (GMDSS) and for electronic navigational aids, IMO Assembly Resolution A.694(17).
2. The equipment installed is required to conform with the requirements of the relevant IMO performance standards and/or the requirements of the ITU in force, as appropriate.
3. All INMARSAT installations and ancillary equipment are to be of a type approved by INMARSAT.
4. Or as incorporated in the DSC facility.

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**SECOND SCHEDULE**

[r. 10(1)(f)]

**SATELLITE EPIRBS**

Every satellite EPIRB provided pursuant to these Regulations shall be—

1. capable of transmitting a distress alert either through the polar orbiting satellite service operating in the 406 MHz band or, alternatively, in sea areas A1, A2 and A3 only, through the INMARSAT geostationary satellite service operating in the 1.6 GHz band;
2. installed in an easily accessible position;
3. ready to be manually released and capable of being carried by one person into a survival craft;
4. capable of floating free if the ship sinks;
5. capable of being activated manually; and
6. automatically activated when afloat.

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**THIRD SCHEDULE**

[r. 18(6)]

**SERVICEABILITY AND MAINTENANCE REQUIREMENTS OF RADIO EQUIPMENT UNDER THE GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM (GMDSS)**

1. This Schedule sets out the requirements for ensuring the availability of radio equipment on vessels entering the GMDSS as provided by Regulation 17(6) of the Regulations.

*Requirements for ensuring availability*

**2.1** Every ship, subject to this Regulation, shall ensure availability by using at least one; and for area A3 or area A4 ships at least two, of the following methods—

- 2.1.1 duplication of equipment;
- 2.1.2 shore-based maintenance;
- 2.1.3 at-sea electronic maintenance capability; or
- 2.1.4 any other method or combination approved by the Director-General.

**2.2** Irrespective of the methods used to ensure the availability of the equipment, but subject to the exception of Regulation 20, a ship should not depart from any port unless and until the ship is capable of performing all distress and safety communications.

**2.3** Irrespective of the methods used by the ship, all manufacturers' instruction manuals and maintenance manuals for each piece of equipment required should be available on board. In the case of Kenya ships these manuals must be in the English language. Adequate tools, spare parts and test equipment appropriate to the methods used by the ship should be provided. The manuals, tools, spare parts and test equipment, as applicable, should be readily accessible.

*Duplication of equipment ensuring availability*

**2.1** Where availability is ensured by using duplication, either singly or in combination with other approved methods, the following radio installations, in addition to those required by Regulations 10, 11, 12, 13 and 14 as appropriate, and complying with Regulation 6, should be available on board ships engaged on voyages in -

3.1.1 *Sea-Area A1* -a VHF radio installation complying with the requirements of Regulation 10(1)(a);

3.1.2 *Sea Areas A1 and A2* -a VHF radio installation complying with the requirements of Regulation 10(1)(a) and an MF radio installation complying with the requirements of Regulation 12(1)(a);

3.1.3 *Sea Areas A1, A2 and A3* -a VHF radio installation complying with the requirements of Regulation 10(1)(a) and either an MP/HP radio installation complying with the requirements of Regulation 13(1) ALTERNATIVE B(a) and being able to fully comply with the watch requirements of Regulation 15(1)(c); or an INMARSAT Ship Earth Station (SES) complying with the requirements of Regulation 13(1) ALTERNATIVE A(a). The MF/HF installation or INMARSAT SES installed for duplication should also comply with Regulation 13(2);

3.1.4 *Sea Areas A1, A2, A3 and A4* -a VHF radio installation complying with the requirements of Regulation 10(1)(a) and an MF/HF radio installation complying with the requirements of Regulation 13(1) ALTERNATIVE B(a) and being able to comply fully with the watch requirements of Regulation 15(1)(c) For ships operating in sea area A4 only occasionally and having originally installed an MF/HF radio installation, the additional MF/HF radio installation may be substituted by an INMARSAT SES complying with the requirements of Regulation 13(1) ALTERNATIVE A(a). The MF/HF radio installation or INMARSAT SES installed for duplication should also comply with Regulation 13(2).

**3.2** The additional radio installations specified in paragraphs 3.1.1 to 3.1.4 above should each be connected to a separate antenna and be installed and ready for immediate operation.

**3.3** It should be possible to connect the additional radio installations specified in paragraphs 3.1.1 to 3.1.4, hereinafter referred to as 'duplicated equipment', to the reserve source or sources of energy required by Regulation 16(2), in addition to the appropriate radio equipment specified in that regulation, hereinafter referred to as 'basic equipment'. The capacity of the reserve source or sources of energy should be sufficient to operate the

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particular installation, that is, the 'basic equipment' or the 'duplicated equipment', with the highest power consumption, for the appropriate period specified in Regulation 16(2)(b)(iii). However, the arrangement for the reserve source or sources of energy should be such that a single fault in this arrangement should not be able to affect both the basic and the duplicated equipment. Where the reserve source of energy is a battery the charging arrangements should be duplicated. Alternatively, a suitable alarm system should be installed to indicate a failure in the charging arrangement and provision should be made to connect the equipment direct to a suitable alternative supply.

*Shore-based maintenance for ensuring availability*

a. Where availability is ensured by using a combination of methods which include shore-based maintenance, an arrangement acceptable to the Kenya Maritime Authority should be established to ensure adequate support of the ship for the maintenance and repair of its radio installations. Acceptable arrangements are—

**4.1.1** a signed declaration from the Owner or his Representatives setting out the arrangement with a company or companies covering the trading area of the ship to provide maintenance and repair facilities on a call-out basis;

4.1.2 provision of facilities at the main base of ships engaged on a regular trading pattern.

*Note:* Records of Equipment should include an indication of the types of arrangements for shore-based maintenance.

*At-sea electronic maintenance capability for ensuring availability*

**5.1** Where availability is ensured by using a combination of methods which includes at-sea electronic maintenance capability, adequate additional technical documentation, tools, test equipment and spare parts must be carried on board in order to enable the maintainer to perform tests and localise and repair faults in the radio equipment. The extent of this additional technical documentation, tools, measuring equipment and spare parts to be carried on board should be consistent with the equipment installed. An indication of such approval should be entered in the Records of Equipment.

**5.2** The person designated to perform functions for at-sea electronic maintenance should hold an appropriate certificate as specified by the Radio Regulations or have equivalent at-sea electronic maintenance qualifications.

**5.3** In the case of Kenya ships, for the purpose of the Regulations an officer or crew member shall be deemed qualified to carry out radio maintenance where he or she holds -

5.3.1 a Radio Maintenance certificate granted by the Cabinet Secretary with responsibility for telecommunications, or

5.3.2 a certificate recognised by the Kenya Maritime Authority as being equivalent to the certificate in 5.3.1 above.

*Acceptable combinations (or Equivalent)*

**6.1** Any INMARSAT SES equipment providing the enhanced group calling (EGC) capability may be accepted as fulfilling the basic requirement of Regulation 10(1)(e) for EGC reception.

**6.2** Any INMARSAT SES or any MF/HF radio telephone installed for duplication may also satisfy the basic requirements of Regulations 12(1)(c), 13(1) ALTERNATIVE A(d) and 13(1) ALTERNATIVE B(c) for another radio service to initiate the transmission of ship-to-shore distress alerts.

**6.3** Any INMARSAT SES or any MF/HF radiotelephone may be installed for duplication irrespective of whether the basic radio installation complies with regulation 13(1) ALTERNATIVE A(a) or regulation 13(1) ALTERNATIVE B(a).

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## FOURTH SCHEDULE

[r. 18(6)]

## EQUIPMENT TESTS AND RESERVE POWER CHECKS

*Daily*

**1.1** The proper functioning of the DSC facilities shall be tested at least once each day, without radiation of signals, by use of the means provided on the equipment.

**1.2** Batteries providing a source of energy for any part of the radio installations shall be tested daily and, where necessary, brought up to the fully charged condition.

*Weekly*

**2.1** The proper operation of the DSC facilities shall be tested at least once a week by means of a test call, when within communication range of a coast station fitted with DSC equipment. Where a ship has been out of communication range of a coast station fitted with DSC equipment for a period of longer than one week, a test call shall be made on the first opportunity that the ship is within communication range of such a coast station.

**2.2** Where the reserve source of energy is not a battery, for example, a motor generator, the reserve source of energy shall be tested weekly.

*Monthly*

**3.1** Each EPIRB and satellite EPIRB shall be examined at least once a month to determine its capability to operate properly, particularly its ability to float free, where required to do so, in the event of the ship sinking, its security and for signs of damage.

**3.2** Each search and rescue radar transponder shall be checked at least once a month for security and signs of damage.

**3.3** Each survival craft two-way VHF equipment shall be tested at least once a month on a frequency other than 156.8 MHz (VHF Channel 16).

**3.4** A check shall be made at least once a month on the security and condition of all batteries providing a source of energy for any part of a radio installation. The battery connections and compartment shall also be checked.

## FIFTH SCHEDULE

[r. 20(1)]

## GMDSS RADIO LOG

The following shall be recorded in the GMDSS Radio Log as they occur—

**(a)** a summary of communications relating to distress, urgency and safety traffic and the time such communications occurred;

**(b)** a record of important incidents connected with the radio service and the time such incidents occurred; and

**(c)** where appropriate, the position of the ship at least once a day and the time at which the ship was in that position.



**THE MERCHANT SHIPPING (SAFE MANNING) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

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SCHEDULES

PART I - WATCHKEEPING PRINCIPLES AND ARRANGEMENTS





**THE MERCHANT SHIPPING (SAFE MANNING) REGULATIONS**

[Legal Notice 116 of 2012]

**1. Citation**

These Regulations may be cited as the Merchant Shipping (Safe Manning) Regulations.

**2. Interpretation**

(1) In these Regulations, meaning in the Act shall have, unless the context indicates otherwise required—

"able seafarer deck" means a rating qualified for service on a seagoing ship of 500GT or more;

"able seafarer engine" means a rating qualified for service on a seagoing ship powered by main propulsion machinery of 750 Kw propulsion power or more;

"accredited institution" means a training institution accredited under regulation 70 of the Merchant Shipping (Training and Certification) Regulations, 2012;

"Authority" means the Kenya Maritime Authority established under the Kenya Maritime Authority Act (Cap 370);

"certificated", except in relation to a radio operator, means duly certificated under the Act or deemed under the Act to be so certificated, and, in relation to a radio operator, means holding a valid appropriate certificate of proficiency issued or recognized by or on behalf of the Communications Commission of Kenya;

"contravene" in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

"deck officer" means a person who is qualified for service as a ship's officer in the deck department on a ship, and includes the master;

"defined fishing zone" means the Kenya Fishery Waters as defined in the Fisheries Management and Development Act (Cap. 378);

"electro technical officer" means an officer qualified and certificated for service in a ship powered by main propulsion machinery of 759Kw propulsion power or more;

"electro technical rating" means a rating qualified and certificated for service on a ship powered by main propulsion machinery of 750Kw or more;

"engine officer" means a person who is qualified for service as a ship's officer in the engine-room department on a ship;

"examiner" means a person appointed under section 170 of the Act;

"fast rescue boat" means a rigid or semi-rigid inflatable boat used for rescue work and capable of manoeuvring, for at least 4 hours, at a speed of 20 knots in calm water with a crew of at least three persons and at a speed of at least 8 knots with a full complement;

"fishing vessel" means a ship that is used for catching fish or other living resources of the sea for financial gain or reward;

"foreign ship" means any ship that is not registered in Kenya;

"GMDSS" means the global maritime distress and safety system;

"GT" in relation to a ship, means its gross tonnage calculated in accordance with the Merchant Shipping (Tonnage Measurement) Regulations, 2012;

"length", in relation to a ship, has the same meaning as in regulation 2 of the Merchant Shipping (Tonnage Measurement) Regulations, 2012;

"offshore exploration operations" means the exploitation, whether by mining or otherwise, of mineral resources of the seabed or subsoil thereof, excluding oil and gas resources;

"officer" means a person engaged as an officer on a ship;

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"offshore" means seaward measured from the low-water line along a coast;

"owner", in relation to a ship, includes any person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner;

"port operations" means voyages confined to the sea area within a 15 mile radius of a port;

"propulsion power" means the total maximum continuous rated output power in kilowatts of all a ship's main propulsion machinery appearing on the ship's certificate of registry or other official document;

"radio operator" means a person having responsibility for the operation of the radio installations on a ship;

"rating" means a seafarer other than an officer;

"ro-ro passenger ship" means a passenger ship with ro-ro cargo spaces or special category spaces as defined in regulation 11-2/3 of the Safety Convention;

"safe manning document" means a document that describes the minimum manning considered necessary to ensure that a ship is sufficiently and efficiently manned, and that is issued-

- (a) in the case of a Kenyan ship, by the Authority; and
- (b) in the case of any other ship, by or under the authority of the flag State;

"Safety Convention" means the Safety of Life At Sea Convention of 1974;

"seagoing ship" means a ship other than one that navigates exclusively in inland waters or in a sea area contemplated in the definition of port operations;

"ship to which the Safety Convention applies" means any seagoing ship, except—

- (a) warships, naval auxiliaries or other ships owned or operated by a state and engaged only on government non-commercial service;
- (b) ships of less than 500 GT, other than passenger ships;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of traditional build;
- (e) ships used solely for sport or recreation; and
- (f) fishing vessels;

"ship to which the STCW Convention applies" means any seagoing ship except—

- (a) warships, naval auxiliaries or other ships owned or operated by a state and engaged only on government non-commercial service;
- (b) fishing vessels;
- (c) ships used solely for sport or recreation; and
- (d) wooden ships of traditional build.

"STCW Convention means the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, as amended and "Convention" shall be construed accordingly;

"STCW Code" means the Seafarers' Training, Certification and Watchkeeping Code, as amended:

"tanker" means a ship—

- (a) constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the latest edition of the *International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk* published by the International Maritime Organization, constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the latest edition of the *International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk* published by the International Maritime Organization,

- (b) constructed and used for the carriage in bulk of petroleum or petroleum products;

"the Code" means the Code for Kenyan Maritime Qualifications published by the Authority as amended from time to time;

"the Training and Certification Regulations" means the Merchant Shipping (Training and Certification) Regulations (sub. leg);

"unlimited voyage" means a voyage other than one contemplated in the definitions of near-coastal voyage and port operations;

"Kenyan waters" includes—

- (a) the internal and territorial waters of Kenya; and
- (b) the exclusive economic zone of Kenya.

(2) A reference in these regulations to the holder of any certification or document or to holding any certification or document shall be read as a reference to the lawful holder of the certification or document or to lawfully holding the certification or document, as the case may be.

(3) For the purposes of these regulations, a ship shall be taken to be at sea at any time when it is not securely ashore or moored in a safe berth; provided that a ship shall not be taken to be at sea by reason only that the ship has been got underway for the purpose of moving the ship from one berth in a port to another berth in the port.

### 3. Application

(1) Subject to this regulation—

- (a) these regulations shall apply to every Kenyan ship wherever it may be;
- (b) Regulation 24 shall apply, in addition to every Kenyan ship wherever it may be, to every foreign ship to which the Safety Convention applies, when in Kenyan waters.
- (c) Regulations 6, 7, 25 and 26 shall apply, in addition to every Kenyan ship wherever it may be, to every foreign ship to which the STCW Convention applies, when in Kenya or its territorial waters.

(2) A provision of these regulations shall not apply to a Kenyan ship in the waters of another State where the provision is inconsistent with a law of that State which, by its terms, applies to the ship when in the waters of that State.

(3) These regulations shall not apply to—

- (a) vessels of less than 25 GT;
- (b) any vessel of less than 100 GT that is used solely for sport or recreation; or any vessel of 100 GT or more which is classified in terms of the life-saving equipment regulations as a Class XII yacht, if there is employed on the vessel an adequate number and description of persons to ensure that the vessel is sufficiently and efficiently manned.

### 4. Responsibilities of owners and masters

(1) The owner of every ship shall ensure that—

- (a) no ship's officer takes charge of a navigational or engineering watch on the ship unless the officer holds appropriate valid certification entitling him to do so; and
- (b) no rating forms part of a navigational or engineering watch on the ship unless he holds appropriate valid certification entitling him to do so;
- (c) the master and every ship's officer all have appropriate experience of the type of ship on which they are employed;
- (d) the master and every seafarer employed on the ship, before being allowed to assume their assigned duties, are familiarized with their specific duties and

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with all the ship's arrangements, installations, equipment, procedures and characteristics relevant to their routine and emergency duties;

- (e) every rating employed on the ship and designated to have safety or pollution prevention duties holds documentary evidence of having —
  - (i) served in a capacity designated to have safety or pollution prevention duties for a period of an aggregate of not less than twelve months during the preceding five years; or
  - (ii) successfully completed approved training relating to those duties during the preceding five years;
- (f) the ship's crew can effectively co-ordinate activities in an emergency situation and perform functions vital to safety or to the prevention or mitigation of pollution;
- (g) documentation and data relevant to the master and seafarers employed on the ship are maintained and readily available for inspection, including documentation and data relevant to their experience, training, medical fitness and competency in assigned duties; and
- (h) every seafarer employed on the ship and going to sea for the first time holds documentary evidence of having successfully completed approved safety induction training and, in the case of a fishing vessel, that the master and every seafarer other than a seafarer going to sea for the first time employed on the ship hold such evidence for a period not more than twenty four months preceding the engagement of such master or seafarer on the ship.

(2) Without limiting the owner's obligations under subregulation (1), it is the duty of the master to ensure that the requirements of that subregulation are complied with in relation to the seafarers employed on the ship.

(3) Nothing in subregulation (1), (a) to (7) prohibits the allocation of tasks for training under supervision or in the event of *force majeure*.

(4) The owner and the master of every ship shall ensure that, in addition to the ship's officers and other persons prescribed by these regulations or elsewhere in terms of the Act, there are employed as crew of the ship an adequate number and description of persons to ensure that the ship is sufficiently and efficiently manned.

(5) For the purposes of paragraph (4) a ship shall be taken to be sufficiently and efficiently manned if, in the opinion of the proper officer, it has as crew suitably qualified persons to enable it to go to sea with due regard to the requirements of the life-saving equipment regulations, the collision regulations, the radio regulations, and any other safety provisions that may be applicable to the ship.

(6) The proper officer shall, when determining the adequacy of the crew in accordance with this subregulation, take the following into account—

- (a) the complement normally carried by similar ships employed on similar voyages or operations;
- (b) the complement that the ship in question has recently carried on previous voyages or operations;
- (c) the complement adequate to ensure compliance with regulations 6 and 7 (if applicable); and
- (d) the nature of the service for which the ship is intended.

(7) The Authority shall, as and when necessary, issue a marine notice specifying the number of persons to constitute the crew of a ship and the capacities in which those persons are to serve other than persons prescribed in these regulations or elsewhere in terms of the Act.

## 5. Watchkeeping standards

The owner and master of a ship shall ensure that the watchkeeping standards set out in the Schedule are complied with on the ship at all times.

## 6. Hours of work: general duty of owners, masters and others

(1) The owner of every ship shall ensure, so far as is reasonably practicable, that the master and seafarers employed on the ship do not work more hours than is safe in relation to the safety of the ship and the master's and the seafarers' performance of their duties.

(2) The master of every ship shall ensure, so far as is reasonably practicable, that the seafarers employed on the ship do not work more hours than is safe in relation to the safety of the ship and the seafarers' performance of their duties.

(3) Every master and seafarer shall, so far as is reasonably practicable, ensure that he or she is properly rested when commencing duty on a ship and that he obtains adequate rest during periods when he or she is off duty.

## 7. Hours of work: schedules of duties

(1) The owner of every ship of 100 GT or more shall produce a schedule of duties complying with this regulation.

(2) Where the owner is not also the employer of the master and seafarers, the owner shall consult the person who is the employer of the master or any of the seafarers before producing the schedule of duties.

(3) The owner may arrange with any such employer that the employer is to produce a schedule of duties complying with this regulation, and in that case, that employer shall also be subject to the duties of the owner under this regulation.

(4) Before producing a schedule of duties, the owner shall seek the views of the master, and the master shall seek, and convey to the owner, the views of—

- (a) the ship's safety committee;
- (b) the seafarers or their representatives: or
- (c) a trade union with one or more members aboard ship.

(5) A schedule of duties shall be deemed to comply With this regulation if—

- (a) it sets out the hours of work for—
  - (i) masters and seafarers whose work includes regular watchkeeping duties or ship handling; and
  - (ii) the ship's chief engineer, chief mate and second engineer, so as to provide that they do not work more hours than is safe in relation to the safety of the ship and the master's and seafarers's performance of their duties.
- (b) it specifies the maximum period of continuous watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work; and
- (c) it provides a minimum of ten hours of rest in any twenty four hour period, which period may be divided into no more than two periods, one of which shall be at least six hours duration:

Provided that the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that any such reduction shall not extend beyond two days and not less than seventy hours of rest are provided in each seven day period.

(6) The owner shall give consideration to the category of shipping operation undertaken in arranging the hours of work.

(7) The schedule of duties may be changed by the owner, or by an employer who by virtue of subregulation (3) is subject to the duties of the owner, on condition that—

- (a) other employers and the owner, as the case may be, have been consulted;
- (b) the owner or the employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the owner the views of persons mentioned in subregulation (4)(a), (b) or (c); and
- (d) the schedule of duties as changed complies with subregulation (5).

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(8) The owner shall ensure that the schedule of duties is displayed prominently in the crew accommodation for the information of all seafarers.

(9) It is the duty of the master to ensure, as far as reasonably practicable, that the hours of work specified in the schedule of duties are not exceeded.

(10) The owner and the master shall keep on board the ship a copy of the schedule of duties and a record of all deviations from its requirements.

(11) The owner for the time being shall ensure that a copy of the schedule of duties and the record of all deviations from its requirements are preserved for a period of five years from the date the schedule of duties was introduced, and that they are available for inspection by a proper officer or a surveyor. If during the five year period there ceases to be an owner in relation to the ship, the duty to preserve the copies of the schedule and of the record shall remain with the last such owner.

**8. Hours of work: exception for emergencies**

(1) The requirements for rest period provided for in regulation 7(5)(c) need not be maintained in case of emergency or drill or in other overriding operational conditions.

(2) When in pursuance of subregulation (1) the master or a seafarer has worked within a rest period provided for by the schedule of duties, the master shall cause to be entered in the ship's official logbook the master's or seafarer's name, as the case may be, together with the reason why he so worked.

**9. Employment of persons holding foreign certificates**

(1) For the purposes of section 170 of the Act, the owner of a ship to which the STCW Convention applies shall not employ on the ship, as master or ship's officer, any person who holds a certificate issued by or on behalf of the government of another country, unless—

- (a) that person's certificate has been endorsed in accordance with regulation 10; or
- (b) in the absence of such an endorsement, the certificate was issued and is valid in accordance with the STCW Convention, the period of employment does not exceed three months and the owner makes application to the Authority within that period for an endorsement in accordance with regulation 10.

(2) For the purposes of section 170(5) of the Act, the owner of a ship to which the STCW Convention does not apply shall not employ on the ship, as master or ship's officer, any person who holds a certificate of competency issued by or on behalf of the government of another country, unless the Authority has, under section 170(5) of the Act, authorized that person's employment on the ship.

(3) Application for an authorization under section 170(5) of the Act shall be made by the owner of the ship and shall be directed to the proper officer nearest to the ship's intended port of departure, and the application shall—

- (i) be made before the person assumes duty on the ship; and
- (ii) be accompanied by the person's original certificate (together with a certified translation into the English language where the certificate is in a language other than English), a medical examination report complying with the requirements specified by marine notice and attesting to the person's medical fitness and, in the case of a deck officer, a valid eyesight test certificate.

(4) The proper officer may require the person referred to in subregulations (3) and (4) to appear before an examiner, who shall satisfy himself or herself that the person is adequately qualified and that he or she has the ability to converse, issue and understand orders and written instructions in the English language.

(5) An authorization, granted under section 170 of the Act shall be in writing and shall specify the period, not exceeding six months, for which it is to remain in force.

(6) The Authority may revoke an authorization granted under section 170 of the Act if—

- (a) the person in question shows, through any inability, that he or she is not adequately qualified or that he or she is not able to converse, issue and understand orders and written instructions in the English language;
- (b) the person's certificate expires or is cancelled or suspended by or on behalf of the government under whose authority the certificate was originally issued;
- (c) the person fails to comply with any condition on which the authorization was granted;
- (d) an admiralty court holding a marine enquiry or a disciplinary hearing recommends the revocation of the authorization; or
- (e) the person is convicted of an offence in terms of the Act or any other law administered by the Authority.

#### **10. Recognition of foreign certificates**

(1) The holder of a certificate as master or ship's officer, being a certificate issued in terms of the STCW Convention by or on behalf of another party to that Convention, may apply to the Authority, in accordance with subregulation (2), for the certificate to be recognized as equivalent to a certificate of competency issued under the Act.

(2) An application contemplated in subregulation (1) shall be accompanied by—

- (a) a letter of motivation requesting the specific equivalency;
- (b) a statement by the applicant, confirmed by or on behalf of another party to the STCW Convention, that his level of proficiency in the English language meets the relevant requirements of the STCW Convention;
- (c) a medical certificate, issued by an approved medical practitioner, declaring that the medical fitness of the applicant complies with the medical standards set out in the Code;
- (d) a certified copy of the applicant's original certificate;
- (e) two passport-size photographs of the applicant; and
- (f) if the applicant is applying for an equivalency as master, chief mate, chief engineer officer or second engineer officer, documentary proof that he or she has attained the level of knowledge of the Republic's maritime legislation required for the equivalent certificate desired. A certificate issued by an accredited institution stating that the applicant has satisfied the institution's examiner that he or she has attained the required level of knowledge shall be accepted as sufficient proof of such knowledge.

(3) The Authority may issue an endorsement recognizing an applicant's certificate, which endorsement shall have effect as an authorization under section 170 of the Act, if it is satisfied that—

- (a) the certificate is authentic and valid;
- (b) the level of competence and knowledge evidenced by the certificate is not inferior to that required for the equivalent certificate issued under the Act;
- (c) the applicant, if applying for an equivalency as master, chief mate, chief engineer officer or second engineer officer, has attained the level of knowledge of the Kenyan maritime legislation required for the equivalent certificate issued under the Act; and
- (d) prompt notification shall be given to the Authority of any significant change in the arrangements for training and certification provided in compliance with the STCW Convention.

(4) Every endorsement issued under subregulation (3) shall be a separate document and shall state, with reference to the Training and Certification Regulations and the STCW Convention, the capacity in which the holder is entitled to serve.

(5) The Authority may cancel an endorsement issued under subregulation (3) if—

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- (a) the holder shows, through any inability, that he or she does not meet the level of competency or knowledge required for the equivalent certificate of competency, or that his or her level of proficiency in the English language does not meet the relevant requirements of the STCW Convention;
- (b) the holder's certificate expires or is cancelled or suspended by or on behalf of the government under whose authority the certificate was originally issued;
- (c) an admiralty court marine enquiry or a disciplinary hearing recommends the cancellation of the endorsement; or
- (d) the holder is convicted of an offence in terms of the Act or any other law administered by the Authority.

(6) Where the Authority cancels an endorsement under subregulation (5), it shall inform the government under whose authority the certificate was originally issued of the cancellation.

### **11. Employment of certificated deck officers on ships other than fishing vessels**

(1) The owner and the master of every ship, other than a fishing vessel or a ship referred to in subregulation (2), shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table:

<i>Item</i>	<i>Voyage/ Operation</i>	<i>Tonnage of ship (GT)</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons to be employed</i>
				<i>Certification Number</i>
1	Port operation	< 200	Master	Coxswain (Port operations) 1
2		≥ 200 but < 500	Master	Master (Port operation) 1
3		≥ 500	Master	Master (Port operations) 1
4	Near-Coastal ≤100		Master Coxswain	Master (Port operations) 1 Coxswain (Coastal) 1
5.		≥100 but < 500	Master Mate	Master (Coastal) 1 Master (Coastal) 1
6	Unlimited		Master Mate	Coxswain (Unlimited) 1 Coxswain / (Unlimited) 1
7			Master	Deck Officer (A) 1
8			Master Master Master	Deck Officer (B) 1 Chief Master (B) 1 Deck Officer (C) 1



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	Watchkeeping Officer	Deck Officer	1
9	Master	Master	1
	Master	Chief Master	1
	Watchkeeping Officer	Deck Officer	2

Notes.

(A) Certification to include the endorsement "Master of a ship of less than 500 GT on unlimited voyages".

(B) Certification to include the endorsement "Master of a ship of less than 3 000 GT on unlimited voyages".

(C) Certification to include the endorsement "Chief mate of a ship of less than 3 000 GT on unlimited voyages".

(2) The owner and the master of every ship of 100 GT or more that-

(a) is engaged in offshore exploitation operations within waters under Kenyan jurisdiction; and

(b) so operates at anchor for two-thirds or more of the time spent at sea between port calls, shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table—

<i>Item (GT)</i>	<i>Tonnage of ship</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons employed</i>	
			<i>Certification</i>	<i>Number</i>
1	≥100 but < 500	Master	Master (Coastal)	1
2.	≥ 500 but < 3 000	Mate	Mate (Coastal)	1
		Master	Chief Mate (A)	1
3	≥ 3 000	Mate	Deck Officer (B)	1
		Master	Master	1
		Mate	Mate	1
		Watchkeeping Officer	Deck Officer	1

Notes:

(A) Certification includes the endorsement "Master of a ship of less than 3 000 GT on unlimited voyages".

(B) Certification includes the endorsement "Chief mate of a ship of less than 3 000 GT on unlimited voyages".

The certification referred to in the table may be the kind limited to offshore operations.

## **12. Employment of certificated deck officers on fishing vessels operating wholly within defined fishing zone**

The owner and the master of every fishing vessel that operates wholly within the defined fishing zone shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table—

<i>Item</i>	<i>Length of vessel (metres)</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons to be employed</i>	
			<i>Certification</i>	<i>Number</i>

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1	≤ 12.7	Master	Fisherman Grade 4 (Skipper)	1
		Mate	Small vessel certificate of competence (vessels > 9 metres in length)	1
2	≥ 12.7 but < 24	Master	Fisherman Grade 4 (Skipper)	1
		Mate	Fisherman Grade 4 (Watch keeper)	1(A)
3	≥ but < 30	Master	Fisherman Grade 3	1
		Mate	Fisherman Grade 4 (Watch keeper)	1
4	≥ 30	Master	Fisherman Grade 2	1
		Mate	Fisherman grade 3	1
		Watch keeping officer	Fisherman grade (Watch keeper)	1

Note:

(A) Not required on vessels < 50 GT going to sea for periods not exceeding 12 consecutive hours.

### 13. Employment of certificated deck officers on fishing vessels operating outside defined fishing zone

The owner and the master of every fishing vessel that operates, at an time, outside the defined fishing zone shall comply with regulation 12, provided that, in all cases, the appropriate minimum certification applicable to the master shall include the high seas command endorsement.

### 14. Employment of certificated engineer officers on ships other than fishing vessels

(1) The owner and the master of every ship, other than a fishing vessel or a ship referred to in subregulation (2), shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table—

<i>Item</i>	<i>Voyage/ Operation</i>	<i>Registered propulsion power of ship (kW)</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons to be employed</i>	<i>Certification Number</i>
1	Port Operations	< 350	Chief engineer	Marine Motorman Grade 1	1

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2	< 350 but < 750	Chief engineer	Marine Motorman Higher Grade	1
3	≥ 750 but < 1 500	Chief Engineer	Second Engineer Officer (Port operations)	1
4	≥ 1 500	Chief engineer	Chief engineer Officer (Port operations)	1
		Second engineer	Marine Motorman grade I	1
5	Near-Coastal < 350	Chief engineer	Marine Motorman grade I	1
6	< 350 but < 750	Chief engineer	Marine Motorman Higher grade 1	1
		Second engineer	Marine motorman Grade 1	1
7	≥ 750 but < 1 500	Chief engineer	Second engineer officer (≥ 3 000 kW)(A)	1
		Second engineer	Engineer officer	1
8	≥ 1 500	Watchkeeping officer	Engineer officer	1
		Chief engineer	Chief engineer officer (>3 000 kW)	1
		Second engineer	Second engineer officer (>3 000 kW)	1
		Watchkeeping officer	Engineer officer	1

(2) The owner and the master of every ship of 100 GT or more that—

- (a) is engaged in mining operations within waters under Kenyan jurisdiction; and
- (b) so operates at anchor for two-thirds or more of the time spent at sea between port calls, shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table—

<i>Item</i>	<i>Registered propulsion</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons to be employed</i>
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	<i>power of ship (kW)</i>		<i>Certification</i>	<i>Number</i>
1	< 750	Chief engineer	Marine Motorman Higher Grade	1
		Second engineer	Marine Motorman grade I	1
2	< 750but <3000	Chief engineer	Second engineer officer (> 3 0000 kW) (A)	1
		Second engineer	Engineer officer	1
		Watchkeeping officer	Engineer officer	1
3	>3000	Chief Engineer	Chief engineer officer (>3 0000 kW)	1
		Second engineer	Second engineer officer (>3 0000 kW)	1
		Watchkeeping officer	Engineer officer	1

Note:

(A) Certification to include the endorsement: "Chief engineer officer of a ship of less than 3 000 kW propulsion power.

**15. Employment of certificated engineer officers on fishing vessels**

The owner and the master of every fishing vessel shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table—

<i>Item</i>	<i>Registered propulsion power of ship (kW)</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons to be employed</i>	<i>Certification</i>	<i>Number</i>
1	< 150	Chief engineer	Marine Motorman Grade 3		1(A)
2	≥ 150 but < 350	Chief engineer	Marine Motorman Grade 2		1(A)
3	≥ 350 but < 1000	Chief engineer	Marine Motorman Grade 1		1
		Second engineer	Marine Motorman Grade 2		1
4	≥ 1000 but < 2000	Chief Engineer	Marine Motorman Higher Grade		1

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		Second engineer	Marine Motorman Grade 1	
5	≥ 2000 but < 3000	Chief Engineer	Marine Engineer officer (Class 4)(B)	1
		Second engineer	Marine Motorman Grade 1	1
6	≥ 3000	Chief Engineer	Marine engineer officer (Class 3)(C)	1
		Second engineer	Engineer officer 1	

## Notes:

(A) Not required on vessels ≤ 12.7 metres in length if the master has passed a level 3 assessment (oral examination) in basic engineering knowledge.

(B) Certification to include the class 4 service endorsement.

(C) Certification to include the class 3 service endorsement

**16. Employment of certificated radio operators**

The owner and the master of every ship shall ensure that there is employed on the ship the number and description of appropriately certificated radio operators specified the following table as appropriate, provided that—

- if the ship is of 300 GT or more, is engaged on a near-coastal voyage and is not equipped in accordance with GMDSS requirements of the radio regulations, there shall be employed on the ship at least two radio operators who are appropriately certificated for the type of radio installation on the ship;
- if the ship is equipped in accordance with the GMDSS requirements of the radio regulations and at-sea maintenance of radio equipment is to be conducted to ensure availability, at least one radio operator on the ship shall hold a valid Radio Electronic Certificate (First Class), or a recognized equivalent certificate;
- if the ship is fitted with radio equipment capable of operating within the GMDSS (whether or not so fitted in compliance with statutory requirements), there shall be employed on the ship at least one radio operator who is the holder of a valid GMDSS General Operators Certificate, or a recognized equivalent certificate;
- when the radio equipment on the ship is being used for general communications, other than distress, urgency or safety communications, such general communications shall not be conducted by the deck officer on watch.

<i>Item</i>	<i>Voyage/ Operation</i>	<i>Tonnage/length of ship</i>	<i>Appropriate certification and number of persons to be employed</i>	
			<i>Certification</i>	<i>Number</i>
1	Port Operations	≥ 25 GT	Restricted Radiotelephone Operator	1
2	Near-Coastal	≥ 25 GT but < 300 GT	Restricted Radiotelephone Operator	2

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3		≥ 300 GT	GMDSS General Operator	2
4	Fishing operations within 40 nautical miles offshore	≥ 25 GT	Restricted Radio telephone Operator (VIIF only)	1
5	Fishing operations beyond 40 but within 200 nautical miles offshore	≥ 25 GT	Restricted Radiotelephone Operator	2
6	Fishing operations beyond 200 nautical miles offshore	≥ 25GT but < 45 metres	Restricted Radiotelephone Operator	2
7	nautical miles offshore	≥ 45 metres	GMDSS General Operator	2
8	Unlimited	≥ 100 GT but < 300 GT	Restricted Radiotelephone Operator	2
9		≥ 300 GT	GMDSS General Operator	2

**17. Employment of certificated ratings on ships other than fishing vessels**

The owner and the master of every ship other than a fishing vessel shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated ratings specified in the table below as appropriate, provided that—

- (a) where a combination of ratings qualified as ordinary seafarers and as able seafarers are employed in the deck department, at least half the combined number of ratings so employed shall be persons qualified as able seafarers;
- (b) where a combination of ratings qualified as vipers and as oilers is employed in the engine-room department, at least one of the ratings so employed shall be persons qualified as an oiler;
- (c) on passenger ships the prescribed number of ratings qualified as proficient in survival craft and as proficient in fast rescue boats shall be in addition to the number of ratings qualified as able seafarers and as oilers;
- (d) on ships having only inflatable appliances as survival craft there may be employed, instead of the number of ratings qualified as proficient in survival craft, an equal number of ratings qualified as proficient in inflatable appliances only;
- (e) owners and masters shall, considering that the table below specifies minimum requirements only shall have regard to the requirements of regulation 4(4) when determining the appropriate manning;
- (f) in respect of a ship engaged solely in port operations, and instead of meeting the requirements specified in the table below, application may be made to the proper officer at the ship's port of operation for the number of certificated ratings to be determined, with the necessary changes, in accordance with regulation 4(4);

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- (g) on ships engaged solely in port operations, there may be employed, instead of the number of ratings qualified as able seafarers or as oilers, an equal number of ratings holding the qualification as General Purpose Rating (Port Operations).

Item	Type of ship	Voyage/ Operation	Minimum certification and number to be employed			
			Ordinary seafarer/ Able seafarer	Wiper/oiler	Proficient in survival craft	Efficient cook
1.	Passenger or near-coastal	Unlimited	Sufficient to man each 4 hour watch with a 12 hour period with a rating, plus one (i.e. 4)	Sufficient to man each 4 hour watch in a 12 hour period with a rating, plus one (i.e. 3)	One for every 50 passengers, or part of such number, on board	1
		Port operation	Sufficient to man each 6 hour watch with a 12 hour period with a rating, plus one (i.e. 3)	Sufficient to man each 6 hour watch with a 12 hour period with a rating (i.e. 2)		
3	Other	Unlimited	Sufficient to man each 4 hour watch with a 12 hour period with a rating, plus one (i.e. 4)	Sufficient to man each 4 hour watch in a 12 hour period with a rating (i.e. 3)		1
4		Near-coastal	Sufficient to man each 6 hour watch with a 12 hour period with a rating, plus one (i.e. 3)	Sufficient to man each 6 hour watch with a 12 hour period with a rating (i.e. 2)		

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5	Port Operations	1 Able seafarer (Port Operations) and 1 ordinary seafarer (Port Operations) or 2 Able seafarers (Port Operations)	1 Oiler (Port Operations)
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**18. Employment of certificated ratings on fishing vessels of 100 GT or more**

The owner and the master of every fishing vessel of 100 GT or more shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated ratings as specified in the following table:

<i>Item</i>	<i>Number of persons on vessel</i>	<i>Minimum certification and number to be employed</i>		
		<i>Able seafarer</i>	<i>Proficient in survival Craft</i>	<i>Efficient cook</i>
1	≥ 15 but < 30	1	1	-
2	≥ 30	1	2	1

Notes:

The number of ratings to be qualified as proficient in survival craft shall be in addition to the number required to be qualified as able seafarer.

The certification as able seafarer and as proficient in survival raft and fast rescue boats may be the local certification or the certification issued in accordance with the STCW Convention.

**19. Employment of qualified personnel on tankers and passenger ships**

(1) The owner and the master of every tanker shall ensure that—

- (a) every seafarer assigned in specific duties and responsibilities related to cargo or cargo equipment on the ship; and
- (b) the master, chief engineer officer, chief mate, second engineer officer and every other seafarer with immediate responsibility for loading, discharging and care in transit or handling of cargo on the ship, holds—
  - (i) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 52 of the Training, and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
  - (ii) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention evidencing compliance with the provisions of regulation V/1 of that Convention relative to their capacity, duties and responsibilities on the ship.

(2) The owner and the master of every ro-ro passenger ship shall ensure that the master and every seafarer employed on the ship hold—

- (a) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 53 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or



- (b) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/2 of that Convention relative to their capacity, duties and responsibilities on the ship.

(3) The owner and the master of every passenger ship, other than a ro-ro passenger ship, engaged on unlimited voyages shall ensure that the master and every seafarer employed on the ship hold—

- (a) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 53 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
- (b) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/3 of that Convention relative to their capacity, duties and responsibilities on the ship.

## 20. Employment of qualified medical personnel

(1) The owner and the master of every ship on an unlimited voyage that carries one hundred or more persons shall ensure that at least one medical practitioner is employed on the ship.

(2) The owner and the master of every ship to which the STCW Convention applies shall ensure that—

- (a) every seafarer designated to take charge of medical care on the ship, in the absence of a qualified medical practitioner, holds—
  - (i) a valid Ship Captain's Medical Training Certificate issued in accordance with the Code; or
  - (ii) a valid certificate in medical care issued in accordance with regulation V1/4, paragraph 2 of the STCW Convention by or on behalf of another party to that Convention; and
- (b) every seafarer designated to provide medical first aid on the ship holds
  - (i) a valid First Aid at Sea Certificate issued in accordance with the Code; or
  - (ii) a valid certificate in medical first aid issued in accordance with regulation V1/4, paragraph 1 of the STCW Convention by or on behalf of another party to that Convention.

(3) Every person who is designated the duties referred to subregulation (2) (a) or (b) shall undertake approved refresher training at intervals not exceeding five years.

## 21. Employment of qualified fire-fighting personnel

(1) The owner and the master of every ship shall ensure that every seafarer designated to take charge of a fire-fighting party on the ship holds—

- (a) in the case of a ship of 100 GT or more, a valid Fire-Fighting Certificate issued in accordance with the Code, or an approved equivalent qualification;
- (b) in the case of a tanker of 100 GT or more, a valid Tanker Fire-Fighting Certificate issued in accordance with the Code, or an approved equivalent qualification; and
- (c) in the case of a ship of less than 100 GT, a valid Fire-Fighting (Small Vessels) Certificate issued in accordance with the Code, or an approved equivalent qualification.

(2) The owner and the master of every ship to which the STCW Convention applies shall ensure that every seafarer designated to control fire-fighting operations on the ship holds—

- (a) a valid Advanced Fire-Fighting Certificate issued in accordance with the Code; or

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- (b) a valid certificate in advanced fire-fighting issued in accordance with regulation V1/3, paragraph 1 of the STCW Convention by or on behalf of another party to the Convention.

(3) Every person who is designated the duties referred to in subregulation (1) or (2) shall undertake approved refresher training at intervals not exceeding five years.

## **22. Employment of qualified personnel on ships equipped with fast rescue boat**

The owner and master of every ship that is equipped with one or more fast rescue boats shall ensure that there are employed on the ship at least two persons per boat who hold—

- (a) a valid certificate of qualification as proficient in fast rescue boats issued in accordance with regulation 48 of the Training and Certification Regulations; or
- (b) a valid certificate of proficiency in fast rescue boats issued in accordance with regulation VI/2, paragraph 2 of the STCW Convention by or on behalf of another party to that Convention.

## **23. Exemptions**

(1) The Director-General may, if in his opinion no danger would result to persons, property or the environment, grant exemption, on such terms (if any) as it may specify, from any of the provisions of these regulations (as may be specified in the exemption) for classes of cases or individual cases.

(2) However, an exemption permitting a person to serve in a capacity for which he is not certificated—

- (a) may be granted only if the person is certificated to serve in the next lower capacity, provided that if the next lower capacity is an uncertificated capacity, exemption may be granted only if the person's knowledge and experience, in the opinion of the Authority, are appropriate for the capacity to be filled;
- (b) shall not be granted in respect of—
  - (i) the capacity of master of a passenger ship; or
  - (ii) the capacities of master or chief engineer of any ship to which the STCW Convention applies, except in the event of *force majeure* and then only for the shortest possible time; and
- (c) shall, in all cases, cease to have effect on the earlier of the following two dates:
  - (i) the date of expiry (if any) in terms of the exemption; or
  - (ii) the date on which the period of six months after the grant of exemption expires.

(3) The Director-General may, after reasonable notice, alter or cancel any exemption granted under this regulation.

## **24. Equivalence of certificates and endorsements**

(1) Subject to subregulation (2), each certificate or endorsement specified in a column of an item in the table below is taken to be equivalent to the certificate or endorsement, as the case may be, specified in the other columns of that item.

(2) If the certificate or endorsement specified in column 3 of an item in the table is subject to additional qualification requirements in terms of the Training and Certification Regulations, documentary evidence of compliance with those requirements, or so much thereof as the Authority requires, is to be produced within the time and in the manner that the Authority directs.

<i>Item</i>	<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
	<i>Title of certificate issued before commencement</i>	<i>Equivalent certificate or endorsement</i>	<i>Equivalent certificate or endorsement under Training</i>

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	<i>of these new regulations</i>	<i>under any previous regulations</i>	<i>and Certification Regulations</i>
1	Master of a foreign-going ship	Deck Officer Class 1	Master
2		Deck Officer class 2 endorsed master (Limited Trade)	Chief Mate endorsed - <i>Master of a ship of less than 3000 GT on unlimited voyages.</i>
3	Chief navigating Officer of a foreign-going ship	Deck Officer Class 2 endorsed Master (Short Sea Trade)	Chief Mate endorsed - <i>Master of a ship of less than 500 Gt on near-coastal voyages</i>
4		Deck Officer class 2	Chief Mate
5		Deck Officer class 3 endorsed Master (Limited Trade)	Chief Mate endorsed - <i>Master of a ship of less than 500 GT on unlimited voyages.</i> - <i>Chief Mate of a ship of less than 3 000 GT on unlimited voyages.</i>
6		Deck Officer Class 3 endorsed Master (Limited trade)	Deck Officer endorsed - <i>Master of a ship of less than 500 GT on near-coastal voyages.</i> - <i>Chief Mate of a ship of less than 3 000 GT on unlimited voyages.</i>
7	Second navigating Officer of a foreign-going ship	Deck Officer Class 3	Deck Officer
8		Deck Officer class 4 endorsed Master (Limited Trade)	Deck Officer endorsed - <i>Master of a ship of less than 500 GT on unlimited voyages.</i>
9	Master of a coasting ship of 1004 GT or more	Deck Officer class 4 endorsed Master (Short Sea Trade)	Deck Officer endorsed - <i>Master of a ship of less than 500</i>

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			<i>GT on near-coastal voyages.</i>
10		Deck Officer class 4 endorsed Master (Port Operations)	Deck Officer endorsed <i>-Master of a ship of any tonnage operating within a port operations area.</i>
11		Deck Officer class 4 endorsed Port Operation Service	Master (Port Operations)
12		Deck Officer Class 4	Deck Officer
13		Deck Officer Class 5 endorsed Master (Short Sea trade)	Mate (Coastal) endorsed <i>- Master of a ship of less than 500 GT on near-coastal voyages.</i>
	<i>Title of certificate issued before commencement of these new regulations</i>	<i>Equivalent certificate or endorsement under any previous regulations</i>	<i>Equivalent certificate or endorsement under Training and Certification Regulations - Master of a ship of less than 500 GT on near-coastal voyages.</i>
14		Deck officer class 5 endorsed Master (Port Operations)	Mate (Coastal) endorsed <i>- Master of a ship of any tonnage operating within a port operations area.</i>
15		Deck officer class 5 endorsed Master (Short Sea trade)	Master (Port Operations)
16	Navigating Officer of a coasting ship of 100 GT or more	Deck Officer Class	Mate (Coastal)
17		Deck Officer Class 6 (Unlimited Trade)	Coxswain (Unlimited)
18		Deck Officer Class 6 (Short Sea Trade)	Coxswain (Coastal)
19		Deck Officer Class 6 (Restricted trade)	Coxswain (Port Operations)
	<i>Title of certificate issued before</i>	<i>Equivalent certificate or</i>	<i>Equivalent certificate or</i>

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	commencement of these new regulations	endorsement under any old regulations	endorsement under Training and Certification Regulations
20	Chief Engineer of a foreign-going ship	Marine Engineer-Officer Class 1	Chief Engineer Officer ( $\geq 3\,000$ kW)
21	Second Engineer Officer of a foreign-going ship <i>Title of certificate issued before commencement of these new regulations</i>	Marine Engineer-Officer Class 2 <i>Equivalent certificate or endorsement under any previous regulations</i>	Second Engineer officer ( $\geq 3\,000$ kW) endorsed <i>Chief Engineer Equivalent certificate or endorsement under Training and Certification Regulations</i> <i>officer of a ship less than 3 000 kW propulsion power</i>
22		Marine Engineer Officer class 3 with a Service Endorsement	Second Engineer officer ( $< 3\,000$ kW) endorsed: - <i>Chief Engineer officer of a ship less than 750 kW propulsion power.</i> - <i>Chief Engineer Officer of a ship of any kilowatt propulsion power operating within a port operations area</i>
23	Chief Engineer Officer of a coasting Ship	Marine Engine: Officer class 3	(a) Second Engineer officer ( $< 3\,000$ kW) endorsed: - <i>Chief Engineer Officer of a ship of any kilowatt propulsion power operating within a port operations area</i> Chief Engineer Officer (Port Operations)
24	Second Engineer Officer of a coasting ship	Marine Engineer-Officer Class 4	(a) Engineer Officer endorsed; - <i>Chief Engineer Officer of a ship of less than 1 500 kW propulsion power</i>

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*operating within a  
port operations area  
Equivalent  
certificate or  
endorsement  
under Training  
and Certification  
Regulations  
(b) Second  
Engineer Officer  
(Port Operations)*

(3) Where the holder of a certificate of competency issued under the Act before the commencement of these regulations has served in a certificated capacity for at least 12 months in the preceding five years but is prohibited from continued employment in that capacity owing to the tonnage, propulsion power or area of operation of the ship exceeding the applicable tonnage, propulsion power or area of operation limitation, the Authority may endorse the certificate, or the equivalent certificate in terms of this regulation, as the case may be, so as to entitle the holder to continued employment in the capacity concerned on a ship having an appropriately greater tonnage, propulsion power or area of operation.

## **25. Safe manning document**

(1) The owner of every ship shall ensure that—

- (a) a safe manning document is in force in respect of the ship and the manning of the ship;
- (b) the safe manning document is kept on board the ship at all times; and
- (c) the manning of the ship is maintained at all times to at least the levels specified in the safe manning document.

(2) The master of every ship shall ensure that the ship does not go to sea unless there is on board and in force in respect of the ship a valid safe manning document and the manning of the ship complies with that document.

## **26. Carriage of documents**

Without prejudice to the provisions of limitation to regulation 4, the owner and the master of every ship shall ensure that there are carried at all times on board the ship all original certificates and other documents issued pursuant to the Act or the STCW Convention, as the case may be, showing the qualification of the master and any member of the crew to perform functions which they are required to perform aboard ship in the course of their designated duties.

## **27. Offences, penalties and defences**

(1) Every owner who contravenes regulation 4(1) or (4), 6, 7(1), 9, 25(1) or 26 commits an offence.

(2) Every employer, being an employer who in terms of regulation 7(3) has become subject to the duties of the owner under that regulation, who contravenes regulation 6(2) commits an offence.

(3) Every master commits an offence who contravenes regulation 4(2) or (4), 6, 7(2) or (3), 8(9) or (10), 9, 25(2) or 26, commits an offence.

(4) Every seafarer who contravenes regulation 7(3) commits an offence.

(5) A person who commits an offence in terms of subregulation (1), (2) or (3) is liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or both.

(6) A person who commits an offence in terms of subregulation (4) is liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or both.

(7) In proceedings for an offence in terms of this regulation it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

(8) In proceedings for an offence in terms of this regulation 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 what was in fact done to satisfy the duty or requirement.

## **28. Director-General may impose penalty upon admission of guilt**

(1) If any person—

- (a) admits to the Director General that he has contravened any provision of these regulations or Act, or that he has failed to comply with any such provision with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Director General; and
- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question, the Director General may, after such enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(2) The imposition of a penalty under subregulation (1) shall be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or cargo.

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## SCHEDULE

[r. 5]

### PART I - WATCHKEEPING PRINCIPLES AND ARRANGEMENTS

#### ***Planning the voyage***

##### **1. Voyage to be planned in advance**

The intended voyage shall be planned in advance, taking into consideration all pertinent information, and any course laid down shall be checked before the voyage commences.

##### **2. Requirements for voyage**

The chief engineer officer shall, in consultation with the master, determine in advance the requirements for the intended voyage, taking into consideration the requirements for fuel, water, lubricants, chemicals, expendable and other spare parts, tools, supplies and any other requirements.

##### **3. Charts**

Before each voyage the master of a ship shall ensure that the intended route from the port of departure to the first port of call is planned using adequate and appropriate charts and other nautical publications necessary for the intended voyage, containing accurate, complete and up-to-date information regarding those navigational limitations and hazards that are of a permanent or predictable nature and that are relevant to the safe navigation of the ship.

##### **4. Display of route charts**

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When the route planning is verified taking into consideration all pertinent information, the planned route shall be clearly displayed on appropriate charts and shall be continuously available to the officer in charge of the watch, who shall verify each course to be followed before using it during the voyage.

**5. Deviation from planned route**

If a decision is made during a voyage to change the next port of call of the planned route, or if it becomes necessary for the ship to deviate substantially from the planned route for other reasons, then an amended route shall be planned before deviating substantially from the route originally planned.

***Watchkeeping at Sea*****6. Principles of watchkeeping**

Owners, masters, chief engineer officers and watchkeeping personnel shall observe the principles set out in this part to ensure that safe watches are maintained at all times.

**7. Duty of master**

The master of a ship shall ensure that watchkeeping arrangements are adequate for maintaining a safe navigational watch and, under the master's general direction, the officers of the navigational watch are responsible for navigating the ship safely during their periods of duty, during which they shall be particularly concerned with avoiding collision and stranding.

**8. Duty of chief engineer officer**

The chief engineer officer of a ship shall, in consultation with the master, ensure that watchkeeping arrangements are adequate to maintain a safe engineering watch.

**9. Prevention of pollution**

The master, officers and ratings shall be aware of the serious effects of operational or accidental pollution of the marine environment and shall take all possible precautions to prevent such pollution, particularly within the framework of relevant international and port regulations.

**Part II - PRINCIPLES TO BE OBSERVED IN KEEPING NAVIGATIONAL WATCH****10. Duty of officer in charge**

The officer in charge of the navigational watch is the master's representative and is primarily responsible at all times for the safe navigation of the ship and for complying with the collision regulations.

**11. Look-out**

A proper look-out shall be maintained at all times in Look-out compliance with rule 5 of the annex to the collision regulations, and shall serve the purpose of—

- (a) maintaining a continuous state of vigilance by sight and hearing as well as by all other available means, with regard to any significant change in the operating environment;
- (b) fully appraising the situation and the risk of collision, stranding and other dangers to navigation; and
- (c) detecting ships or aircraft in distress, shipwrecked persons, wrecks, debris and other hazards to safe navigation.

**12. Look-out not to be assigned other task**

The look-out shall give full attention to the keeping of a proper lookout and no other duties shall be undertaken or assigned which could interfere with that task.

**13. Helmsman not to be considered a look-out**



The duties of the look-out and helmsman are separate and the helmsman shall not be considered to be the look-out while steering, except in small ships where an unobstructed all-round view is provided at the steering position and there is no impairment of night vision or other impediment to the keeping of a proper look-out. The officer in charge of the navigational watch may be the sole look-out in daylight provided that on each such occasion—

- (a) the situation has been carefully assessed and, it has been established without doubt that it is safe to do so;
- (b) full account has been taken of all relevant factors, including, but not limited to—
  - (i) the state of the weather;
  - (ii) visibility;
  - (iii) traffic density;
  - (iv) proximity of dangers to navigation; and
  - (v) the attention necessary when navigating in or near traffic separation schemes; and
- (c) assistance is immediately available to be summoned to the bridge when any change in the situation so requires.

#### **14. Considerations for maintaining proper look-out**

In determining that the composition of the navigational watch is adequate to ensure that a proper look-out can continuously be maintained, the master shall take into account all relevant factors, including those described in this Schedule, as well as the following factors—

- (a) the hours of darkness, requiring in addition to the watchkeeping officer, a look-out;
- (b) visibility, state of weather and sea;
- (c) traffic density, and other activities occurring in the area in which the ship is navigating;
- (d) the attention necessary when navigating in or near traffic separation schemes and other routeing measures;
- (e) the additional workload caused by the nature of the ship's functions, immediate operating requirements and anticipated manoeuvres;
- (f) the fitness for duty of any crew members on call who are assigned as members of the watch;
- (g) knowledge of and confidence in the professional competence of the ship's officers and crew;
- (h) the experience of each officer of the navigational watch, and the familiarity of that officer with the ship's equipment, procedures, and manoeuvring capability;
- (i) activities taking place on board the ship at any particular time, including radio communication activities, and the availability of assistance to be summoned immediately to the bridge when necessary;
- (j) the operational status of bridge instrumentation and controls, including alarm systems;
- (k) rudder and propeller control and ship manoeuvring characteristics;
- (l) the size of the ship and the field of vision available from the conning position;
- (m) the configuration of the bridge, to the extent that such configuration might inhibit a member of the watch from detecting by sight or hearing any external development; and
- (n) any other relevant standard, procedure or guidance relating to watchkeeping arrangements and fitness for duty which has been promulgated by regulation.

#### **15. Factors for watch on bridge**

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When deciding the composition of the watch on the bridge, which may include appropriately qualified ratings, the following factors, *inter alia*, shall be taken into account:

- (a) at no time shall the bridge be left unattended;
- (b) weather conditions, visibility and whether there is daylight or darkness;
- (c) proximity of navigational hazards which may make it necessary for the officer in charge of the watch to carry out additional navigational duties;
- (d) use and operational condition of navigational aids such as radar or electronic position indicating devices and any other equipment affecting the safe navigation of the ship;
- (e) whether the ship is fitted with automatic steering;
- (f) whether there are radio duties to be performed;
- (g) unmanned machinery space (UMS) controls, alarms and indicators provided on the bridge, procedures for their use and limitations; and
- (h) any unusual demands on the navigational watch that may arise as a result of special operational circumstances.

**16. Hand-over watch**

The officer in charge of the navigational watch shall not hand-over watch the watch to the relieving officer if there is reason to believe that the latter is not capable of carrying out the watchkeeping duties effectively, in which case the master shall be notified.

**17. Duties of relieving officer**

The relieving officer shall ensure that the members of the relieving watch are fully capable of performing their duties, particularly as regards their adjustment to night vision. Relieving officers shall not take over the watch until their vision is fully adjusted to the light conditions.

**18. Relieving officer to confirm speed**

Before taking over the watch, relieving officers shall satisfy themselves as to the ship's estimated or true position and confirm its intended track, course and speed, and UMS controls as appropriate and shall note any dangers to navigation expected to be encountered during their watch.

**19. Issues for relieving officer**

Relieving officers shall personally satisfy themselves regarding—

- (a) standing orders and other special instructions of the master relating to navigation of the ship;
- (b) position, course, speed and draught of the ship;
- (c) prevailing and predicted tides, currents, weather, visibility and the effect of these factors upon course and speed;
- (d) procedures for the use of main engines to manoeuvre when the main engines are on bridge control; and
- (e) navigational situation, including but not limited to—
  - (i) the operational condition of all navigational and safety equipment being used or likely to be used during the watch;
  - (ii) the errors of gyro- and magnetic compasses;
  - (iii) presence and movement of ships in sight or known to be in the vicinity;
  - (iv) the conditions and hazards likely to be encountered during the watch; and
  - (v) the possible effects of heel, trim, water density and squat on under-keel clearance.

**20. When navigational watch is relieved**

If at any time the officer in charge of the navigational watch is to be relieved when a manoeuvre or other action to avoid any hazard is taking place, the relief of that officer shall be deferred until such action has been completed.

**21. Officer in charge of navigational watch**

The officer in charge of the navigational watch shall—

- (a) keep the watch on the bridge;
- (b) in no circumstances leave the bridge until properly relieved;
- (c) continue to be responsible for the safe navigation of the ship, despite the presence of the master on the bridge, until informed specifically that the master has assumed that responsibility and this is mutually understood; and
- (d) notify the master when in any doubt as to what action to take in the interest of safety.

**22. Checks during watch**

During the watch the course steered, position and speed shall be checked at sufficiently frequent intervals, using any available navigational aids necessary, to ensure that the ship follows the planned course.

**23. Officer to check equipment**

The officer in charge of the navigational watch shall have full knowledge of the location and operation of all safety and navigational equipment on board the ship and shall be aware and take account of the operating limitations of such equipment.

**24. Officer not to be assigned other tasks**

The officer in charge of the navigational watch shall not be assigned or undertake any duties which would interfere with the safe navigation of the ship.

**25. Use of navigational equipment**

Officers of the navigational watch shall make the most effective use of all navigational equipment at their disposal.

**26. Use of radar**

(1) The officer in charge of the Navigational watch shall use the radar at times of restricted visibility and at all times in congested water having due regard to its limitations.

(2) When using radar, the officer in charge of the navigational watch shall bear in mind the necessity to comply at all times with the provisions on the use of radar contained in the collision regulations.

(3) The officer in charge of the navigational watch shall, when radar is in use, select an appropriate range scale and observe the display, and ensure that plotting or systematic analysis is commenced in ample time.

**27. Use of helm, engines, other apparatus**

In cases of need, the officer in charge of the navigational watch shall not hesitate to use the helm, engines and sound signalling apparatus, but timely notice of intended variations of engine speed shall be given where possible or effective use made of UMS engine controls provided on the bridge in accordance with the applicable procedures.

28. Officers of the navigational watch shall know the handling characteristics of their ship, including its stopping distances, and should appreciate that other ships may have different handling characteristics.

**29. Record of watch**

A proper record shall be kept during the watch of the movements and activities relating to the navigation of the ship.

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**30. Proper Look-outs**

It is of special importance that at all times the officer in charge of the navigational watch ensures that a proper look-out is maintained and in a ship with a separate chartroom the officer in charge of the navigational watch may visit the chartroom, when essential, for a short period for the necessary performance of navigational duties, but shall first ensure that it is safe to do so and that proper look-out is maintained.

**31. Operational tests**

Operational tests of shipboard navigational equipment Operational tests shall be carried out at sea as frequently as practicable and as circumstances permit, in particular before hazardous conditions affecting navigation are expected and before port arrival and departure where appropriate, and shall be recorded.

**32. Checks on Navigational watch**

The officer in charge of the navigational watch shall make regular checks to ensure that—

- (a) the person steering the ship, or the automatic pilot, is steering the correct course;
- (b) the standard compass error is determined at least once a watch and, when possible, after any major alteration of course; the standard and gyro-compasses are frequently compared and repeaters are synchronized with their master compass;
- (c) the automatic pilot is tested manually at least once a watch;
- (d) the navigation and signal lights and other navigational equipment are functioning properly;
- (e) the radio equipment available in the bridge is functioning properly in accordance with paragraph 82 of this Schedule; and
- (f) the UMS controls, alarms and indicators are functioning properly.

**33. Considerations for Navigational watch**

The officer in charge of the navigational watch shall bear in mind the necessity to comply at all times with the requirements in force of the Safety Convention, and shall take into account—

- (a) the need to station a person to steer the ship and to put the steering into manual control in good time to allow any potentially hazardous situation to be dealt with in a safe manner; and
- (b) that with a ship under automatic steering it is highly dangerous to allow a situation to develop to the point where the officer in charge of the navigational watch is without assistance and has to break the continuity of the look-out in order to take emergency action.

**34. Use of Electronic Navigational aids**

Officers of the navigational watch shall be thoroughly familiar with the use of all electronic navigational aids carried, including their capabilities and limitations, and shall use each of these aids when appropriate and shall bear in mind that the echo sounder is a valuable navigational aid.

**35. Change of range Scales**

The officer in charge of the navigational watch shall ensure that range scales employed are changed at sufficiently frequent intervals so that echoes are detected as early as possible. It shall be borne in mind that small or poor echoes may escape detection.

**36. Officer to notify Master**

The officer in charge of the navigational watch shall notify the master immediately—

- (a) if restricted visibility is encountered or expected;

- (b) if the traffic conditions or the movements of other ships are causing concern;
- (c) if difficulty is experienced in maintaining course;
- (d) on failure to sight land, a navigational mark or to obtain soundings by the expected time;
- (e) if, unexpectedly, a land or a navigation mark is sighted or a change in sounding occurs;
- (f) on breakdown of the engines, propulsion machinery remote control, steering gear or any essential navigational equipment, alarm or indicator;
- (g) if the radio equipment in the bridge malfunctions;
- (h) in heavy weather, if in any doubt about the possibility of weather damage;
- (i) if the ship meets any hazard to navigation, such as ice or a derelict; and
- (j) in any other emergency or if in any doubt.

**37. Office may take action**

Despite the requirement to notify the master immediately in the foregoing circumstances, the officer in charge of the navigational watch shall in addition not hesitate to take immediate action for the safety of the ship, where circumstances so require.

**38. Instructions for safe watch**

The officer in charge of the navigational watch shall give watchkeeping personnel all appropriate instructions and information which will ensure the keeping of a safe watch, including a proper look-out.

**39. Officer to take compass bearings**

In clear weather the officer in charge of the navigational watch shall take frequent and accurate compass bearings of approaching ships as a means of early detection of risk of collision and bear in mind that such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large ship or a tow or when approaching a ship at close range. The officer in charge of the navigational watch shall also take early and positive action in compliance with the applicable Collision regulations and subsequently check that such action is having the desired effect.

**40. Radar practice**

In clear weather, whenever possible, the officer in charge of the navigational watch shall carry out radar practice.

**41. Action in restricted visibility**

When restricted visibility is encountered or expected, the first responsibility of the officer in charge of the navigational watch is to comply with the relevant rules of the collision regulations with particular regard to the sounding of fog signals, proceeding at a safe speed and having the engines ready for immediate manoeuvre. In addition, the officer in charge of the navigational watch shall—

- (a) inform the master;
- (b) post a proper look-out;
- (c) exhibit navigation lights; and
- (d) operate and use the radar.

**42. Watch in hours of darkness**

During the hours of darkness the master and the officer in charge of the navigational watch, when arranging lookout duty, shall have due regard to the bridge equipment and navigational aids available for use, their limitations and procedures and safeguards implemented.

**43. Watch in coastal and congested waters**

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In coastal and congested waters the largest scale chart on board, suitable for the area and corrected with the latest available information, shall be used. Fixes shall be taken at frequent intervals, and shall be carried out by more than one method whenever circumstances allow. The officer in charge of the navigational watch shall positively identify all relevant navigational marks.

#### 44. Co-operation with pilots

(1) Despite the duties and obligations of pilots, their presence on board does not relieve the master or officer in charge of the navigational watch from their duties and obligations for the safety of the ship, but the master and the pilot shall exchange information regarding navigation procedures, local conditions and the ship's characteristics.

(2) The master or the officer in charge of the navigational watch shall co-operate closely with the pilot and maintain an accurate check on the ship's position and movement.

#### 45. Actions of Pilot

If in any doubt as to the pilot's actions or intentions, the officer in charge of the navigational watch shall seek clarification from the pilot and, if doubt still exists, shall notify the master immediately and take whatever action is necessary before the master arrives.

#### 46. Duties of Officer at Anchor

While at anchor, the officer in charge of the navigational watch shall—

- (a) determine and plot the ship's position on the appropriate chart as soon as practicable;
- (b) when circumstances permit, check at sufficiently frequent intervals whether the ship is remaining securely at anchor by taking bearings of fixed navigational marks or readily identifiable shore objects;
- (c) ensure that proper look-out is maintained;
- (d) ensure that inspection rounds of the ship are made periodically;
- (e) observe meteorological and tidal conditions and the state of the sea;
- (f) notify the master and undertake all necessary measures if the ship drags anchor;
- (g) ensure that the state of readiness of the main engines and other machinery is in accordance with the master's instructions;
- (h) if visibility deteriorates, notify the master;
- (i) ensure that the ship exhibits the appropriate lights and shapes and that appropriate sound signals are made in accordance with all applicable regulations;
- (j) take measures to protect the environment from pollution by the ship and comply with applicable pollution regulations; and
- (k) maintain a listening watch on VHF channel 16 and/or the port operations working channel.

### Part III - PRINCIPLES TO BE OBSERVED IN KEEPING ENGINEERING WATCH

#### 47. Engineering Watch

The term *engineering watch* as used in parts 2, 6 and 8 of this Schedule means either a person or a group of personnel comprising the watch or a period of responsibility for an officer during which the physical presence in machinery spaces of that officer may or may not be required.

#### 48. Officer in charge of Engineering watch

The officer in charge of the engineering watch is the chief engineer officer's representative and is primarily responsible, at all times, for the safe and efficient operation and upkeep of machinery affecting the safety of the ship and is responsible for the inspection,

operation and testing, as required, of all machinery and equipment under the responsibility of the engineering watch.

#### 49. Composition of Engineering Watch

(1) The composition of the engineering watch shall, at all times, be adequate to ensure the safe operation of all machinery affecting the operation of the ship, in either automated or manual mode, and be appropriate to the prevailing circumstances and conditions.

(2) When deciding the composition of the engineering watch, which may include appropriately qualified ratings, the following criteria, *inter alia*, shall be taken into account:

- (a) The type of ship and the type and condition of the machinery;
- (b) the adequate supervision, at all times, of machinery affecting the safe operation of the ship;
- (c) any special modes of operation dictated by conditions such as weather, ice, contaminated water, shallow water, emergency conditions, damage containment or pollution abatement;
- (d) the qualifications and experience of the engineering watch;
- (e) the safety of life, ship, cargo and port, and protection of the environment;
- (f) the observance of international, national and local regulations; and
- (g) maintaining the normal operations of the ship.

#### 50. When relieving officer is incapable

The officer in charge of the engineering watch shall not hand over the watch to the relieving officer if there is reason to believe that the latter is obviously not capable of carrying out the watchkeeping duties effectively, in which case the chief engineer officer shall be notified.

#### 51. Responsibility of relieving officer

The relieving officer of the engineering watch shall ensure that the members of the relieving engineering watch are apparently fully capable of performing their duties effectively.

#### 52. Taking over engineering watch

Before taking over the engineering watch, relieving officers shall satisfy themselves regarding at least the following:

- (a) The standing orders and special instructions of the chief engineer officer relating to the operation of the ship's systems and machinery;
- (b) the nature of all work being performed on machinery and systems, the personnel involved and potential hazards;
- (c) the level and, where applicable, the condition of water or residues in bilges, ballast tanks, slop tanks, reserve tanks, fresh water tanks, sewage tanks and any special requirements for use or disposal of the contents thereof;
- (d) the condition and level of fuel in the reserve tanks, settling tanks, day tanks and other fuel storage facilities;
- (e) any special requirements relating to sanitary system disposals;
- (f) condition and mode of operation of the various main and auxiliary systems, including the electrical power distribution system;
- (g) where applicable, the condition of monitoring and control console equipment, and which equipment is being operated manually;
- (h) where applicable, the condition and mode of operation of automatic boiler controls such as flame safeguard control systems, limit control systems, combustion control systems, fuel-supply control systems and other equipment related to the operation of steam boilers;
- (i) any potentially adverse conditions resulting from bad weather, ice, or contaminated or shallow water;

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- (j) any special modes of operation dictated by equipment failure or adverse ship conditions;
- (k) the reports of engine-room ratings relating to their assigned duties;
- (l) the availability of fire-fighting appliances; and
- (m) the state of completion of engine-room log.

**53. Organising Engineering watch**

The officer in charge of the engineering watch shall ensure that the established watchkeeping arrangements are maintained and that, under direction, engine-room ratings, if forming part of the engineering atch. assist in the safe and efficient operation of the propulsion machinery and auxiliary equipment.

**54. Responsibility for machines**

The officer in charge of the engineering watch shall continue to be responsible for machinery-space operations, despite the presence of the chief engineer officer in the machinery spaces, until specifically informed that the chief engineer officer has assumed that responsibility and this is mutually understood.

**55. Duties of members of Engineering watch**

(1) All members of the engineering watch shall be familiar with their assigned watchkeeping duties and in addition, every member shall with respect to the ship they are serving in, have knowledge of—

- (a) the use of appropriate internal communication systems;
- (b) the escape routes from machinery spaces;
- (c) the engine-room alarm systems and be able to distinguish between the various alarms, with special reference to the fire-extinguishing media alarm; and
- (d) the number, location and types of fire-fighting equipment and damage-control gear in the machinery spaces, and their use and the various safe precautions to be observed.

(2) Any machinery not functioning properly, expected to malfunction or requiring special service shall be noted along with any action already taken and plans shall be made for any further action if required.

**56. Manning Machinery Spaces**

(1) When the machinery spaces are in the manned condition, the officer in charge of the engineering watch shall at all times be readily capable of operating the propulsion equipment in response to needs for changes in direction or speed.

(2) When the machinery spaces are in the periodic unmanned condition, the designated duty officer in charge of the engineering watch shall be immediately available and on call to attend the machinery spaces.

**57. Bridge Orders**

(1) All bridge orders shall be promptly executed, and except in ships of less than 500 GT, changes in direction or speed of the main propulsion units shall be recorded.

(2) The officer in charge of the engineering watch shall ensure that the main propulsion unit controls, when in the manual mode of operation, are continuously attended under stand-by or manoeuvring conditions.

**58. Maintenance of Machinery**

Due attention shall be paid to the ongoing maintenance and support of all machinery, including mechanical, electrical, electronic, hydraulic and pneumatic systems, their control apparatus and associated safety equipment, all accommodation service systems, equipment and the recording of stores and spare gear usage.



**59. Responsibility of Chief Engineer**

The chief engineer officer shall ensure that the officer in charge of the engineering watch is informed of all preventive maintenance, damage control, or repair operations to be performed during the engineering watch, and the officer in charge of the engineering watch shall be responsible for the isolation, bypassing and adjustment of all machinery under the responsibility of the engineering watch that is to be worked on, and shall record all work carried out.

**60. Stand-by condition**

When the engine-room is put in a stand-by condition, the officer in charge of the engineering watch shall ensure that all machinery and equipment which may be used during manoeuvring is in a state of immediate readiness and that an adequate reserve of power is available for steering gear and other requirements.

**61. Officer not to be assigned other duties**

Officers in charge of an engineering watch shall not be assigned or undertake any duties which would interfere with their supervisory duties in respect of the main propulsion system and ancillary equipment, and shall—

- (a) They shall keep the main propulsion plant and auxiliary systems under constant supervision until properly relieved;
- (b) periodically inspect the machinery in their charge; and
- (c) also ensure that adequate rounds of the machinery and steering-gear spaces are made for the purpose of observing and reporting equipment malfunctions or breakdowns, performing or directing routine adjustments, required upkeep and any other necessary tasks.

**62. Information on hazardous conditions**

Officers in charge of an engineering watch shall direct any other member of the engineering watch to inform them of potentially hazardous conditions which may adversely affect the machinery or jeopardize the safety of life or of the ship.

**63. Containing Effects of Damage**

The officer in charge of the engineering watch shall take the action necessary to contain the affects of damage resulting from equipment breakdown, fire, flooding, rupture, collision, stranding, or other cause.

**64. Record of events**

Before going off duty, the officer in charge of the engineering watch shall ensure that all events related to the main and auxiliary machinery which have occurred during the engineering watch are suitably recorded.

**65. Co-operation in maintenance work**

The officer in charge of the engineering watch shall co-operate with any engineer in charge of maintenance work during all preventive maintenance, damage control or repairs. This shall include but not necessarily be limited to—

- (a) isolating and bypassing machinery to be worked on;
- (b) adjusting the remaining plant to function adequately and safely during the maintenance period;
- (c) recording, in the engine-room log or other suitable document, the equipment worked on and the personnel involved, and which safety steps have been taken and by whom, for the benefit of relieving officers and for record purposes; and
- (d) testing and putting into service, when necessary, the repaired machinery or equipment.

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**66. Assistance by ratings**

The officer in charge of the engineering watch shall ensure that any engine-room ratings who perform maintenance duties are available to assist in the manual operation of machinery in the event of automatic equipment failure.

**67. Reports to the Bridge**

The officer in charge of the engineering watch shall bear in mind that changes in speed, resulting from machinery malfunction, or any loss of steering, may imperil the safety of the ship and life at sea and shall immediately notify the bridge in the event of fire and of any impending action in machinery spaces that may cause reduction in the ship's speed, imminent steering failure, stoppage of the ship's propulsion system or any alteration in the generation of electric power, or similar threat to safety.

(2) The notification under paragraph (1), where possible, shall be accomplished before changes are made, in order to afford the bridge the maximum available time to take whatever actions possible to avoid a potential marine casualty.

**68. Notification to chief engineering officer**

The officer in charge of the engineering watch shall notify the chief engineer officer without delay—

- (a) when engine damage or a malfunction occurs which may be such as to endanger the safe operation of the ship;
- (b) when any malfunction occurs which, it is believed, may cause damage or breakdown of propulsion machinery, auxiliary machinery or monitoring and governing systems; and
- (c) in any emergency or if in any doubt as to what decision or measures to take.

**69. Emergency action**

Despite the requirement to notify the chief engineer officer in the foregoing circumstances, the officer in charge of the engineering watch shall not hesitate to take immediate action for the safety of the ship, its machinery and crew where circumstances require.

**70. Responsibility of officer in charge**

(1) The officer in charge of the engineering watch shall give the watchkeeping personnel all appropriate instructions and information which will ensure the keeping of a safe engineering watch.

(2) Routine machinery upkeep, performed as incidental tasks as a part of keeping a safe watch, shall be set up as an integral part of the watch routine, and detailed repair maintenance involving repairs to electrical, mechanical, hydraulic, pneumatic or applicable electronic equipment throughout the ship shall be performed with the cognizance of the officer in charge of the engineering watch and chief engineer officer and recorded.

**71. Signals in Restricted Visibility**

In restricted visibility the officer in charge of the engineering watch shall ensure that permanent air or steam pressure is available for sound signals and that at all times bridge orders relating to changes in speed or direction of operation are immediately implemented and, in addition, that auxiliary machinery used for manoeuvring is readily available.

**72. Manual mode in coastal and congested waters**

In coastal and congested waters the officer in charge of the engineering watch shall ensure that all machinery involved with the manoeuvring of the ship can immediately be placed in the manual mode of operation when notified that the ship is in congested waters. The officer in charge of the engineering watch shall also ensure that an adequate reserve of power is available for steering and other manoeuvring requirements. Emergency steering and other auxiliary equipment shall be ready for immediate operation.

**73. Unsheltered anchorage**

At an unsheltered anchorage the chief engineer officer shall consult with the master whether or not to maintain the same engineering watch as when under way.

**74. When ship is at anchor**

When a ship is at anchor in an open roadstead or in any other virtually "at-sea" condition, the engineer officer in charge of the engineering watch shall ensure that—

- (a) an efficient engineering watch is kept;
- (b) periodic inspection is made of all operating and stand-by machinery;
- (c) main and auxiliary machinery is maintained in a state of readiness in accordance with orders from the bridge;
- (d) measures are taken to protect the environment from pollution by the ship, and that applicable pollution-prevention regulations are complied with; and
- (e) all damage-control and fire-fighting systems are in readiness.

**Part IV - PRINCIPLES TO BE OBSERVED IN KEEPING RADIO WATCH****75. Arrangements for Radio Watch**

In deciding the arrangements for the radio watch, the master of every seagoing ship shall—

- (a) ensure that the radio watch is maintained in accordance with the relevant provisions of the radio regulations and the Safety Convention.
- (b) ensure that the primary duties for radio watchkeeping are not adversely affected by attending to radio traffic not relevant to the safe movement of the ship and safety of navigation; and
- (c) take into account the radio equipment fitted on board and its operational status.

**76. Responsibilities of radio operator**

The radio operator performing radio watchkeeping duties shall—

- (a) ensure that watch is maintained on the frequencies specified in the radio regulations and, where applicable, the Safety Convention;
- (b) while on duty, regularly check the operation of the radio equipment and its sources of energy and report to the master any observed failure of this equipment; and
- (c) maintain and keep the appropriate radio log.

**77. Duty of maintaining records**

The maintenance of radio records, in compliance with the requirements of the radio regulations and where applicable, the Safety Convention, is the responsibility of the radio operator designated as having primary responsibility for radiocommunications during distress incidents.

(2) The following shall be recorded, together with the times at which they occur:

- (a) A summary of distress, urgency and safety radiocommunications;
- (b) important incidents relating to the radio service;
- (c) where appropriate, the position of the ship at least once per day; and
- (d) a summary of the condition of the radio equipment, including its sources of energy.

**78. Radio Records**

The radio records shall be kept at the distress communications operating position, and shall be made available—

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- (a) for inspection by the master; and
- (b) for inspection by any authorized official during a port state inspection and during a radio equipment survey.

#### **Part V - WATCH KEEPING IN PORT**

##### **79. Watchkeeping in Port**

On any ship safely moored or safely at anchor under normal circumstances in port, the master shall arrange for an appropriate and effective watch to be maintained for the purpose of safety. Special requirements may be necessary for special type of ships' propulsion systems or ancillary equipment and for ships carrying hazardous, dangerous, toxic or highly flammable materials or other special types of cargo.

##### **80. Deck Watch**

Arrangements for keeping a deck watch when the ship is in port shall at all times be adequate to—

- (a) ensure the safety of life, of the ship, the port and the environment, and the safe operation of all, machinery related to cargo operations;
- (b) observe international, national and local rules; and
- (c) maintain order and the normal routine of the ship.

##### **81. Master to Decide on deck watch**

(1) The master shall decide the composition and duration of the deck watch depending on the conditions of mooring, type of the ship and character of duties.

(2) If the master considers it necessary, a qualified officer shall be in charge of the deck watch.

(3) The necessary equipment shall be so arranged as to provide for efficient watchkeeping.

##### **82. Responsibility of Chief Engineer**

The chief engineer officer, in consultation with the master, shall ensure that engineering watchkeeping arrangements are adequate to maintain a safe engineering watch while in port.

(2) When deciding the composition of the engineering watch, which may include appropriate engine-room ratings, the following points are among those to be taken into account:

- (a) On all ships of 3 000 kW propulsion power or more there shall always be an officer in charge of the engineering watch;
- (b) on ships of less than 3 000 kW propulsion power there may be, at the master's discretion and in consultation with the chief engineer officer, no officer in charge of the engineering watch; and
- (c) officers, while in charge of an engineering watch, shall not be assigned or undertake any task or duty which would interfere with their supervisory duty in respect of the ship's machinery system.

##### **83. Handing over of watch**

Officers in charge of the deck or engineering watch shall not hand over the watch to their relieving officer if they have any reason to believe that the latter is obviously not capable of carrying out watchkeeping duties effectively, in which case the master or chief engineer shall be notified accordingly.

(2) Relieving officers of the deck or engineering watch shall ensure that all members of their watch are apparently fully capable of performing their duties effectively.

##### **84. Operations to be completed before handing over**

If, at the moment of handing over the deck or engineering watch, an important operation is being performed it shall be concluded by the officer being relieved, except when ordered otherwise by the master or chief engineer officer.

#### **Part VI - TAKING OVER DECK WATCH**

##### **85. Information for relieving officer by deck watch officer**

Before taking over the deck watch, the relieving officer shall be informed of the following by the officer in charge of the deck watch as to—

- (a) the depth of the water at the berth, the ship's draught, the level and time of high and low waters; the securing of the moorings, the arrangement of anchors and the scope of the anchor chain, and other mooring features important to the safety of the ship, the state of main engines and their availability for emergency use;
- (b) all work to be performed on board the ship, the nature, amount and disposition of cargo loaded or remaining, and any residue on board after unloading the ship;
- (c) the level of water in bilges and ballast tanks;
- (d) the signals or lights being sounded or exhibited;
- (e) the number of crew members required to be on board and the presence of any other persons on board;
- (f) the state of fire-fighting appliances;
- (g) any special port regulations;
- (h) the master's standing and special orders;
- (i) the lines of communication available between the ship and shore personnel, including port authorities, in the event of an emergency arising or assistance being required;
- (j) any other circumstances of importance to the safety of the ship, its crew, cargo or protection of the environment from pollution; and Handing over of watch.
- (k) the procedures for notifying the appropriate authority of any environmental pollution resulting from ship activities.

##### **86. Responsibility of relieving Officers**

Relieving officers, before assuming charge of the deck watch, shall ensure that—

- (a) the securing of moorings and anchor chain is adequate;
- (b) the appropriate signals or lights are properly sounded or exhibited;
- (c) safety measures and fire protection regulations are being maintained;
- (d) they are aware of the nature of any hazardous or dangerous cargo being loaded or discharged and the appropriate action to be taken in the event of any spillage or fire; and
- (e) no external conditions or circumstances imperil the ship and that it does not imperil others.
- (f) they are aware of any ballasting/de-ballasting operations in progress and the current status of anti-heeling pumps and systems (where installed).

#### **Part VII - TAKING OVER ENGINEERING WATCH**

##### **87. Information for relieving officer by engineering watch officer**

(1) Before taking over the engineering watch, the relieving officer shall be informed by the officer in charge of the engineering watch as to—

- (a) the standing orders of the day, any special orders relating to the ship operations, maintenance functions, repairs to the ship's machinery or control equipment;

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- (b) the nature of all work being performed on machinery' and systems on board ship, personnel involved and potential hazards;
- (c) the level and condition, where applicable, of water or residue in bilges, ballast tanks, slop tanks, sewage tanks, reserve tanks and special requirements for the use or disposal of the contents thereof;
- (d) any special requirements relating to sanitary system disposals;
- (e) the condition and state of readiness of portable fire- extinguishing equipment and fixed fire-extinguishing installations and fire-detection systems;
- (f) authorized repair personnel on board engaged in engineering activities, their work locations and repair functions and other authorized persons on board and the required crew;
- (g) any port regulations pertaining to ship effluents, fire-fighting requirements and ship readiness, particularly during potential bad weather conditions;
- (h) the lines of communication available between the ship and shore personnel, including port authorities, in the event of an emergency arising or assistance being required;
- (i) any other circumstances of importance to the safety of the ship, its crew, cargo or the protection of the environment from pollution; and
- (j) the procedures for notifying the appropriate authority of environmental pollution resulting from engineering activities.

(2) Relieving officers, before assuming charge of the engineering watch, shall satisfy themselves that they are fully informed by the officer being relieved, as outlined above, and shall—

- (a) be familiar with existing and potential sources of power, heat and lighting and their distribution;
- (b) know the availability and condition of ship's fuel, lubricants and all water supplies; and
- (c) be ready to prepare the ship and its machinery, as far as is possible, for stand-by or emergency conditions as required.

**Part VIII - PERFORMING DECK WATCH****88. Duties of officer in charge of deck watch**

The officer in charge of the deck watch shall—

- (a) make rounds to inspect the ship at appropriate intervals;
- (b) pay particular attention to—
  - (i) the condition and securing of the gangway, anchor chain and moorings, especially at the turn of the tide and in berths with a large rise and fall, if necessary, taking measures to ensure that they are in normal working condition;
  - (ii) the draught, under-keel clearance and the general state of the ship, to avoid dangerous listing or trim during cargo handling or ballasting;
  - (iii) the weather and sea state;
  - (iv) the observance of all regulations concerning safety and fire protection;
  - (v) the water level in bilges and tanks;
  - (vi) all persons on board and their location, especially those in remote or enclosed spaces; and
  - (vii) the exhibition and sounding, where appropriate, of lights and signals;
- (c) in bad weather, or on receiving a storm warning, take the necessary measures to protect the ship, persons on board and cargo;
- (d) take every precaution to prevent pollution of the environment by the ship;

- (e) in an emergency threatening the safety of the ship, raise the alarm, inform the master, take all possible measures to prevent any damage to the ship, its cargo and persons on board, and, if necessary, request assistance from the shore authorities or neighbouring ships;
- (f) be aware of the ship's stability condition so that, in the event of fire, the shore fire fighting authority may be advised of the approximate quantity of water that can be pumped on board without endangering the ship;
- (g) Offer assistance to ships or persons in distress;
- (h) Take necessary precautions to prevent accidents or damage when propellers are to be turned; and
- (i) enter in the appropriate log-book all important events affecting the ship.

#### **Part IX - PERFORMING ENGINEERING WATCH**

##### **89. Duties of officer in charge of Engineering Watch**

Officers in charge of the engineering watch shall pay particular attention to—

- (a) the observance of all orders, special procedures and regulations concerning hazardous conditions and their prevention in all areas in their charge;
  - (b) the instrumentation and control systems, monitoring of all power supplies, components and systems in operation;
  - (c) the techniques, methods and procedures necessary to prevent violation of the pollution regulations of the local authorities; and
  - (d) the state of the bilges.
- (2) Officers in charge of the engineering watch shall—
- (a) in emergencies, raise the alarm when in their opinion the situation so demands, and take all possible measures to prevent damage to the ship, persons on board and cargo;
  - (b) be aware of the deck officer's needs relating to the equipment required in the loading or unloading of the cargo and the additional requirements of the ballast and other ship stability control systems;
  - (c) make frequent rounds of inspection to determine possible equipment malfunction or failure, and take immediate remedial action to ensure the safety of the ship, of cargo operations, of the port and the environment;
  - (d) ensure that the necessary precautions are taken, within their area of responsibility, to prevent accidents or damage to the various electrical, electronic, hydraulic, pneumatic and mechanical systems of the ship; and
  - (e) ensure that all important events affecting the operation, adjustment or repair of the ship's machinery are satisfactorily recorded.

#### **Part X - WATCH IN PORT ON SHIPS CARRYING HAZARDOUS CARGO**

##### **90. Duty of Master where there is hazardous Cargo**

The master of a ship carrying cargo that is hazardous, whether explosive, flammable, toxic, health-threatening or environment-polluting, shall ensure that safe watchkeeping arrangements are maintained. On ships carrying hazardous cargo in bulk, this will be achieved by the ready availability on board of a duly qualified officer or officers, and ratings where appropriate, even when the ship is safely moored or safely at anchor in port.

(2) On ships carrying hazardous cargo other than in bulk, the master shall take full account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions on board, afloat and ashore.





**THE MERCHANT SHIPPING (SMALL VESSEL SAFETY) REGULATIONS**

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## THE MERCHANT SHIPPING (SMALL VESSEL SAFETY) REGULATIONS

[Legal Notice 114 of 2012]

### PART I – PRELIMINARY

#### 1. Citation

These Regulations may be cited as the Merchant Shipping (Small Vessel Safety) Regulations and shall come into operation on such date as the Cabinet Secretary may, by notice in the *Gazette*, appoint.

#### 2. Interpretation

(1) In these regulations; unless the context otherwise requires—

"approved" means approved by the Authority;

"authorised agency" means a governing body, club or organisation designated under regulation 30(1);

"category" in relation to a vessel, means the particular category of vessel determined as follows—

- (a) Category A—vessels operating any distance from shore;
- (b) Category B—vessels operating less than 40 nautical miles from shore;
- (c) Category C—vessels operating less than 15 nautical miles from shore;
- (d) Category D—vessels operating less than 5 nautical miles from shore;
- (e) Category E—vessels operating not more than 1 nautical mile from shore and 15 miles from an approved launch site;
- (f) Category R—vessels operating solely on inland waters;

"certificate of competence" means a certificate, including any relative endorsement, issued by a certifying authority pursuant to regulation 16(1) and entitling its lawful holder to act in the capacity and perform the functions involved on a vessel of the type, category, tonnage or length, power and means of propulsion concerned;

"local certificate of fitness" means a certificate issued under regulation 24;

"certifying authority" means the Authority and, to the extent that it has been designated pursuant to regulation 30(1) to perform the functions of a certifying authority, an authorised agency;

"commercial harbour" means a harbour belonging to the Kenya Ports Authority;

"commercial small vessel" means a small vessel that is not a pleasure vessel;

"contravene" in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

"controlled event" means a competition, event or regatta organised by a governing body, or a club or an organisation affiliated with a governing body, and includes—

- (a) activities to prepare for the event that take place at the venue for the event and during the times specified by the organiser of the event; and
- (b) practice for the event under the supervision of a coach or an official approved by a governing body, or a club or organisation affiliated with a governing body;

"decked" in relation to a vessel, means fully or partially decked;

"dive boat" means a vessel that is used in diving support activities;

"enforcement officer" means a member of the Kenya Police Services, a member of any Municipal Police Service and any person designated as such by the Authority;

"existing vessel" means a vessel that was built and used on previously unregulated waters before the commencement of these regulations;

"governing body" means a national water sport governing body—

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- (a) that publishes written rules and criteria in respect of conduct and safety requirements during skill demonstrations, formal training or controlled events; and
- (b) that—
  - (i) certifies coaches and coaching programmes;
  - (ii) certifies officials and programmes for officials; or
  - (iii) recommends training and safety guidelines for certified coaches or officials;

"inflatable" in relation to a vessel, means fitted with separate inflated airtight chambers that are either completely collapsible or fitted with a rigid bottom section to give buoyancy;

"inland waters" means all water areas accessible to the public and contained within ports, fishing harbours, lagoons, rivers, dams, wetlands and lakes in Kenya;

"kill switch" means a mechanism which is attached to the skipper or operator of a small vessel and which stops the engines when that person loses his or her footing or becomes otherwise incapacitated;

"night" means the period of time between six o'clock in the afternoon and six o'clock in the morning;

"operate" in relation to a vessel, means operate in inland waters;

"overall length" in relation to a vessel, means the horizontal distance measured between perpendiculars erected at the extreme ends of the outside of the hull of the vessel;

"owner" in relation to a vessel, includes any person entrusted by the owner with the care and control of the vessel;

"passenger vessel" means a vessel that carries more than 12 passengers;

"pleasure vessel" means a vessel that is used solely for sport or recreation;

"power-driven" in relation to a vessel, means propelled primarily by mechanical means;

"projectile flare set" means a set of flares designed to be propelled upwards by means of a hand-operated triggering device not forming an integral part of the flare;

"regulating authority" means the person, body or authority having jurisdiction over the shore or inland waters concerned;

"safety officer" means a person designated under regulation 30(4);

"sailing vessel" means a vessel provided with sufficient sail area for navigation under sail alone whether or not fitted with mechanical means of propulsion;

"sea" in relation to the application of these regulations, means the area seaward of a harbour breakwater, river mouth, estuary mouth or lagoon, the boundaries of which will be decided by the Authority in conjunction with the relevant local authority and published in a marine notice;

"skipper" means the master;

"specified by the Authority" means specified by the Authority in a marine notice;

"suitable" in relation to materials or an appliance or item of equipment, means suitable for the service for which it is intended;

"tender" means a small vessel, not exceeding 4 metres in overall length, that is used in a harbour, inland waters or in sheltered waters solely for the conveyance of persons or stores from the shore to a vessel, or vice versa, or from one vessel to another vessel without financial gain or reward;

"underway" in relation to a vessel, means that the vessel is in motion;

"water-skiing" includes towing a person on any device behind a vessel and the noun has a corresponding meaning.

(2) Any reference in these regulations to the owner of a vessel is, if there is more than one owner of the vessel, to be read as a reference to each of the owners.

(3) For the purposes of these regulations, a vessel is taken to be at sea or being operated at any time when it is not securely ashore or moored in a safe berth.

### 3. Application

(1) Subject to subregulations (2) and (3), these regulations apply to—

- (a) every commercial small vessel—
  - (i) that is registered as a ship in Kenya in terms of section 77 of the Act;
  - (ii) that is required to be licensed in terms of section 57 of the Act;
  - (iii) in respect of which a local general safety certificate is required by virtue of section 242 of the Act; or
  - (iv) that is used on inland waters, where section 57 of the Act will apply equally; and
- (b) every pleasure vessel of less than 100 gross tonnage, being—
  - (i) a vessel that is registered as a ship in Kenya;
  - (ii) a vessel contemplated in section 57 of the Act; or
  - (iii) a vessel used on inland waters.

(2) These regulations shall not apply to tenders.

(3) A provision of these regulations shall not apply to a Kenyan ship in the waters of a country other than Kenya where the provision is inconsistent with a law of that country, or which, by its terms, applies to the ship when in the waters of that country.

These regulations shall apply to vessels under 3 metres in length except where otherwise stated and subject to regulation 8(4).

## PART II – VESSEL SAFETY REQUIREMENTS

### 4. Submission and approval of plans etc. by a commercial vessel for first issue of local safety certificate

(1) Subject to subregulation (5), and for the purposes of the initial issue of a local safety certificate in respect of a commercial small vessel, the builder or owner of a vessel shall submit in duplicate to the Authority the following particulars by means of plans, fully dimensional and including detailed specifications of the vessel, for approval by the Authority

- (a) longitudinal elevation showing the position of bulkheads or built-in non-flooding compartments, hatchways, deck houses and crew spaces;
- (b) midship section showing hull scantlings, deck, bulwarks, frames, doors, stringers and beams;
- (c) any deck openings, ventilators, air pipes, and tanks;
- (d) engine room layout and pumping arrangements;
- (e) steering and propeller shaft arrangements;
- (f) electrical circuit diagram; and
- (g) lines plan of scale 1:25.
- (h) details of—
  - (i) anchors and cables;
  - (ii) lifesaving and fire-fighting equipment; and
  - (iii) navigation lights, shapes and sound signals.

(2) Any subsequent modification or addition to the scantlings, arrangements or equipment shown on approved plans shall be required to be approved by the Authority.

(3) The Authority may require such further plans and specifications as it deems fit, and may dispense with the, requirement to submit certain plans or specifications.

(4) The Authority shall, after approving the plans and the specifications submitted in respect of a vessel, direct, a surveyor to conduct inspections and tests to ensure that the

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vessel is constructed in accordance with the approved plans, specifications and the other requirements of these regulations.

(5) The builder or owner of a vessel being built shall in writing notify the Authority at least seven days before—

- (a) commencing building;
- (b) commencing planking, plating or laminating;
- (c) completing the fitting of all underwater fittings and rudder gear and propeller shafts;
- (d) launching the vessel; and
- (e) undertaking trials.

(6) No person shall undertake trials without the prior approval of the Authority and, if the Authority deems fit, the prior inspection of the vessel by a surveyor.

(7) The Authority may dispense with all or any of the requirements of subregulations (1), (4), (5) and (6) if—

- (a) in the case of a vessel being built, the work is carried out by an approved builder, in accordance with the relevant construction standards specified by the Authority; and
- (b) in the case of an existing vessel, it is satisfied that the vessel complies with the relevant construction standards specified by the Authority.

(8) The Authority may by way of a marine notice give direction from time to time regarding the precise information required for any particular type of vessel.

## **5. Inspection of vessel for renewal of local safety certificate**

For the purposes of the renewal of a local safety certificate, every vessel shall, subject to section 260 of the Act, be thoroughly inspected, both internally and externally, by a surveyor at intervals not exceeding twelve months—

Provided that, at the discretion of the Authority—

- (a) water suction and discharge valves, excluding water connection fastenings, may be inspected at intervals not exceeding 24 months; and
- (b) propeller shafts shall be withdrawn at intervals not exceeding four years.

## **6. Design and construction of vessels**

(1) Every vessel shall be constructed of suitable materials of good quality, with due regard to sound design practice and methods of construction and under normal operating conditions the design shall provide sufficient reserve of positive stability to avoid capsizing.

(2) On decked vessels no point of possible ingress of water, except scuppers, may be less than 200 millimetres above the surface of the water, measured when the vessel is afloat in an undamaged condition in calm water.

(3) The design and construction of a vessel shall, in addition, comply with the requirements set out in the First Schedule.

(4) These regulations shall not apply to vessels referred to in regulation 37.

(5) The Authority may exempt any other vessel from the provisions of this regulation.

(6) It shall be an offence to sell a vessel that does not comply with the construction requirements of these regulations:

Provided that where an exemption has been granted under subregulation (5), the seller shall produce a certificate issued by the Authority, detailing the extent to which the vessel is exempted from complying.

## **7. Safety appliances and equipment**

(1) The owner and skipper of any vessel shall ensure that safety appliances and equipment are provided and maintained on board the vessel in accordance with the

requirements of the Second Schedule, and the other requirements of that Schedule are complied with in relation to the vessel.

(2) The skipper of a commercial small vessel shall ensure that an approved buoyancy aid or lifejacket of the kind required by these regulations is worn by—

- (a) every crew member performing work on deck at night;
- (b) every crew member performing work which creates the risk of the person being lost overboard;
- (c) every crew member whenever a vessel of less than seven metres in length is being operated within one nautical mile from shore;
- (d) every child under twelve years of age on deck at all times when the vessel is underway;
- (e) any other person on board a vessel at such times as the skipper may direct; and
- (f) every person on board, including the skipper, whenever the vessel is launched or operated in the surf, or otherwise operates in rough sea or water conditions.

(3) On each occasion before any vessel is operated, the skipper(3) shall—

- (a) ensure that every person on board the vessel has received essential safety information appropriate to that person's functions on board, including—
  - (i) information about the location on board of the safety appliances and equipment required to be carried on the vessel; and
  - (ii) instruction in the use of such appliance's and equipment; and
- (b) ensure the safety appliances and equipment required to be on board the vessel are fit and ready for use.

(4) The skipper of a commercial small vessel shall, if it is practicable to do so, cause the vessel's emergency procedures and arrangements, including those in respect of fire-fighting, abandon ship and man overboard, to be practised at least once each week.

(5) The skipper or person operating any power-driven vessel of more than fifteen horsepower and of nine metres or less in length get the vessel underway unless there is an operational kill switch attached to the operator.

Subregulation (5) shall not apply to vessels launching or beaching through surf whilst the vessel is transiting the surf zone.

## **8. Safety of navigation**

(1) The skipper of a vessel shall ensure at all times that the vessel is operated in accordance with—

- (a) the collision regulations as defined in the Act;
- (b) the conditions and limitations specified in the local safety certificate or local certificate of fitness, as the case may be, issued in respect of the vessel;
- (c) the conditions and limitations specified in the skipper's certificate of competence;
- (d) the instructions and specifications of the manufacturer of the vessel and, if power-driven, of the vessel's propulsion machinery;
- (e) the law in force in the area in which the vessel is being operated, in so far as it is not inconsistent with the Act;
- (f) the load line regulations, if applicable; and
- (g) the requirement to operate within any demarcated areas on inland waters where indicated on charts or otherwise by a regulating authority.

(2) No person shall operate a vessel in a careless manner, without reasonable consideration for other persons or without due care and attention, taking into account—

- (a) the weather;

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- (b) visibility;
- (c) the presence of persons or vessels in the body of water, including concentrations of persons and vessels in the immediate vicinity of the vessel;
- (d) the speed and manoeuvrability of the vessel, with special reference to stopping distance and turning capability in the prevailing conditions;
- (e) light conditions, including the presence of background light from shore lights or from backscatter of the vessel's own lights;
- (f) water conditions, currents and the proximity of navigational hazards; and
- (g) any other hazards that could adversely affect the safety of persons or property.

(3) Before any power-driven vessel is operated, the skipper shall ensure that the vessel carries a sufficient quantity of fuel for its intended voyage together with a reserve of not less than twenty five per cent of that quantity.

No vessel under three metres in length may go to sea except in an area designated for that use by a regulating authority, but in any event not more than one thousand metres offshore.

**9. Colouring of vessels**

The owner and skipper of any vessel going to sea shall ensure that—

- (a) as large an area as possible of the interior of a vessel which is not a decked vessel or of the deck of a decked vessel is painted or pigmented in a colour making the vessel readily visible from above in any sea condition; or
- (b) there is readily available on board the vessel, and capable of floating in a spread-out position when attached to it, a length of canvas or similar suitable material so painted or pigmented, and of a size capable of extending the full width of the vessel, but not less than 2 metres by 2 metres;

**10. Operational limits**

(1) Subject to subregulation (2), no person may operate a vessel beyond the maximum distance from shore applicable to the category of vessel concerned and specified in the local general safety certificate or local certificate of fitness, as the case may be, issued in respect of the vessel.

(2) No person may operate a passenger vessel more than 5 nautical miles from shore and 15 nautical miles from a safe haven in Kenya.

**11. Carrying persons in excess**

Except in an emergency, neither the owner nor the skipper of a vessel may cause or allow the number of persons, including crew members, on board the vessel to exceed the number determined by the certifying authority and specified in the local safety certificate or certificate of fitness, as the case may be, issued in respect of the vessel.

**12. Voyage information**

(1) Before a vessel goes to sea from a place in Kenya, the owner and skipper shall ensure that they supply particulars in respect of—

- (a) the identity of the vessel, including its name, if any, official number, and type or make;
- (b) the names of the occupants; and
- (c) the intended place or places and expected times of departure and arrival.

(2) Notwithstanding subregulation (1), where regulating authorities, authorized agencies or clubs affiliated to a governing body have implemented reporting mechanisms on inland waters or at harbours, fishing harbours and approved launch sites, owners and skippers of vessels shall comply with such mechanisms.



(3) Upon return to a place in Kenya the owner and skipper of the vessel shall ensure that the person with whom information has been left in compliance with subregulation (2) is notified of the return of the vessel.

(4) The owner and skipper of a vessel which goes to sea from a commercial harbour or a fishing harbour shall, in addition to meeting the other requirements of this regulation, comply with the reporting requirements in force in that harbour.

### **13. Obligation of skipper to report dangers to navigation and to assist vessels in distress**

Section 210 of the Act (Notification of hazards to navigation) shall apply in relation to the skipper of a vessel to which these regulations apply as if the vessel were a ship to which that sections applies otherwise than by virtue of this regulation.

## PART III – CREWING

### **14. Responsibilities of owners**

(1) The owner of a vessel shall ensure that the vessel is operated by or under the constant guidance of a skipper who is physically able and of sound mental health and who, in the case of—

- (a) a commercial small vessel; or
- (b) a pleasure vessel which is either a sailing vessel of nine metres or more in overall length or a power-driven vessel with propulsion power exceeding fifteen horsepower, holds a valid certificate of competence issued by a certifying authority except as provided for in regulation 18(2):

Provided that this provision shall not require a certificate of competence to be held in respect of a vessel type which was previously unregulated or is operated on previously unregulated inland waters during the period expiring twelve months after the commencement of these regulations.

(2) The owner of a vessel shall, in addition to meeting the requirements of subregulation (1), ensure that the vessel is otherwise sufficiently and efficiently manned.

(3) For the purposes of paragraph (a), a commercial vessel shall be taken to be adequately and efficiently manned if, in the opinion of the Authority, it has a crew of competent persons to enable it to go to sea or to be otherwise operated with due regard to the requirements of these regulations and any other safety provisions which may be applicable to the vessel.

(4) In the determination of the adequacy of the crew in accordance with this subregulation, the following shall be taken into account—

- (a) the complement normally carried by similar vessels engaged on similar voyages or operations;
- (b) the complement that the vessel in question has recently carried on previous voyages or operations;
- (c) the nature of the service for which the vessel is intended; and
- (d) any other appropriate considerations.

(5) The owner of a commercial small vessel going to sea shall, in addition to meeting the requirements of subregulations (1) and (2), ensure that—

- (a) the skipper and every crew member on the vessel holds documentary evidence of having successfully completed approved safety induction training;
- (b) documentation and data relevant to the skipper and every crew member on the vessel are maintained and readily available for inspection, including documentation and data in respect of their employment, experience, training, medical fitness and competence in assigned duties;

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- (c) the skipper and every crew member, on being assigned to the vessel, are familiarized with their specific duties and with all vessel arrangements, installations, equipment, procedures and vessel characteristics which are relevant to their routine and emergency duties; and
- (d) the crew can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

**15. Special endorsements for passenger vessels and dive vessels**

(1) No person shall serve as the skipper of a commercial small vessel which is a passenger vessel unless authorized by way of an appropriate endorsement on his or her certificate of competence.

(2) No person shall serve as the skipper of a commercial small vessel which is a dive support vessel or dive charter vessel unless authorized in terms of an appropriate endorsement on his or her certificate of competence.

**16. Conditions of certificates of competence**

(1) A certifying authority shall issue an applicant with a certificate of competence in accordance with its delegation from the Authority, if it is satisfied that the applicant is physically able and of sound mental health and—

- (a) in the case of a certificate in respect of a commercial small vessel—
  - (i) is not under the age of eighteen years; and
  - (ii) satisfies the relevant requirements specified by the Authority; or
- (b) in the case of a certificate in respect of a pleasure vessel—
  - (i) is not under the age of sixteen years; and
  - (ii) satisfies the relevant requirements specified by the Authority after consultation with the affected governing body, if any.

(2) A certifying authority shall suspend or cancel a certificate of competence if—

- (a) the holder has been convicted under the Act of an offence involving dishonest conduct in obtaining any license or certificate;
- (b) it believes on reasonable grounds that the holder has conducted himself or herself in a negligent or incompetent manner while serving in any capacity authorised by the certificate; or
- (c) it believes on reasonable grounds that the certificate was obtained fraudulently or based on wrong information.

(3) A person whose certificate of competence has been suspended or cancelled as contemplated in subregulation (2) shall surrender the certificate to the certifying authority upon demand.

(4) A person whose certificate of competence has been suspended or cancelled may appeal in writing to the Authority against the suspension or cancellation, as the case may be, not later than three months after the date of the decision to suspend or cancel the certificate.

(5) Upon receiving an appeal, the Authority shall designate one or more officials to hear any representations made by the appellant and the certifying authority and to report to the Director-General, who shall then determine the appeal.

(6) In determining an appeal, the Director-General may confirm, vary or set aside the suspension or cancellation of an appellant's certificate, and the certifying authority shall give effect to the Director-General's determination.

(7) A person aggrieved by a decision taken under subregulation (4) may—

- (a) notwithstanding any other provisions in this regulation, appeal to the High Court in the first instance; or
- (b) where dissatisfied with the decision of the Director-General under subregulation (6), further appeal to the High Court.

(8) The holder of a certificate of competence shall keep the original certificate, or a certified copy thereof, available for inspection at all reasonable times.

(9) A skipper who is not permanently resident in Kenya who holds or carries a certificate of competence or licence issued by a foreign government and which authorizes the skipper to operate the type of vessel shall be deemed to hold a certificate of competence in terms of these regulations for a period of three months after arrival in Kenya, provided that he or she carries such certificate with him or her:

Provided that the person shall within the period of three months, apply for and obtain a certificate of competence from the Authority.

### 17. Physical and mental fitness

(1) No person may operate a vessel if he or she is not physically able to do so or is not of sound mental health.

(2) No person shall operate a vessel or any of a vessel's equipment or machinery while under the influence of intoxicating liquor or a narcotic drug to such an extent that his or her ability to carry out his or her duties relative to the vessel is impaired.

(3) No person shall operate a vessel or any of a vessel's equipment or machinery while—

- (a) the concentration of intoxicating liquor in any specimen of blood taken from any part of his or her body is 0.05 gram or more per 100 millilitres; or
- (b) the concentration of intoxicating liquor in any specimen of breath exhaled by such person is 0,24 milligrams or more per 1 000 millilitres.

(4) For the purposes of subregulation (3)(b), the concentration of intoxicating liquor in any breath specimen shall be ascertained by using the equipment prescribed under section 119(1) of the Traffic Act (Cap. 403).

(5) No person shall refuse that a specimen of blood, or a specimen of breath, be taken of him or her.

(6) Section 44 of the Traffic Act shall apply, with the necessary modifications, in relation to any prosecution for contravening a provision of subregulation (3).

### 18. Age limitations

(1) A person under the age of eighteen years shall not serve in the capacity of skipper of a commercial small vessel.

(2) A person under the age of sixteen years shall not operate a power-driven pleasure vessel having a propulsion power exceeding fifteen horsepower, unless—

- (a) that person does so under the guidance and constant supervision of a person who is the holder of a valid certificate of competence;
- (b) in the case of a single-handed vessel, that person does so under the guidance and supervision of an authorized agency or a person referred to in paragraph (a); or
- (c) that person is certified by an authorized agency to be a competent person engaged in training for competitive sport.

### 19. Unauthorized intoxicating liquor or narcotic drugs

(1) This regulation shall apply only to commercial small vessels.

(2) A person in Kenya or on board a Kenyan registered ship elsewhere shall not—

- (a) take any unauthorized intoxicating liquor or illicit drugs having narcotic effect on board a vessel;
- (b) have any unauthorized intoxicating liquor or illicit drugs having a narcotic effect in his or her possession on board a vessel;
- (c) allow another person to take on board a vessel, or to have in his or her possession on board a vessel, any unauthorized intoxicating liquor or illicit drugs having narcotic effect; or

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- (d) intentionally obstruct another person in the exercise of powers conferred on that person by subregulation (3).

(3) Where an enforcement officer has reason to believe that an offence against subregulation (2) has been committed in relation to any vessel, the enforcement officer may, without a warrant—

- (a) go on board the vessel and search it and any property on it; and  
 (b) take possession of any intoxicating liquor or drugs having narcotic effect found on the vessel and believed to be unauthorized intoxicating liquor or illicit drugs having narcotic effect and may detain the intoxicating liquor or drugs having narcotic effect for the period needed to ensure that the intoxicating liquor or drugs having narcotic effect are available as evidence in proceedings for the offence.

(4) In this regulation—

"illicit narcotic drug" means a drug the use or possession of which is prohibited by law;

"narcotic drug" has the same meaning as in section 2 of the Narcotic Drugs and Psychotropic Substances Control Act (Cap 245);

"intoxicating liquor" means spirits, wine, beer, cider and any other fermented, distilled or spirituous liquor;

"unauthorized intoxicating liquor", in relation to—

- (a) a fishing boat, means intoxicating liquor of any kind; and  
 (b) any other vessel, means intoxicating liquor in respect of which permission to take it on board the vessel has not been given either by the skipper or the owner of the vessel or by a person authorized by the owner of the vessel to give such permission.

(5) Any reference in subregulation (4) to the owner of a vessel shall be construed to exclude any member of the crew of the vessel.

#### PART IV – SPECIAL PROVISIONS FOR UNREGISTERED PLEASURE VESSELS

### 20. Application of Part

(1) This Part applies to pleasure vessels provided for in section 57 of the Act and pleasure vessels used on inland waters.

(2) This Part does not apply to sailing vessels or other vessels propelled by human power alone.

### 21. Recording and marking of vessels

(1) Neither the owner nor the skipper of a vessel to which this Part applies shall cause or allow the vessel to be operated on any waters within Kenya, unless—

- (a) there is in force in respect of that vessel an approved marking; and  
 (b) the vessel has been marked in accordance with subregulation (4) with that marking.

(2) An approved marking is obtained either from the Authority or from an authorized agency and applications for an approved marking shall be accompanied by the particulars required by the Director-General for recording purposes.

(3) The Authority and the authorized agencies shall be responsible for ensuring that the Director-General receives the data as required in paragraph (2).

(4) The Director-General shall be responsible for the database of vessels and ensuring that the information is available to the relevant authorities and organizations.

(5) Subject to subregulation (8), the approval of a marking remains in force until such time as the particulars of the vessels as recorded by the Director-General are no longer valid and during that period the display on the vessel of any other identification marking is prohibited.

(6) The owner of a vessel shall ensure that the marking approved in respect of the vessel is displayed and continued on the vessel in accordance with the directions of the Authority, and that the information recorded with the Authority is correct.

(7) The owner shall, at least every two years, confirm with the Authority or an authorized agency that the particulars recorded with the Authority are correct, failing which the approved marking shall be invalidated by the Authority.

(8) The owner of a vessel shall in writing notify the Authority or relevant agency of any change of ownership in the vessel and of any change in the particulars of the owner furnished pursuant to subregulation (2), not later than fourteen days after the change occurs.

(9) The owner of a vessel may, within fourteen days, in writing notify the Authority or relevant agency if—

- (a) the vessel is permanently withdrawn from service;
- (b) the vessel is removed from his or her possession other than as a result of its sale;
- (c) any marking referred to in subregulation (2) ceases to be valid; or
- (d) the vessel has been abandoned, lost or destroyed.

(10) The Authority or relevant agency shall revoke the approval of a marking if—

- (a) it believes on reasonable grounds that the approval was obtained fraudulently or on wrong information; or
- (b) being a marking referred to in subregulation (2), it has ceased to be valid.

(11) Whenever the Authority or relevant agency revokes the approval of a marking, it may give the directions it thinks fit regarding the removal of the marking; and the owner of the vessel concerned shall comply with any direction so given and, upon demand, surrender the instrument of approval to the Authority or relevant agency.

(12) The Authority or relevant agency shall, in the absence of a marking referred to in subregulation (2) assign an approved marking to a vessel.

## **22. Vessels not to be used without local certificate of fitness**

(1) Neither the owner nor the skipper of a vessel to which this Part applies shall cause or allow the vessel to be operated anywhere in Kenya, unless there is on board a valid local certificate of fitness in respect of that vessel.

(2) Subregulation (1) does not prohibit a vessel in previously unregulated inland waters from being operated without a local certificate of fitness for the period expiring 12 months after the commencement of these regulations.

## **23. Initial and renewal inspection for local certificate of fitness**

(1) The structure, equipment, appliances, arrangements and material of a vessel referred to in regulation 22 shall be subjected to the following inspections:

- (a) an initial inspection, before a local certificate of fitness is issued for the first time, which shall include a complete examination of the vessel's structure, equipment, appliances, arrangements and material in so far as the vessel is covered by these regulations and which shall be such as to ensure that the structure, equipment, appliances, arrangements and material comply with the requirements of these regulations; and
- (b) a renewal inspection, at intervals not exceeding twelve months, which shall be such as to ensure that the structure, equipment, appliances, arrangements and material comply with the requirements of these regulations.

(2) An inspection provided for in subregulation (1) shall be conducted by a surveyor in the case of the Authority, or a safety officer designated for the purpose by an authorized agency; and any application for such an inspection shall be made by or on behalf of the owner of the vessel to the Authority or authorized agency, as the case may be.

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**24. Issue of local certificate of fitness**

(1) Upon satisfactory completion of an initial or renewal inspection provided for in regulation 23, the certifying authority shall issue in respect of a vessel that complies with the requirements of these regulations a local certificate of fitness, stating—

- (a) the name of the vessel;
- (b) the marking assigned to the vessel;
- (c) the name, identity number and address of the owner of the vessel;
- (d) the type and category of vessel;
- (e) the overall length of the vessel and, where available, its gross tonnage;
- (f) the vessel's home port; and
- (g) the maximum number of persons permitted to be carried on the vessel, as determined in accordance with subregulation (2).

(2) In determining the maximum number of persons that a particular vessel may safely carry, a certifying authority shall take into account—

- (a) the specifications and guidance issued by the manufacturer of the vessel;
- (b) the available deck space;
- (c) the living accommodation, if applicable;
- (d) the mass the vessel can safely carry;
- (e) the safety equipment provided;
- (f) the intended operation of the vessel; and the manner of launching the vessel.

**25. Duration of local certificate of fitness**

(1) Subject to subregulation (2) and regulation 26(1), a local certificate of fitness shall remain in force for a period not exceeding twelve months beginning on the date of completion of the inspection in question, but may be extended by the certifying authority for a maximum period of six months in special circumstances.

(2) A local certificate of fitness issued in respect of a vessel ceases to be valid if—

- (a) the vessel ceases to be subject to the jurisdiction of the authorized agency; or
- (b) the vessel ceases to be a vessel to which this Part applies.

**26. Cancellation of local certificate of fitness**

(1) The Authority or an authorized agency may cancel a local certificate of fitness if it believes on reasonable grounds that—

- (a) the certificate was obtained fraudulently or on wrong information; or
- (b) since the certificate was issued, the structure, equipment, arrangements or/ material of the vessel has, by reason of any alteration made thereto, or by reason or any damage sustained by the vessel, or for any other reason, does not comply with the requirements of these regulations;
- (c) since the certificate was issued, the vessel has for any reason become unseaworthy; or
- (d) the vessel no longer complies with all the requirements of these regulations, to the same extent to which it complied with the regulations when the certificate was issued.

(2) For the purposes of this regulation, "alteration", in relation to the structure, equipment, arrangements or material of a vessel, includes the renewal of any part thereof.

(3) Whenever a local certificate of fitness is cancelled, the Authority or authorized agency shall notify the owner or skipper of the vessel concerned of the cancellation.

**27. Surrender of expired or cancelled local certificate of fitness.**

Upon the expiry of a local certificate of fitness and in each of the cases mentioned in regulation 25(2) and 26(1), the owner or skipper of the vessel in respect of which the local certificate of fitness was issued shall upon demand by the Authority or authorized agent surrender the certificate to the authority or authorized agency.

**28. Custody and production of local certificate of fitness.**

The owner and skipper of a vessel shall ensure that the original local certificate of fitness issued in respect of the vessel, or a certified copy thereof, is kept available on board the vessel for inspection at all reasonable times.

**29. Maintenance of conditions after inspection**

The owner and skipper of a vessel shall ensure that the condition of the vessel and its equipment, structure, appliances, arrangements and material are maintained so as to comply with the requirements of these regulations.

## PART V – SUPPLEMENTAL

**30. Authorized agencies**

(1) Subject to subregulation (2), the Authority may, with the concurrence of a governing body, of a club or an organization affiliated with a governing body, designate such body, club or organization as an authorized agency, entrusting to it in the instrument of designation the performance of one or more of the following functions:

- (a) the determination, for the purposes of regulation 11, of the maximum number of persons that a pleasure vessel may safely carry;
- (b) the recording of voyage details for the purposes of regulation 12;
- (c) the determination of whether a pleasure vessel is sufficiently and efficiently manned;
- (d) for the purposes of regulation 16, the issuing, suspension or cancellation of certificates of competence in accordance with its designation from the Authority, and to demand the surrender of any such certificates that have been suspended or cancelled;
- (e) in respect of pleasure vessels, to require a person to furnish medical evidence for the purposes of regulation 17(1) or (2);
- (f) the supervision and certification of persons under the age of 16 years for the purposes of regulation 16(2);
- (g) the conducting of initial and renewal inspections of vessels under regulation 23;
- (h) the issuing and cancellation of certificates of fitness, and to demand the surrender of cancelled certificates, contemplated in regulations 24, 26 and 27, respectively; and
- (i) the approval of controlled events.

(2) Designation under subregulation (1) is subject to the conditions, which may include provision in respect of periodical inspections or audits, which the Authority may determine and specify in the instrument of designation, in the case of the designation of a club or organization affiliated with a governing body, after consultation with that governing body.

(3) The Authority may suspend or revoke a designation under subregulation (1) if it believes on reasonable grounds that the body, club or organization concerned has failed—

- (a) to comply with these regulations or any condition imposed there-under; or
- (b) to perform diligently and faithfully the functions entrusted to it in terms of these regulations.

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(4) An authorized agency shall, for the purpose of performing its functions under these regulations, designate as a safety officer any member of the authorized agency who, in its opinion, is qualified to be so designated.

(5) An authorized agency shall furnish every safety officer with a certificate attesting to his or her designation as a safety officer setting out the provisions of these regulations that the safety officer is authorized to enforce, and a safety officer shall, if so required, produce the certificate in the course of performing his or her functions under these regulations.

(6) Designation as a safety officer shall terminate if—

- (a) the designee's membership of the authorized agency is suspended or terminated; or
- (b) the designation is otherwise revoked by the authorized agency and the person concerned shall upon demand surrender the certificate issued to him or her in terms of subregulation (4)(b) to the authorized agency.

**31. Powers of enforcement officers**

(1) Subject to subregulation (3), an enforcement officer may, in order to verify and ensure compliance with these regulations—

- (a) board and inspect a small vessel and its appliances and equipment, ask any pertinent questions of, and demand all reasonable assistance from, the owner or skipper, or any person who is in charge or appears to be in charge, of the vessel; and
  - (b) require the owner or skipper or other person who is in charge or appears to be in charge of the vessel to produce—
    - (i) personal identification; and
    - (ii) any document or certificate required by these regulations.
- (2) (a) Subject to paragraph (b) and subregulation (3), an enforcement officer may, in order to ensure compliance with these regulations and in the interests of public safety, direct the movement of a small vessel or prohibit the operation of a small vessel.
- (b) Except in an emergency, an enforcement officer shall not give a direction or prohibition under paragraph (a) in respect of any small vessel in a public harbour for which a harbour master is appointed without the prior consent of the harbour master.
- (c) The owner or skipper of a vessel whose operation has been prohibited under paragraph (a) may, at own expense, submit the vessel to inspection by the Authority, who may confirm, vary or set aside the prohibition.

(3) An enforcement officer who is a safety officer may exercise the powers of an enforcement officer under subregulations (1) and (2) only for the purpose of enforcing the provisions of these regulations that he or she has been authorized to enforce pursuant to regulation 30(4).

(4) Every person shall comply with the valid instructions of an enforcement officer in the course of performing functions under these regulations.

Where the particulars of any vessel, including a commercial vessel, are found to differ substantively from the particulars registered, or are not registered with the Authority, the Authority shall detain the vessel until the vessel's ownership or deficiency been satisfactorily explained or rectified.

**32. Equivalents and exemptions**

(1) Where these regulations require that a particular fitting, material, appliance, apparatus, item of equipment or type thereof be fitted or carried in a vessel, or that any particular provision be made, or any procedure or arrangement be complied with, the Authority may allow any other fitting, material, appliance, apparatus, item of equipment or type thereof to be fitted or carried, or any other provision, procedure or arrangement to be



made in the vessel, if it is satisfied by trial thereof or otherwise that such fitting, material, appliance, apparatus, item of equipment or type thereof, or that any particular provision, procedure or arrangement is at least as effective as that required by the regulations.

(2) The Authority may grant exemptions, on such terms, if any, as it may specify, from any of the provisions of these regulations for individual cases or classes of cases and may, after reasonable notice, alter or cancel any such exemption.

(3) Any approval given pursuant to these regulations is to be given in writing and shall specify the date when the approval is to come into force and the conditions if any to which it is subject.

### **33. Exemption in respect of controlled events**

(1) Subject to subregulation (2), the owner and skipper of a vessel that participates in an approved controlled event in Kenya or in the territorial waters of Kenya are, in respect of such vessel and for the duration of the event, exempt from these regulations.

(2) Application for the approval of a controlled event shall be lodged with the Authority or the relevant authorized agency not later than 10 days before the intended date of the event, unless waived by the Authority or authorized agent and shall be accompanied by full details of the event and of the rules and manner of supervision, including safety measures, to be applied and by the other particulars that the Authority may require.

(3) The Authority or authorized agency may extend a standing approval under subregulation (2) for any controlled event subject to such conditions as are considered appropriate by the Authority or authorized agency and may at any time on reasonable grounds revoke such approval.

### **34. Offences, penalties and defences.**

(1) Any person who contravenes any of the provisions of these Regulations commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(2) In proceedings for an offence in terms of subregulation (1) it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

(3) In proceedings for an offence in terms of subregulation (1) in relation to regulation 17(2) it is an additional defence to prove that, at the time of the conduct alleged against the accused, he or she was under the influence of a drug taken by him or her for medicinal purposes and either that he or she took it on medical advice and complied with any directions given as part of that advice or that he or she had no reason to believe that the drug might have the influence it had.

### **35. Offences due to fault of another person**

Where the commission by any person of an offence in terms of regulation 34(1) is due to the act or omission of some other person, that other person also commits the offence and may be charged with and convicted of the offence by virtue of this regulation, whether or not proceedings are taken against the first-mentioned person.

## **PART VI – REQUIREMENTS FOR WATER SKIING**

### **36. Supplementary requirements for water-skiing**

(1) Waters in which water-skiing is allowed shall be so indicated by the regulating authority.

(2) A person shall not water-ski—

- (a) in any waters other than those contemplated in subregulation (1);
- (b) at night;
- (c) while under the influence of intoxicating liquor or any substance having a narcotic effect

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(3) A water-skier—

- (a) shall wear a suitable flotation aid of the type and quality prescribed in First Schedule;
- (b) shall have knowledge of the standard hand signals as described by marine notice;
- (c) may not purposefully let go of the rope in a congested area; and
- (d) shall comport himself or herself in such a way as not to create a nuisance or danger for other water users.

(4) The owner or skipper of the towing vessel may not use a steel or other metallic rope or wire to tow a water-skier.

(5) The skipper of the towing vessel shall ensure that there is a competent person in the vessel to observe the water-skier.

(6) The skipper of the towing vessel shall carry a 500 millimetre square red flag in the vessel and cause it to be clearly exhibited when the vessel is engaged in picking up a water-skier or dragging a tow.

(7) As soon as the tow is dropped by a water-skier, the skipper of the towing vessel shall either move to the nearest safe place, stop and pull in the tow, or if the tow was accidentally dropped, reduce speed and return immediately to pick up the water-skier.

(8) The skipper of a vessel may not follow closer than 100 metres in the wake of another vessel towing a person, water-skier or a towable aquatic or airborne device.

**37. Supplementary requirements for personal watercraft, etc.**

(1) On inland waters a vessel may enter only the water from those areas or places permitted by the regulating authority, except that however vessels contemplated in this Part may, subject to subregulation (2), operate as directed in any areas under the jurisdiction of a regulating authority.

(2) Personal watercraft or jet-skis under three metres may only operate in demarcated areas specifically set aside for that purpose by the regulating authority and in addition shall not proceed further than 1000 metres offshore.

(3) Power-driven vessels with less than 15 horsepower, sailing dinghies and non-power driven vessels under 7 metres in overall length need not comply with regulations 6, 9, Part 4 and the First Schedule, but shall—

- (a) have sufficient buoyancy to keep the vessel afloat when completely swamped; and
- (b) shall carry the safety equipment provided for in the table in the Second Schedule.

## PART VII – ADMINISTRATIVE ARRANGEMENTS

**38. Authority may establish an advisory committee**

(1) For the purpose of promoting efficient administration of these regulations, the Authority, may in writing—

- (a) establish any co-ordinating structures the Authority deems fit; and
- (b) determine the membership and functions of any established structure.

(2) Before establishing a structure contemplated in subregulation (1), the Authority may consult—

- (a) the Ministry responsible for matters relating to transport; and
- (b) any other organ of state or person required in writing by the Authority to be consulted.

(3) The structures contemplated in subregulation (1) shall meet at least once every year to consider amendments to these regulations and their implementation.

**39. Transitional arrangements**

(1) The Director-General shall provide, by notice in the *Gazette*, the date, time and the manner in which all vessels shall be marked with an approved marking and relevant information to be provided to the Director-General for recording purposes.

(2) The date by which existing vessels need to comply with the design and construction provisions of regulation 6(3) is two years after the commencement of these regulations unless directed to do so sooner by a surveyor or safety officer due to safety considerations.

(3) The date by which commercial vessels previously exempted need to comply with item 1 of the First Schedule is two years after the commencement of these regulations.

(4) A local certificate of fitness in existence on the date of the coming into operation of these Regulations, shall remain valid until its expiry date, unless cancelled prior to that date.

(5) A local safety certificate in existence on the date of the coming into operation of these Regulations shall remain valid until its expiry date, unless cancelled prior to that date.

**40. Authority may impose penalty upon admission of guilt**

(1) If any person —

- (a) admits to the Authority that he has failed to comply with any provision of these regulations or the Act, or that he has failed to comply with any provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question, the Authority may, after such enquiry as it deems necessary, determine the matter and may, without legal proceedings, order by the way of a penalty the whole or only part of the said deposit to be forfeited.

(2) A person aggrieved by a determination or order by the Authority under subregulation (1) whereby a penalty exceeding twenty thousand shillings is imposed may appeal to the Cabinet Secretary, provided such right is exercised within a period of three months from the date of such determination or order.

(3) The Authority shall not bring legal proceedings against any person who pays a penalty under subregulation (1).

(4) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

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FIRST SCHEDULE

[r. 6]

CONSTRUCTION REQUIREMENTS

**1. Built-in buoyancy**

(1) The vessels described below may in lieu of carrying the liferafts contemplated in Second Schedule, be fitted or constructed with built-in buoyancy or comply with other arrangements as follows—

- (a) Any category B, C, D and E vessel, other than a passenger vessel, may operate in an unrestricted manner if it has buoyancy built into the vessel which complies with subitems (2) and (3).
- (b) Sailing pleasure vessels are exempt from built-in buoyancy on inland waters and at sea when operating within 15 miles of the shore and within 30 miles of a safe haven.
- (c) Inflatable vessels of any category intending to go to sea, whether fully inflatable or semi-rigid, may in lieu of fitted buoyancy be constructed with at least three separate buoyancy chambers and have the capacity to stay

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afloat despite the largest two of the chambers being completely deflated. For the purpose of this paragraph, the hull of a semi-rigid inflatable vessel is not considered to be one of the three buoyancy chambers required.

- (d) Category R vessels may make any suitable and reasonable provisions to ensure that the vessel retains positive buoyancy when fully flooded, swamped or capsized.
- (e) Vessels participating in an organized event are exempted from these requirements for the duration of the event and whilst practising for an event under the auspices of an authorized agency or affiliated club.

(2) Watertight compartments and watertight empty cases are not a substitute for built-in buoyancy referred to in subitem (1): Provided that a decked vessel may, instead of built-in buoyancy, be provided with at least two watertight bulkheads so positioned and of sufficient strength that, in the event of flooding of the largest compartment formed by the bulkheads, the vessel will remain afloat in its worst envisaged load condition with positive transverse stability

(3) Built-in buoyancy shall consist of a material, such as foam, or approved plastic bottles that are not affected by oil or oil products. Built-in buoyancy shall be capable of keeping the vessel afloat when fully flooded, swamped or capsized. It shall be capable of floating the vessel, when capsized, in such a manner as to provide a level platform onto which the full complement of the vessel can be secured. In passenger vessels, built-in buoyancy shall be such that the vessel will remain afloat with positive transverse stability when fully flooded in its worst envisaged load condition.

(4) It is the duty of the owner of a vessel to show, by certification, calculation or test, that—

- (a) a vessel with watertight bulkheads complies with subitem (2);
- (b) a vessel with built-in buoyancy complies with subitem (3); and
- (c) an inflatable vessel with buoyancy chambers complies with subregulation (1) (c).

## 2. Hatches and hatch coamings

(1) Subject to subitem (4), hatches on the open deck shall be provided with hatch covers that are watertight when dogged down. Special care is to be given to the dogging down arrangements of flush deck hatches.

(2) Where a fishing vessel is designed so that the hatch containing the catch can be opened to the sea, the cover of the hatch need not have securing devices making it watertight, but the cover shall be capable of being secured in an emergency.

(3) All watertight hatches shall be capable of withstanding a hose test.

(4) On sailing vessels aft-facing companionway hatches that are closed by washboards need not be watertight but shall be constructed so that the ingress of water is substantially retarded in the event of the vessel being capsized or pooped.

## 3. Guard rails etc.

(1) Subject to subitems (2) and (3)—

- (a) every power-driven vessel which goes to sea and has an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement, around the outboard edge of the deck to a height of at least—
  - (i) 600 millimetres above the deck on vessels of 9 metres or more in overall length; and
  - (ii) 450 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category D and E motor vessels of less than 9 metres in overall length are exempt from this requirement if—
    - (aa) every occupant of the vessel wears a flotation aid when underway; and
    - (bb) the vessel does not go to sea at night.

- (b) every commercial sailing vessel going to sea and having an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement, around the outboard edge of the deck to a height of at least—
  - (i) 560 millimetres above the deck on vessels of 9 metres or more in overall length; and
  - (ii) 410 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category D and E sailing vessels are exempt from this requirement if—
    - (aa) every occupant of the vessel wears a flotation aid when on deck and underway; and
    - (bb) the vessel does not go to sea at night.
- (c) every sailing pleasure vessel having an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement, around the outboard edge of the deck to a height of at least—
  - (i) 560 millimetres above the deck on vessels of 9 metres or more in overall length; and
  - (ii) 410 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category C, D, E and R sailing pleasure vessels are exempt from this requirement if—
    - (aa) such vessel is within 30 miles of a safe haven; and
    - (bb) every occupant of the vessel wears an approved flotation aid in rough weather when on deck.

(4) Power-driven vessels operating through the surf are exempt from subitem (1) if fitted with bulwarks having a height of at least 450 millimetres forward and 300 millimetres aft.

(5) Power-driven vessels constructed so that the cabin-top extends nearly to the vessel's side, with a crew-only access forward, are exempt from subitem (1) if provided with a substantial, secure handrail on each side of the cabin and with a toe rail of at least 50 millimetres in height along the outer edge of the deck.

#### 4. Towing arrangements

Every vessel shall be provided with an efficient means of securing a tow rope or anchor cable.

#### 5. Underwater hull fittings

Inlet and discharge pipes attached to the underwater part of the hull shall be properly flanged to the hull and be provided with a valve or shut-off cock inserted in the line as close as possible to the hull.

#### 6. Ventilators

(1) Ventilators serving engine or accommodation compartments shall be provided with proper closing devices or water traps to prevent the ingress of water into the compartment.

(2) Ventilators serving only an engine compartment shall be provided with a means of shutting off the air flow in the event of fire in the engine compartment.

#### 7. Engine power

(1) Every motorized vessel going to sea shall be provided with an engine capable of propelling the vessel, in its full load condition, at a speed in calm water of at least 5 knots. Additionally, if the vessel is to be operated in the surf, the engine shall be capable of propelling the vessel at a safe speed when operating in surf conditions.

(2) Subitem (1) of this Schedule does not apply to sailing vessels, not being sailing passenger vessels, or to dinghies under oars.

(3) Every category A, B and C power-driven vessel that employs outboard engine propulsion shall be provided with at least two engines either of which shall be capable of

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propelling the vessel, in its full load condition, at a speed in calm water of at least 5 knots. Additionally, if the vessel is to be operated in the surf, either engine shall be capable of propelling the vessel at a safe speed when operating in surf conditions.

(4) Vessels fitted with inboard petrol engines shall comply with the following—

- (a) the engine shall be installed in a compartment that is protected from water spray and flooding and is adequately ventilated;
- (b) a manual bilge pump shall be fitted in the engine compartment;
- (c) batteries shall be stowed in a separate compartment that is protected from sea spray and flooding and is adequately ventilated;
- (d) a marinised carburettor with flash arrester shall be fitted;
- (e) a spark-less alternator with starter shall be fitted;
- (f) a flameproof extractor fan set to operate for a minimum of 30 seconds before the engine starts shall be fitted in the engine compartment;
- (g) a remote controlled fire extinguishing system shall be fitted in the engine compartment;
- (h) in the case of category A, B and C vessels fitted with a single inboard petrol engine, an auxiliary outboard engine shall be provided.

(5) Exhaust pipes and silencers shall be water cooled or lagged.

**8. Fuel tanks**

- (a) Fuel tanks shall be efficiently secured and of adequate capacity and shall be constructed of suitable material.
- (b) Outlets of built-in fuel tanks shall be fitted with shut-off valves of approved automatic shut-off and anti-siphoning devices. Shut-off valves that cannot readily and safely be accessed shall be capable of remote operation.
- (c) Fuel filler pipes to built-in fuel tanks shall be adequate for the purpose and shall be provided with adequate sealing threaded plugs or caps. Only non-corrosive materials may be used.
- (d) All fuel tanks shall be fitted with adequate breathers or breather pipes led to a height allowing the vessel to heel to 50 degrees without fuel escaping through them. The breathers or breather pipes shall be led to the outside of the hull and shall be constructed so as to prevent the ingress of water into the tank in all operating conditions.
- (e) All fuel tanks shall be provided with a suitable means for determining the amount of fuel in the tank.
- (f) All fuel tanks holding petrol shall be fitted or stored outside engine and battery compartments.
- (g) Where gauge glasses are provided, they shall be fitted with self-closing valves.

**9. Electrical installations**

- (1) (a) Subject to paragraph (b), every category A, B and C power-driven vessel shall be provided with an electrical installation that includes at least two identical banks of batteries. Each bank of batteries shall be capable of providing sufficient power in accordance with the engine manufacturer's recommendations and have facilities for parallel connection.  
(b) Vessels fitted with hand-start engines may be provided with one bank of batteries.
- (2) Every category D, E and R power-driven vessel shall be provided with at least one bank of batteries, unless the vessel is fitted only with hand-start engines.
- (3) Every sailing vessel fitted with an inboard auxiliary engine shall be provided with at least one bank of batteries, unless the vessel is fitted only with hand-start engines.

(4) Vessels required to be provided with one or more banks of batteries shall be provided with a suitable battery charging appliance, and if more than one engine is fitted each engine shall be provided with a battery charging appliance capable of charging both banks of batteries.

(5) All electrical installations shall conform to good, established marine practice and all electrical equipment shall be constructed so that there will be no danger of injury to any person handling the installation in the proper manner.

(6) A single bank of batteries shall be capable of providing at least 12 hours' auxiliary power for navigation lights, electric bilge pumps (if provided) and fixed radio equipment.

#### **10. Emergency steering arrangements**

A means of emergency steering shall be provided in every vessel that is not steered by means of a tiller, including a tiller control arm of an outboard engine.

The emergency steering shall be capable of operation at all angles and when an outboard engine is fitted and tilted. The emergency steering may be portable, in which case it shall be stored in a readily accessible position for rapid attachment in an emergency.

#### **11. Bilge pumping arrangements**

(1) This item does not apply to—

- (a) ski-boats having self-draining decks;
- (b) inflatable or, semi-rigid inflatable vessels having self-draining decks; or
- (c) sailing or rowing dinghies, but such vessels shall be provided with an efficient bailing device.

(3) Every category A power-driven decked vessel shall be provided with two power-driven bilge pumps. Each bilge pump shall have its own prime mover and may be driven off the vessel's main engines if more than one main engine is installed; otherwise, the configuration shall be such that one pump is driven off the main engine and the other by a standby engine. The pump driven off the standby engine may, be electrically powered.

(4) Every category B, C, D and E power-driven decked vessel of 7 metres or more in overall length fitted with an inboard main engine shall be provided with a power-driven bilge pump having as its prime mover the vessel's main engine. Where the configuration of the inboard engine is such that it cannot act as the prime mover, the bilge pump may be electrically powered. In addition, every such vessel shall be provided with a hand-operated bilge pump situated above the main deck. All other category B, C, D and E power-driven decked vessels of 7 metres or more in overall length shall be provided with two hand-operated bilge pumps, one of which may be installed below the main deck, the other above the main deck.

(5) Every category B, C, D and E power-driven decked vessel of less than 7 metres in overall length shall be provided with at least one hand-operated bilge pump.

(6) Every category A decked sailing vessel shall be provided with two hand-operated bilge pumps, and every category B, C, D, E and R decked sailing vessel over 7 metres in length shall be provided with one hand-operated bilge pump.

(7) Every category R power driven vessel which does not have a self-draining arrangement shall be fitted with at least one efficient pump and where the fitting of such arrangements is clearly impracticable, an efficient bailer should be provided, but, no vessel over seven metres may be exempted from fitting a suitable pump.

(8) All power-driven and hand-operated bilge pumps shall have a minimum pumping capacity of 3 000 litres and 2 000 litres per hour, respectively.

(9) All bilge pumps shall be fitted, where necessary, with piping arrangements, valves, suctions and strainers to pump out every compartment in a vessel, other than a compartment used exclusively for catches of fish and which can be flooded without adversely affecting the vessel's buoyancy or stability.

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(10) Every bilge pumping arrangement discharging, in any operating condition, below the waterline shall be fitted with a sufficient number of non-return valves to prevent back-flooding.

(11) Portable pump levers for hand operated bilge pumps shall be kept in a readily accessible space as near to the pump as possible and, in the case of pumps above the main deck, in a readily accessible space or locker above the main deck.

## 12. Visibility at steering position

Where a steering position is not situated in the open, visibility from 112,5 degrees to port and starboard of the centre line ahead shall be through safety-toughened clear glass or a Kenyan Bureau of Standards approved alternative, and protection from the glare of the sun may be afforded by means of portable tinted screens.

## 13. Maintenance of propulsion and steering machinery

The propulsion and steering machinery of a vessel shall be periodically serviced, maintained and, if necessary, repaired in accordance with the manufacturer's instructions and specifications so as to ensure at all times its effective functioning. The period between servicing may not exceed the period recommended by the manufacturer. All servicing, maintenance and repair work on the propulsion and steering machinery of power-driven vessels fitted with a propulsion engine of more than 15 horsepower shall be performed by competent persons.

## 14. Crew accommodation in commercial small vessels

Every commercial small vessel that goes to sea for a continuous period of 16 hours or more out of every 24 hours and on which a person is to live while the vessel is in port shall be provided with crew accommodation, as follows:

- (a) not more than 10 persons may be accommodated in a space that has only one access;
- (b) bunks shall be single and have clear access from one side. A bunk may not be less than 1.8 metres in length and, in the forecastle space, a bunk may taper in width along its length but may not be less than 600 millimetres at its head and 460 millimetres at its foot. Where bunks are stacked one on top of the other, the height between bunks may not be less 500 millimetres between the base of the lower bunk and the base of the bunk above. Bunks shall be so positioned to avoid water drips from access ladders and ventilators. Protection boards encasing the back of an access ladder or drip traps are acceptable when there is no other option but to install a bunk under a ladder or ventilator. Each bunk shall have a cubby hole for the storage of personal items. Bunks butting onto each other shall be separated with a board having a minimum height of 500 millimetres;
- (c) sleeping arrangements are not permitted in engine room or galley spaces. Sleeping arrangements are permitted in the steering space provided the steering gear is enclosed, has a separate escape hatch to the deck and the bulkhead between the steering and engine room spaces is made gas tight. Exhaust pipes passing through the steering space shall be boxed in and ventilated to the outside;
- (d) galleys fitted with gas stoves may not have an access to the engine room. Where this cannot be avoided, there shall be installed a gas-tight access between the engine room and galley. The immediate area about the stove shall be insulated to inhibit the spread of fire;
- (e) at least one toilet and shower shall be provided on vessels carrying up to ten persons and at least two toilets and showers shall be provided on vessels carrying not more than 19 persons. An additional toilet and shower shall be provided for every additional 10 persons, or part of that number,



carried. Toilets and showers shall be located outside, but adjacent to, sleeping spaces;

- (f) all accommodation spaces shall be provided with adequate ventilation with closing devices to prevent water ingress from spray or rain and air ingress in the event of a fire in the space;
- (g) all accommodation spaces shall be provided with adequate electrical lighting; and
- (h) all accommodation spaces shall provide a minimum head height of at least 1,8 metres; this may be reduced in way of bunks, cupboards and other spaces where persons would not normally need to stand or walk in the upright position.

#### 15. Gas appliances

Every gas operated cooker or refrigerator installed in a commercial small vessel shall be fitted with a safety device capable of preventing the build up of an explosive atmosphere in the event of a flame-out. The device shall be maintained in good working order at all times.

#### 16. Additional requirements for passenger vessels

(1) Every passenger vessel shall comply with the following the requirements in addition to the requirements contemplated in Part 2 of these regulations:

- (a) two outboard engines, complying with item 7(3), or an inboard diesel engine shall be fitted;
- (b) petrol outboard engines shall be provided with either approved portable fuel tanks; containing a maximum combined total of 50 litres, or inboard tanks built and fitted to the appropriate ISO standards containing a combined maximum of 200 litres in total at any time.
- (c) inboard engine compartments shall be protected by—
  - (i) smoke and heat sensors linked to an alarm generating device located at the conning position; and
  - (ii) a manual fire smothering system capable of remote operation;
- (d) a bilge alarm shall be fitted in every compartment having a hull fitting open to the sea; and
- (e) seating arrangements shall be adequate for the number of persons authorized to be carried by the vessel's local safety certificate.

(2) Every passenger vessel certified to carry a maximum of 20 passengers shall comply with following requirements in addition to the requirements contemplated in subitem (1):

- (a) with the vessel in the worst anticipated intact condition and, as far as is practicable, with 75 per cent of the passengers congregated on one side of the vessel and 25 per cent on the other side, the angle of heel may not exceed 7 degrees and may not result in deck-edge immersion of the vessel;
- (b) with the vessel in the worst anticipated intact condition and, as far as is practicable, with all of the passengers congregated on one side, neither may a capsizing moment be introduced nor may the resultant angle of heel result in a down-flooding point being reached; and
- (c) with the vessel in its fully loaded condition including passengers, crew and fuel, the freeboard at the lowest point may not be less than 381 millimetres for vessels not exceeding 6,1 metres in length and 762 millimetres for vessels of 18,3 metres in length; for vessels of intermediate length, the freeboard is to be obtained by linear interpolation.

(3) Compliance with the requirements as contemplated in subitem (2) may be demonstrated theoretically or practically.

(4) Every passenger vessel certified to carry more than 20 passengers shall comply with the stability criteria applicable to ships classified as class VI passenger ships in terms

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of the Safety of Navigation or with subitem (2) in the case of category R passenger vessels, as decided by the Authority.

**17. Additional requirements for dive boats**

Every dive boat shall comply with the following requirements in addition to the requirements contemplated in Part 2 of these regulations:

- (a) on vessels operating through the surf, adequate seating arrangements with grab points shall be provided for all divers on board; such arrangements shall not be located on the gunwale unless the gunwale is formed by the outside buoyancy tube of an inflatable or semi-rigid inflatable vessel; and
- (b) adequately secured racks capable of accommodating all air tanks on board shall be provided.

SECOND SCHEDULE

[r. 7]

SAFETY APPLIANCES AND EQUIPMENT

Safety item No.	Description of safety appliances and equipment	Category of vessel					Additional remarks
		A	B	C	D	E & R	
1	Authority approved lifejacket*	X	X	X	X†	-	One lifejacket of appropriate size to be provided for each person on board. * Lifejackets carried on all category A vessels as well as passenger vessels operating at night to be fitted with a light and all lifejackets to be tested to the compulsory

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							performance standard and comply with quality standard specification SABS 146/1979, or the equivalent CE or ISO standard.
2	Authority approved buoyancy aid*	X†	X†	X†	X†	X‡	†One buoyancy aid of appropriate size to be provided — for the skipper and each member a the crew of a commercial small vessel, where required in terms of regulation 7(2) in lieu of an approved lifejacket on category D vessels. One buoyancy aid of appropriate size to be provided for each person on board. *Buoyancy aid to be

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							tested to the compulsory performance standard and comply with quality standard specification SABS 1417/1987, or the equivalent CE or ISO standard.
3	Lifebuoy	X	X	X	X	-	Required only on non-planing vessels.
4	Dan buoy	X	X	X	X	-	Required only on trawling vessels and on sailing vessels of 9 metres or more in overall length.
5	Unexpired-approved projectile flare set		-	-	-	X	Minimum of 6 flares. Not required on category R vessels.
6	Unexpired approved hand-held red distress flares	X4	X4	X2	X2	-	
7	Unexpired approved 4 red rocket parachute flares	X4	X4	X2	X2	-	

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8	Unexpired approved floating orange smoke marker	X	X	X	—	
9	Unexpired approved hand-held smoke marker	—	—	—	X	Not required on category R vessels.
10	Waterproof torch including full set of spare batteries and a spare bulb	X	X	X	X	Spare bulb and batteries to be kept in a watertight container. Required only on vessels operating at night.
11	Hand-held spotlight with own 12 volt battery	X	X	X	X	Required only on dive boats operating at night.
12	Sound signalling device (other than a lifejacket whistle)	X	X	X	—	Fundamental frequency range 250 Hz — 700 Hz. Range of audibility not less than 1 kilometre over water in still conditions. Required only on vessels operating to the west of Port Alfred.
13	Ships bell or sound	X	X	X	X	Not required

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	signalling device capable of making the signal "R"						on category' R vessels. Required only on vessels of 20 metres or more in overall length.
14	Code Flags "N" and "C"	X	-	-	-	-	
15	Code Hag "A" (rigid)	X	X	X	X	X	Required only on dive boats.
16	2 Black balls or shapes of at least 400 millimetres in diameter	X	X	X	X	X	Not required on category R vessels Not required on vessels of less than 12 metres in overall length.
17	Radar reflector of at least 400 millimetres in diameter or patent type of equivalent echoing capability	X	X	X	X	-	Required to be fitted permanently on power-driven vessels of 9 metres or more in overall length operating to the west of Port Alfred.
18	Marine VHF or 29 MHz radio	X	X	X	X	-	As appropriate to the area of operation: Provided

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							that a VHF radio shall be carried on passenger vessels regardless of the area of operation. A VHF radio shall, as a minimum, be capable of operating on channel 16 and on one other working channel. A 29 MHz radio shall be capable of operating on local marine channels A, B and C. Appropriate alternative arrangements shall be made for category R passenger vessels.
19	MF/HF SSB radio	X*	—	—	—	—	* Except sailing pleasure vessels.
20	Approved emergency position-indicating radio	X†	—	—	—	—	† EPIRB to be— installed in an easily

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								beacon (EPIRB)* capable of transmitting distress alerts through the COSPAS-SARSAT satellite service operating in the 406 MHz band	accessible position; ready to be manually released and capable of being carried by one person into a survival craft; capable of floating free if the vessel sinks; capable of being activated manually; and automatically activated when afloat.
21	Depth-sounding device or hand lead line	X	X	X	X	X			Required only on dive boats.
22	Suitable steering magnetic compass	X	X	X	X				
23	Suitable navigation charts for the voyage or area of operation	X	X	-	-	-			Up-to-date charts, corrected in accordance with the South African Notices to Mariners, or renewed



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24	Suitable fire extinguisher	X	X	X	X	X	<p>every six years. One per engine and, in decked vessels of 9 metres or more in overall length, one in each of the following compartments where formed by complete transverse bulkheads: sleeping accommodation, galley and wheelhouse.</p>
25	Power-driven or hand-operated fire-pump with hose.	-	-	-	X	X	<p>Required only on passenger vessels of 9 metres or more in overall length. The hose shall be capable of reaching all parts of the vessel and of delivering a jet of water of at least 3 metres in length, through an adjustable jet or spray</p>

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26	2 oars or paddles	—	—	—	X	X	nozzle of no less than 5 millimetres in diameter. Required only on a power driven vessel fitted with a single outboard petrol engine.
27	Grab-line fitted to outside of gunwale	X	X	X	X	X	Required only on dive boats. Not required on vessels equipped with a boarding ladder extending into the water.
28	Capsize rope for use when vessel is inverted in water	X	X	X	X	X	Required only on, inflatable vessels and on ski-boats of less than 9 metres in overall length.
29	Full set of sails, including suitable storm sails where appropriate	X	X	X	X	X	Required only on sailing vessels.
30	Suitable means	X	X	X	X	—	Required only on

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	of cutting standing rigging						sailing vessels.
31	Suitable sea anchor fitted with hawser and tripping line (rigged and ready for use)	X	X	X	X	X	Required only on surf-launched vessels of less than 9 metres in overall length.
32	Proper patent anchor and chain with suitable length of rope of suitable strength for the area of operation	X	X	X	X	X	<i>Length of chain</i> Vessels of 6 metres or more in overall length— at least 5 metres. Vessels less than 6 metres in overall length— at least 3 metres. <i>Length of rope</i> At least 50 metres for category E vessels, and at least 100 metres for vessels of the other categories.
33	Watertight capsize bottle attached to vessel with rope readily accessible	X	X	X	X	X	To contain flares and other survival and emergency equipment. Not

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								in event of vessel capsizing	required on category R.
34	Space blankets	X2	X2	X2	X2	—			
35	One litre of drinking water per person	X	X	X	X	—			
36	First-aid kit	X	X	X	X*	X*		Suitable for the vessel's size, complement and intended operation, to the satisfaction of the surveyor or safety officer. First- aid kit to include elementary first-aid manual, such as the publication entitled <i>First on the Scene</i> , published by St Johns Ambulance. *Only power driven vessels with engine power exceeding 15 horsepower.	

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37	Suitable air bellows	X	X	X	X	X	Required only on inflatable vessels.
38	Approved self-inflating liferaft capable of carrying all persons on board and stowed on deck or in a readily accessible position	X	X*	X*	X*	X*	* Not required on vessels, other than passenger vessels, provided the vessel complies with the built-in buoyancy in accordance with Annexure 1, paragraph 1. Not required on passenger vessels operating solely within the confines of the breakwaters of a port. Not required on category R vessels
39	Spares	X	X	X	X	X	Adequate for the purpose of carrying out emergency repairs to machinery and essential

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40	Tools	X	X	X	X	X	equipment on board. Adequate for the purpose of carrying out emergency repairs to machinery and essential equipment on board.
41	2 metres by 2 metres canvas as provided for in regulation 9	X	X	X	X	-	Only applies to vessels which are not painted in visible colours.

**EXPLANATORY NOTE**  
*(This note is not part of the regulations)*

These regulations introduce safety requirements for small vessels which are required to be licensed in terms of the Act. They also introduce requirements for Skippers to be certificated. In addition, for Sport and recreation vessels, there is the possibility of appointing Authorized Agencies to undertake various aspects of the inspection and control. Therefore, these regulations are for all small vessels both commercial and sport and recreation.

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**THE MERCHANT SHIPPING (CO-OPERATION WITH  
SEARCH AND RESCUE SERVICES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
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  3. Application
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  10. Director-General may impose penalty upon admission of guilt
-





## THE MERCHANT SHIPPING (CO-OPERATION WITH SEARCH AND RESCUE SERVICES) REGULATIONS

[Legal Notice 88 of 2014]

### 1. Citation

These Regulations may be cited as the Merchant Shipping (Co-operation with Search and Rescue Services) Regulations.

### 2. Interpretation

(1) In these Regulations—

"appropriate search and rescue services" means, in relation to a ship, the search and rescue services responsible for the initiation and co-ordination of all search and rescue activity for the area of operation of the ship;

"Authority" has the same meaning under these regulations as in section 2 of the Kenya Maritime Authority Act (Cap. 370);

"owner" includes, in relation to a ship, any operator, manager, charterer or agent of the ship;

"passenger ship" means any ship certified to carry more than 12 passengers;

"regular scheduled service" means an advertised service which provides for the carriage of passengers at specified intervals along specified routes through or within Kenyan waters.

(2) Where a ship is managed by a person other than the owner (whether on behalf of the owner, of some other person or on his own behalf), a reference in these Regulations to the owner shall be construed as including a reference to that person.

(3) Any approval given pursuant to these Regulations shall be given in writing and shall specify the date on which it takes effect and the conditions, if any, on which it is given.

### 3. Application

These Regulations shall apply to all ships registered under the Merchant Shipping Act (Cap 389), and—

- (a) Kenyan passenger ships wherever they may be; and
- (b) other passenger ships operating on regular scheduled services while they are within Kenyan waters.

### 4. Duty to prepare a plan

(1) The owner of a ship to which these Regulations apply shall prepare a plan in respect of the ship, setting out the steps to be taken by those on board for co-operating with the appropriate search and rescue services if the ship requires the assistance of those search and rescue services.

(2) In preparing the plan referred to in subregulation (1) above the owner of the ship shall consult the Authority.

### 5. Periodic testing of plan

(1) The plan referred to in regulation 4(1) above shall include provision for the performance of periodic exercises, to be conducted at reasonable intervals, by the ship and the appropriate search and rescue services in order to test the effectiveness of the plan.

(2) The periodic exercises under subregulation (1) shall be undertaken only with the prior agreement of the appropriate search and rescue services.

### 6. Approval of plan

(1) The owner of the ship shall submit the plan prepared pursuant to regulation 4(1) above in respect of the ship to the Director-General for approval.

(2) The Director-General may either—

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- (a) reject the plan; or
- (b) approve the plan with or without modifications.

**7. Ships to carry plan**

Ships to which these Regulations apply shall carry on board a plan approved in accordance with regulation 6.

**8. Penalties**

Where there is a breach of regulation 7 in relation to a ship the owner and master of the ship shall each be guilty of an offence and liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

**9. Power to detain**

In any case where a ship does not comply with the requirements of these Regulations the ship shall be liable to be detained and section 435 of the Act, shall have effect in relation to the ship.

**10. Director-General may impose penalty upon admission of guilt**

(1) If any person—

- (a) admits to the Director-General that he has failed to comply with any provision of these regulations, or that he has failed to comply with any such provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question,

the Director-General may, after such an enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by the way of a penalty the whole or any part of the said deposit to be forfeited.

(2) The imposition of a penalty under subregulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture ships, shares goods.

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**THE MERCHANT SHIPPING (MARINE CASUALTY  
REPORTING AND INVESTIGATION) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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## THE MERCHANT SHIPPING (MARINE CASUALTY REPORTING AND INVESTIGATION) REGULATIONS

[Legal Notice 90 of 2014]

### 1. Short Title

These Regulations may be cited as the Merchant Shipping (Marine Casualty Reporting and Investigation) Regulations.

### 2. Interpretation

(1) In these Regulations, unless the context otherwise requires—

"access" means the process of embarking on or disembarking from a ship, by whatever means employed;

"Board" means a Board appointed by the Cabinet Secretary to conduct formal investigation pursuant to section 421(2) of the Act;

"Cabinet Secretary" means the Cabinet Secretary responsible for transport;

"marine casualty" means accident;

"Director-General" means the Director-General of the Kenya Maritime Authority;

"disabled" in relation to a vessel means not under command for a period of more than 12 hours, or for any lesser period where, as a result, the vessel needs assistance to reach port;

"grounding" means making involuntary contact with the ground, except for touching briefly so that no damage is caused, and "goes aground" shall be construed accordingly;

"hazardous incidents" means any event, other than an accident, associated with the operation of a ship which involves circumstances indicating that an accident nearly occurred;

"incapacity" means inability to undertake the full range of activities normally undertaken;

"Inspector" means the inspector of marine accidents appointed by the Director-General under section 421 of the Act, and any deputy inspector;

"inquiry" means a formal investigation in terms of section 422 of the Act;

"major injury" means—

- (a) any fracture, other than to the fingers or toes;
- (b) any loss of a limb or part of a limb;
- (c) dislocation of the shoulder, hip, knee or spine;
- (d) loss of sight (whether temporary or permanent);
- (e) penetrating injury to the eye; or
- (f) any other injury—
  - (i) leading to hypothermia or to unconsciousness;
  - (ii) requiring resuscitation; or
  - (iii) requiring admittance to a hospital or to an offshore sick-bay for more than 24 hours or where at sea, requiring confinement to bed for more than 24 hours;

"Maritime Safety Administration" means the Kenya Maritime Authority;

"preliminary inquiry" means the initial part of an investigation which may be held to establish the causes and circumstances of an accident with a view to deciding whether any further investigation is warranted;

"senior surviving officer" means the senior surviving officer in the deck department and if there is no surviving officer in the deck department, the senior surviving officer engineer officer;

"serious injury" means an injury, other than a major injury, to a person employed or carried in a Kenyan ship which occurs on board or during access which results in incapacity

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for more than three consecutive days excluding the day of the accident, or as a result of which the person concerned is put ashore and the ship sails without him, unless the incapacity is known or advised to be of three consecutive days or less excluding the day of the accident;

"ship's boat" includes a life raft, painting punt and any boat normally carried by a ship;

"voyage data recorder" means the electronic or mechanical equipment which may be installed on a ship to record key navigational and control information.

(2) Where a ship is managed by a person other than her owner or some other person or on his own behalf, a reference in these Regulations to the owner shall be construed as including a reference to that person.

**3. Meaning of "Accident"**

For the purposes of these Regulations and of section 421 of the Act, "accident" means any occurrence on a ship or involving a ship whereby—

- (a) there is loss of life or major injury to any person on board, or any person is lost or falls overboard from, the ship or one of its ship's boats;
- (b) a ship-
  - (i) causes any loss of life, major injury or material damage,
  - (ii) is lost or presumed to be lost,
  - (iii) is abandoned;
  - (iv) is materially damaged by fire, explosion, weather or other cause;
  - (v) grounds,
  - (vi) is in collision,
  - (vii) is disabled, or
  - (viii) causes significant harm to the environment; or
- (c) any of the following occur:—
  - (i) a collapse or bursting of any pressure vessel, pipeline or valve;
  - (ii) a collapse or failure of any lifting equipment, access equipment, hatch-cover, staging or boatswain's chair or any associated load-bearing parts;
  - (iii) a collapse of cargo, unintended movement of cargo or ballast sufficient to cause a list, or loss of cargo overboard;
  - (iv) a snagging of fishing gear which results in the vessel heeling to a dangerous angle;
  - (v) a contact by a person with loose asbestos fibre except when full protective clothing is worn; or
  - (vi) an escape of any harmful substance or agent, where the occurrence, taking into account its circumstances, might have caused serious injury to the health of any person.

**4. Application**

(1) These Regulations shall apply to accidents involving or occurring on board—

- (a) any Kenyan ship, except that Regulation 6 shall not apply in relation to—
  - (i) a pleasure vessel,
  - (ii) a recreational craft which is hired on a bareboat basis, or
  - (iii) any other craft or boat, other than one carrying passengers, which is in commercial use in a harbour or in an inland waterway and is less than eight (8) metres overall in length unless in case of a craft or a boat mentioned in subparagraph (ii) and (iii) the accident involved any of the following—

- (A) explosion,
  - (B) fire,
  - (C) death,
  - (D) major injury,
  - (E) capsize of a power-driven craft or boat, or
  - (F) pollution causing significant harm to the environment; and
- (b) any other ship within Kenya or Kenyan waters save that regulation 6 and 9(1) to (3) shall only apply to such a ship if—
- (i) the ship is within a port in Kenya;
  - (ii) the ship is employed in carrying passengers to or from a port in Kenya;
  - (iii) an inspector or other person acting on his behalf, requires that any of the evidence mentioned in regulation 9(1) or (2) be preserved.

(2) These Regulations shall apply in respect of serious injuries and hazardous incidents as they apply to accidents except that—

- (a) regulation 6 (with the exception of paragraph (5) and regulation 9 shall not apply to serious injuries; and
- (b) regulation 6 and 9 shall not apply to hazardous incidents.

(3) For the purpose of this regulation, "hired on a bareboat basis" means hired without a professional master, skipper or crew.

### **5. Objective of investigation**

(1) The sole objective of the investigation of an accident under these Regulations shall be the prevention of future accidents through the ascertainment of its causes and circumstances.

(2) It shall not be the purpose of an investigation to determine liability nor, except so far as is necessary to achieve its objective, to apportion blame.

### **6. Duty to report Accidents, Dangerous Occurrences and Serious Injuries**

(1) When an accident occurs the following persons associated with the ship shall send a report to the Authority as soon as is practicable following the accident and by the quickest means available:—

- (a) the master or, if he has not survived, the senior surviving officer, and
- (b) the ship's owner, unless he has ascertained to his satisfaction that the master or the senior surviving officer has reported the accident in accordance with paragraph (a).

(2) In addition to any report made under subregulation (1), the following persons shall report to the Authority as soon as is practicable and by the quickest means available any accident of which they are aware—

- (a) in the case of an accident within or adjacent to the limits of any Objective of investigation.
- (b) in the case of an accident on any inland waterway in Kenya, the person, Authority or body having responsibility for that waterway; or
- (c) an official of the Authority in respect of an accident within Kenyan waters.

(3) A person making a report pursuant to subregulation (1) or (2) shall in so far as is practicable include the following information—

- (a) the name of ship and IMO, official or fishing vessel number;
- (b) the name and address of the owner;
- (c) the name of master, skipper or person in charge;
- (d) the date and time of the accident;
- (e) where from and where bound;

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- (f) the latitude and longitude or geographical position in which the accident occurred;
- (g) the part of the ship where accident occurred if on board;
- (h) the weather conditions;
- (i) the name and port of registry of any other ship involved;
- (j) the number of people killed or injured, together with their names, addresses and gender;
- (k) brief details of the accident, including, where known, the sequence of events leading to the accident, extent of damage and whether the accident caused pollution or a hazard to navigation;
- (l) if the ship is fitted with a voyage data recorder, the make and model of the recorder.

(4) In addition to making a report under the preceding subregulations, the persons specified in subregulation (1) shall, so far as is reasonably practicable ensure that the circumstances of every accident are examined and that a report giving the findings of such examination stating any measures taken or proposed to prevent a recurrence, shall be provided to the Authority as soon as is practicable.

(5) The master and the ship's owner shall, so far as is reasonably practicable, ensure that the circumstances of every serious injury are examined and one of them shall, within fourteen days, provide the Authority with a report giving the findings of such examination and stating any measures taken or proposed to prevent a recurrence.

(6) This regulation shall not apply—

- (a) to an accident when the person killed or injured is a stevedore or shore-based worker and the accident occurs in a port in Kenya; or
- (b) to an accident which occurs in a shipyard in Kenya.

(7) No report made under this regulation shall be admissible in evidence against the maker in any proceedings except proceedings in pursuance of these regulations.

**7. Ordering of investigation**

(1) The Director-General may cause a preliminary inquiry into the accident to be held.

(2) Where a report has been received under subregulations (1), (2), (4) or (5) of regulation 6, the Director-General shall decide whether or not a preliminary inquiry should be carried out and shall notify the parties to the accident of his decision within 14 days following receipt by him of the report.

(3) Before deciding whether a preliminary inquiry should be carried out and if so, what form it should take, the Director-General may cause to be obtained such information as he considers necessary concerning the accident and any remedial action taken as a result, and any person mentioned in regulation 6(1) or (2), as well as any other person who is in possession of it and has been requested to do so by an inspector, shall provide such information to the best of their ability and knowledge.

(4) In the case of an accident to which regulation 3(1)(a) applies, the Director-General may decide not to carry out a preliminary inquiry if he is satisfied, or it is otherwise established to his satisfaction, that-

- (a) any loss of life resulted from suicide or natural causes; or
- (b) any major injury resulted from attempted suicide, and in such circumstances he may discontinue any inquiry which has already been commenced.

(5) Public notice that a preliminary inquiry has been commenced may be given in such manner as the Director-General may think fit, and may invite any persons who so desire to present relevant evidence to the Inspector in such a manner and within such a time as is specified in the notice.

(6) The Cabinet Secretary may cause a formal investigation to be held by a Board appointed for that purpose.



(7) The board appointed under subregulation (1) may be required to investigate any accident or to expand the scope of an investigation to include any further consequences of an accident, including—

- (a) salvage and pollution aspects; or
- (b) the conduct of search and rescue operations, and in such circumstances the Board may conduct an investigation into the further consequences of an accident which may be separate and distinct from the investigation into the initial accident.

## **8. Subsequent or reopened investigation**

(1) Notwithstanding a decision by the Director-General under regulation 7(2) not to investigate by way of a preliminary inquiry, the Director-General may at any subsequent time cause an investigation to be carried out if he is then satisfied there is good reason in the interests of future safety to do so.

(2) The Director-General may cause any investigation to be re-opened if, following its completion, and in his opinion, new and important evidence is discovered which could have a material effect on Ordering of investigation.

(3) Any investigation may be re-opened either in whole or in part and a re-opened investigation shall be subject to and conducted in accordance with the provisions of these Regulations.

## **9. Preservation of Evidence**

(1) Following an accident involving a Kenyan ship which is reportable under regulation 6, the persons referred to in subregulation (3) shall so far as is practicable ensure that—

- (a) all charts;
- (b) all log books;
- (c) all electronic and magnetic recording and video tapes, including information from a voyage data recorder or recording system relating to the period preceding, during and after the accident; and
- (d) all documents or other records which might reasonably be considered pertinent to the accident

are kept and that no alteration is made to any recordings or entries in them.

(2) In the case of an accident involving a Kenyan ship, the persons mentioned in subregulation (3) shall in addition to subregulation (1), ensure that—

- (a) all information from a voyage data recorder or recording system relating to the circumstances of an accident is saved and preserved, in particular by taking steps, where necessary, to prevent such information from being overwritten; and
- (b) any other equipment which might reasonably be considered pertinent to the investigation of the accident is so far as practicable left undisturbed.

(3) The persons referred to in subregulations (1) and (2) are—

- (a) the master or, if he has not survived, the senior surviving officer, and
- (b) the ship's owner, unless he has ascertained to his satisfaction that the master or senior surviving officer has taken the action in question.

(4) The duty under subregulation (1) to ensure that documents, information or records are kept and not altered and to ensure under subregulation (2) that information is saved and preserved, or that equipment is left undisturbed, shall continue until—

- (a) notification is received from the Director-General that no investigation is to take place or that the investigation has been completed;
- (b) 14 days have passed since the Director-General received the report referred to in regulation 6(1) and no notice has been sent by the Director-General that he has decided to investigate the matter; or

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- (c) the Director-General or an inspector carrying out the investigation gives written notification that he no longer requires them.

(5) Following an accident in Kenyan waters involving a ship which is not a Kenyan ship, the persons mentioned in subregulation (3) shall comply with the requirements of subregulations (1) and (2) if requested to do so by or on behalf of the Director-General.

(6) An inspector may, pending investigation, prohibit persons from gaining access to, or interfering with, any ship, ship's boat or other equipment involved in an accident.

(7) Following an accident, the Director-General may, if he considers it reasonably necessary for the collection or preservation of evidence in connection with any investigation, including preliminary examination, relating to the accident, require any of the master or, if he has not survived, the senior surviving officer and the ship's owner to ensure that a ship is accessible within Kenyan waters to any inspector or members of the board engaged in the preliminary inquiry or investigation of such accident, until the process of collecting or preserving the evidence has been completed to the satisfaction of the inspector or the board.

(8) The Director-General shall not require a ship to remain in Kenyan waters any longer than is necessary for the collection or preservation, as the case may be, of the evidence mentioned in subregulation (7) and shall take all reasonable steps to ensure that such evidence is collected or preserved expeditiously.

(9) No requirement under subregulation (7) shall be made unless the Director-General has reasonable grounds for concern that if the ship leaves Kenyan waters, access to it, to any member of the crew, or to any evidence on board relating to the investigation may subsequently be denied to him or any inspector or members of the Board conducting such investigation.

## **10. Conduct of investigations**

(1) If the Director-General decides pursuant to regulation 7(1) that a preliminary inquiry shall be carried out, it shall be undertaken by an inspector and one or more deputy inspectors at such times and places and in such manner as appear to them most conducive to achieving the objective set out in regulation 5.

(2) The Director-General may in addition to subregulation (1) appoint one or more persons who are not inspectors appointed under the Act for the purpose of carrying out a preliminary inquiry in circumstances where inspectors appointed under the Act are not conveniently available or where the persons appointed have special qualifications or experience, and such persons shall have the powers conferred on an inspector by section 411 of the Act.

(3) An investigation or a preliminary inquiry may extend to cover all events and circumstances preceding the accident together with subsequent events and circumstances which in the opinion of an inspector may have been relevant to its cause or outcome.

(4) Any person, not being an advocate of the High Court of Kenya or other professional legal adviser acting solely on behalf of the person required to attend, who-

- (a) is allowed by an inspector to be present; or
- (b) is nominated to be present by a person required to attend at an Conduct of investigations may at any time be excluded from being present by the inspector with the agreement of the Director-General, if—
  - (i) both the inspector and Director-General have substantial reason to believe that his presence would hamper the investigation with the result that the objective in regulation 5 is likely to be hindered and future safety thereby endangered; and
  - (ii) the Director-General is satisfied, having regard to all the circumstances, that it is proper to exclude that person.

(5) Where a person nominated to be present has been excluded in accordance with subregulation (4), the person required to attend shall be entitled to nominate another person

to be present at the oral examination in place of the excluded person and subregulation (4) shall then apply to that other person.

(6) Any document, record or information mentioned in regulation 9, properly required by an inspector to be produced for the purposes of an inquiry (whether on board the ship involved or otherwise), may be retained by him until the inquiry is completed.

(7) In relation to any investigation—

- (a) where a preliminary inquiry has been conducted the Director-General may decide, having regard to the objective set out in regulation 5, whether it is appropriate in all the circumstances to conduct further investigation leading to publication of a report;
- (b) the Director-General may subsequently make recommendation to the Cabinet Secretary to appoint a Board to undertake formal investigations.

## **11. Disclosure of records**

(1) Subject to the following paragraph so the names, addresses or any other details of anyone who gives evidence to an inspector shall not be disclosed.

(2) The following documents or records shall not be made available for purposes other than the investigation, unless a court orders otherwise:-

- (a) subject to subregulation (3), all declarations or statements taken from persons by an inspector or supplied to him in the course of his inquiry, together with any notes or voice recordings of interviews;
- (b) medical or confidential information regarding persons involved in an accident;
- (c) any report made under regulation 6(4) or (5);
- (d) copies of the report other than the final report except as mentioned in regulation 12 (3) (a), (4), or (8).

(3) A person who gives a declaration or statement to an inspector in the course of an inquiry may make available a copy of his declaration or statement to another person as he sees fit.

(4) Any independent technical analysis commissioned by the Director-General and opinions expressed in such analysis may be made publicly available if the Director-General it appropriate to do so.

(5) Subject to subregulation (6), no order shall be made under paragraph (2) unless the Court is satisfied having regard to the views of the Director-General, that the interests of justice in disclosure outweigh any prejudice, or likely prejudice, to—

- (a) the investigation into the accident to which the document or record relates,
- (b) any future accident investigation undertaken in Kenya, or
- (c) relations between Kenya and any other State, or international organization.

(6) The provisions of this regulation shall be without prejudice to any rule of law which authorises or requires the withholding of any document or record or part thereof on the ground that disclosure of it would be injurious to the public interest.

(7) Copies of information obtained from a voyage data recorder or from other recording systems, pertinent to the accident, including voice recordings (other than any recordings mentioned in subregulation (2)(a)), video recordings and other electronic or magnetic recordings and any transcripts made from such information or recordings, may be provided at the discretion of the Director-General to the police or other official authorities.

## **12. Reports of investigations**

(1) Subject to subregulation (3), the Board shall cause a report of an investigation into an accident conducted pursuant to regulation 10 (7) (a) and (b), other than an accident the investigation of which is being undertaken on behalf of a State other than Kenya, to be submitted to the Cabinet Secretary who shall make the report publicly available in the shortest time possible and in such a manner as he thinks fit.

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- (2) The report submitted under subregulation shall set out—
- (a) conclusions relating to the facts of the accident;
  - (b) where the facts cannot be clearly established, analysis and professional judgment to determine the probable facts; and
  - (c) recommendations for future safety.
- (3) the Cabinet Secretary shall not make the report publicly available until he has—
- (a) served a notice under this regulation upon any person who, or organization which, could be adversely affected by the report or, if that person is deceased, upon such person or persons as appear to the Cabinet Secretary, at the time he proposes to serve notice pursuant to this paragraph, as best to represent the interests and reputation of the deceased in the matter, and
  - (b) considered the representations relating to the facts or analysis contained in the report which may be made to him in accordance with paragraph (5) by or on behalf of the persons served with such notice, and amend the report in such manner as he thinks fit.

(4) The notice referred to in subregulation (3)(a) shall be accompanied by a draft copy of the report.

(5) The representations referred to in subregulation (3)(b) shall be in writing and shall be served on the Cabinet Secretary within 28 days of service of the notice referred to in paragraph (3)(a) or within such further period as may be allowed under regulation 15.

(6) Subject to any Court order under regulation 11, no person shall disclose any information—

- (a) which has been furnished to him pursuant to subregulation (4) of this regulation; or
- (b) which has otherwise been furnished to him by or on behalf of the Cabinet Secretary in advance of the publication of a report and whose confidentiality is protected by regulation 11,

or permit such information to be disclosed, save with the prior consent in writing of the Cabinet Secretary, to any other person, except to such advisers as are necessary in order to make representations to the Cabinet Secretary, referred to in subregulation (3)(b), and those advisers shall similarly be subject to the duty not to disclose the information or permit it to be disclosed.

(7) A copy of the report when made publicly available shall be given by the Cabinet Secretary to—

- (a) any person who has been served with a notice pursuant to subregulation (3) (a);
- (b) the persons or bodies to whom recommendations have been addressed in that report;
- (c) the Director-General;
- (d) the International Maritime Organisation; and
- (e) any other person or organization whom the Cabinet Secretary considers may find the report useful or of interest.

(8) Where an inquest or inquiry into a fatal accident is to be held following an accident which has been the subject of an investigation, a draft report may be made available in confidence to the presiding officer having the conduct of the inquest by the Cabinet Secretary.

(9) If any part of the report or analysis in the draft report is based on information obtained pursuant to an inspector's powers under Section 411 of the Act, the report shall be inadmissible in any judicial proceedings whose purpose or one of whose purposes is to attribute or apportion liability or blame unless a Court or tribunal, having regard to the factors mentioned in regulation 11(5)(b) or (c), determines otherwise.

(10) In this regulation, "judicial proceedings" includes any civil or criminal proceedings before any court, tribunal or person having by law the power to hear, receive and examine evidence on oath.

### **13. Summary of Inquiry**

(1) The Director-General may, at his discretion and to implement any lessons learned, from time to time publish a collective summary report of inquiry into accidents which have not been the subject of a report published under regulation 12(1).

(2) Upon application, a copy of the report, or extracts thereof, of any accident which has been the subject of an inquiry may be made available to any person requesting it who satisfies the Director-General of his legitimate interest.

(3) A summary shall not be published or otherwise made available where prosecution against any person in connection with the subject accident has begun, unless the Director-General is satisfied that nothing in its content would prejudice a fair trial.

(4) The Director-General may submit a report to the Cabinet Secretary on any matter arising from his analysis of marine accident inquiry.

### **14. Recommendations**

(1) The Director-General may as a result of one or more investigations, whether or not completed, at any time make recommendations as to how future accidents may be prevented.

(2) The actions recommended shall be addressed to those persons or bodies who, in the opinion of the Director-General, are most fitted to implement them.

(3) Recommendations shall be made publicly available if the Director-General considers that to do so is in the interests of safety or preventing pollution.

(4) Any person to whom a recommendation is addressed pursuant to subregulation (2) shall, without delay—

- (a) take that recommendation into consideration;
- (b) send to the Director-General—
  - (i) details of the measures, if any, he has taken or proposes to take to implement the recommendation and, in a case where he proposes to implement measures, the timetable for securing that implementation, or
  - (ii) an explanation as to why the recommendation is not to be the subject of measures to be taken to implement it,

and any details or timetable pursuant to subparagraph (i) or explanation pursuant to subparagraph (ii) shall be provided to the Director-General within 28 days following receipt of the recommendation; and

- (c) give notice to the Director-General if at any time any information provided to the Director-General in pursuance of subparagraph (4)(b)(i) concerning the measures he proposes to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

(5) Subject to subregulations (6) and (7) the Director-General shall, annually or at such other intervals as he sees fit, make information publicly available in respect of the matters, including any explanation, mentioned in subregulation (4)(b) and (c) which have been communicated to him and shall inform the Cabinet Secretary of those matters.

(6) The Director-General shall not publish information under paragraph (5) unless he has first notified any person mentioned in the information and considered any representations relating to the information which may be made to him in accordance with subregulation (7) by or on behalf of any person so notified, and amended the information in such manner as he thinks fit.

(7) Any representations made pursuant to subregulation (6) shall be in writing and shall be served on the Director-General within twenty-eight days of receipt of the notification

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referred to in that subregulation or within such further period as may be allowed under regulation 15.

### **15. Extension of time**

(1) The Cabinet Secretary shall have the power to extend the period of twenty-eight days prescribed in regulation 12(5), but shall do so only if he considers that there are good reasons warranting such an extension, having regard to the requirement in regulation 12(1) for a report of an investigation to be made available in the shortest time possible.

(2) The Director-General may extend the period of twenty-eight days prescribed in regulation 14(7) where he considers it appropriate to do so.

(3) The powers under this regulation may be exercised notwithstanding that the prescribed period has expired.

### **16. Service of documents**

Any notice or other document required or authorized by any provision of these Regulations to be served on or given to any person may be served or given:

- (a) by delivering it to that person;
- (b) by leaving it at his usual or last-known residence or place of business, whether in Kenya or elsewhere;
- (c) by sending it to him by post at that address; or
- (d) by sending it to him at the address by telex, facsimile, or other means which produces a document containing a text of the communication, or by electronic mail in which event the document shall be regarded as having been served when it is sent.

### **17. Penalties**

(1) A person shall commits an offence if—

- (a) being a person mentioned in regulation 6(1), (2)(a) or (b), he fails without reasonable cause to report an accident as required by regulation 6, or
- (b) being a master or ship's owner, he fails without reasonable cause to comply with regulation 6(5), or
- (c) being a person referred to in paragraph (a), he fails without reasonable cause to provide information as required by regulation 7(3) or
- (d) he falsely claims to have any additional information or new evidence pertaining to any accident or serious injury, and such person shall be liable upon conviction to a fine not exceeding two hundred thousand or to imprisonment for a person not exceeding two years or both such fine and imprisonment.

(2) If any person fails without reasonable cause to comply with any requirement, duty or prohibition in regulation 9(1), (2) or (5) to (7), such person commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand or to imprisonment for a period not exceeding five years or both such fine and imprisonment.

If any person without reasonable cause discloses or permits to be disclosed any information in contravention of regulations 11(1) or 12(6), or makes available any documents or records in contravention of regulation 12(2), such person commits an offence and shall be liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a period not exceeding two years or both such fine and imprisonment.

### **18. Director-General may impose fine upon admission of guilt**

(1) If any person—

- (a) admits to the Director-General that he has failed to comply with any provision of these regulations or the Act, or that he has failed to comply with any such provision with which it was his duty to comply;

*Merchant Shipping*

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[Subsidiary]

- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question, the Director-General may, after such an enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by way of a penalty the whole or any part of the said deposit to be forfeited.

(2) There shall be the right of appeal to the Cabinet Secretary from a determination or order by the Director-General under subregulation (1) whereby a penalty exceeding fifty thousand shillings is imposed, provided such right is exercised within a period of three months from the date of such determination or order.

(3) The imposition of a penalty under subregulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(4) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

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**THE MERCHANT SHIPPING (SURVEY  
AND CERTIFICATION) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. SCitation
2. Interpretation
3. Application
4. Survey of passenger ships
5. Surveys of cargo ship safety equipment
6. Surveys of cargo ship radio installations
7. Surveys of cargo ship structure, machinery and equipment

SCHEDULES

SCHEDULE —

TYPES OF SURVEY

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## THE MERCHANT SHIPPING (SURVEY AND CERTIFICATION) REGULATIONS

[Legal Notice 89 of 2014]

### 1. Citation

These Regulations may be cited as the Merchant Shipping (Survey and Certification) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

"Authority" means the Kenya Maritime Authority;

"cargo ship", "passenger ship", "Safety Convention", and "tons" have the meanings given by section 2 of the Act.

### 3. Application

(1) Subject to subregulation (2), these Regulations apply to—

- (a) Kenyan passenger ships and cargo ships, wherever they may be; and
- (b) other passenger ships and cargo ships, when in any port in Kenya.

(2) These Regulations do not apply to cargo ships of less than 500 tons not engaged on international voyages or passenger ships of less than 24 metres in length.

### 4. Survey of passenger ships

A Kenyan passenger ship shall be subject to the following surveys:

- (a) before the ship is put in service, a passenger ship initial survey as set out in the Schedule,
- (b) before the end of every period of 12 months following the issue of the ship's Passenger Ship Safety Certificate, a passenger ship renewal survey as set out in the Schedule,
- (c) inspections of the ship's bottom, out of the water, to take place:
  - (i) within any five year period, and
  - (ii) at intervals not exceeding 36 months, and
- (d) after a repair resulting from investigations prescribed in the Act, or whenever any important repairs or renewals are made, an additional survey as set out in the Schedule.

### 5. Surveys of cargo ship safety equipment

A Kenyan cargo ship of 500 tons or more engaged on international voyages shall be subject to the following surveys of its life-saving appliances and other equipment:

- (a) before the ship is put in service, a cargo ship safety equipment initial survey as set out in the Schedule;
- (b) at the intervals specified in the Schedule which, subject to the provisions of the Act, shall be no more than five years, a cargo ship safety equipment renewal survey as set out in the Schedule;
- (c) within three months before or after the second or third anniversary date of a Cargo Ship Safety Equipment Certificate first being issued, a cargo ship safety equipment periodical survey as set out in the Schedule;
- (d) within three months before or after each anniversary date of the issue of the ship's Cargo Ship Safety Equipment Certificate, other than where a periodical survey is required to be carried out within that period, an annual survey as set out in the Schedule; and

[Subsidiary]

- (e) after a repair resulting from investigations prescribed in the Act, or whenever any important repairs or renewals are made, an additional survey as set out in the Schedule.

## 6. Surveys of cargo ship radio installations

A Kenyan cargo ship of 300 tons or more engaged on international voyages shall be subject to the following surveys of its radio installations:

- (a) before the ship is put in service, a cargo ship radio installations initial survey as set out in the Schedule,
- (b) at the intervals specified in the Schedule which, subject to the provisions of the Act, shall be no more than five years, a cargo ship radio installations renewal survey as set out in the Schedule,
- (c) within three months before or after each anniversary date of the issue of the ship's Cargo Ship Safety Radio Certificate, a cargo ship radio installations periodical survey as set out in the Schedule; and
- (d) after a repair resulting from investigations prescribed in the Act, or whenever any important repairs or renewals are made, an additional survey as set out in the Schedule.

## 7. Surveys of cargo ship structure, machinery and equipment

(1) A Kenyan cargo ship shall be subject to the following surveys of its structure, machinery and equipment, other than equipment to which regulations 5 and 6 apply:

- (a) before the ship is put in service, a cargo ship structure etc. initial survey, including an inspection of the outside of the ship's bottom, as set out in the Schedule;
- (b) at the intervals specified in the Schedule (which subject to the Act, shall be no more than five years), a cargo ship structure etc. renewal survey as set out in the Schedule;
- (c) within three months before or after the second or third anniversary date of a Cargo Ship Safety Construction Certificate being issued, a cargo ship structure etc. intermediate survey as set out in the Schedule;
- (d) within three months before or after each anniversary date of the issue of the ship's Cargo Ship Safety Construction Certificate, other than where a cargo ship structure etc. renewal or intermediate survey is required to be carried out within that period, a cargo ship structure etc. annual survey as set out in the Schedule;
- (e) two inspections of the ship's bottom, as set out in the Schedule, to take place;
  - (i) subject to subregulation (2), within any five year period, and
  - (ii) at intervals not exceeding 36 months; and
- (f) after a repair resulting from investigations prescribed in the Act, or whenever any important repairs or renewals are made, an additional survey as set out in the Schedule.

(2) For the purpose of subregulation (1)(e), where a cargo ship structure renewal survey takes place within three months after the end of the five year period of validity of a Convention Certificate, and that certificate has been extended in accordance with the Act, the period of extension of the certificate shall be deemed to be within the five year period.

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### SCHEDULE

#### TYPES OF SURVEY

#### INTRODUCTION

1. There are seven types of survey—

- 1.1 Initial Survey;
- 1.2 Renewal Survey;
- 1.3 Periodical Survey;
- 1.4 Intermediate Survey;
- 1.5 Annual Survey;
- 1.6 Inspection of the Outside of the Ship's Bottom;
- 1.7 Additional Survey.

## SCOPE OF SURVEYS

### 1. Passenger ships

**2.1** An initial survey of a passenger ship shall consist of a complete inspection of the ship's structure, machinery and equipment, including the outside of the ship's bottom and the inside and outside of the boilers, such as to ensure that the arrangements, materials and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in life-saving appliances, fire protection, fire safety systems and appliances, life-saving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots, lights, shapes, means of making sound and distress signals and other equipment fully comply with the requirements of the relevant regulations, and that the workmanship of all parts of the ship and its equipment is in all respects satisfactory.

**2.2** A renewal survey of a passenger ship shall include an inspection of the structure, boilers and other pressure vessels, machinery and equipment, including the outside of the ship's bottom, such as to ensure that the arrangements, materials and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in life-saving appliances, fire protection, fire safety systems and appliances, life-saving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots, lights, shapes, means of making sound and distress signals and other equipment is in satisfactory condition and is fit for the service for which it is intended, and fully complies with the requirements of the relevant regulations.

**2.3** An additional survey, either general or partial, according to the circumstances, shall be made following a repair or renewal. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively carried out, that the material and workmanship are in all respects satisfactory, and that the ship complies with the provisions of the relevant regulations.

## CARGO SHIPS

### 2. Cargo ship safety equipment

**2.1** An initial survey of cargo ship safety equipment shall include an inspection of the fire safety systems and appliances, life-saving appliances and arrangements except radio installations, the shipborne navigational equipment, means of embarkation for pilots and other equipment to which Chapters II-1 II-2, III and V of the Safety Convention apply, to ensure that they comply with the requirements of the relevant regulations, and they are in satisfactory condition and are fit for the service for which the ship is intended. In addition the fire control plans, nautical publications, lights, shapes, means of making sound signals and distress signals shall also be subject to this survey.

**2.2** An annual survey shall include a general inspection of the equipment referred to above to ensure that it has been maintained to conform with the provisions of the relevant regulations to ensure that the ship in all respects will remain fit to proceed to sea without danger to the ship or persons on board and that it remains satisfactory for the service for which the ship is intended.

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[Subsidiary]

**2.3** A renewal survey and a periodical survey shall include an inspection of the equipment referred to in the initial survey to ensure that it complies with the relevant requirements of the relevant regulations, is in satisfactory condition and is fit for the service for which the ship is intended.

### **3. Cargo ship radio installations**

**3.1** An initial survey of cargo ship radio installation equipment shall include a complete inspection of the radio installations of cargo ships, including those used in lifesaving appliances, to ensure that they comply with the requirements of the relevant regulations.

**3.2** A renewal survey and a periodical survey will include an inspection of the radio installations of cargo ships, including those used in life-saving appliances, to ensure that they comply with the requirements of the relevant regulations.

### **4. Cargo ship structure, machinery and equipment**

**4.1** An initial survey shall include a complete inspection of the structure, machinery and equipment, including an inspection of the outside of the ship's bottom, before the ship enters service. The survey shall be such as to ensure that the arrangements, materials, scantling and workmanship of the structure, boilers and other pressure vessels, their appurtenances, main and auxiliary machinery including steering gear and associated control systems, electrical installation and other equipment, and in the case of tankers, the pump-rooms, cargo, bunker and ventilation piping systems and associated safety devices comply with the requirements of the relevant regulations, are in satisfactory condition and are fit for the service for which the ship is intended and that the required stability information is provided. In the case of tankers such a survey shall also include an inspection of the pump-rooms, cargo, bunker and ventilation piping systems and associated safety devices.

**4.2** A renewal survey will include an inspection of the ship's structure, machinery and equipment such as to ensure that they comply with the requirements of the relevant regulations, are in satisfactory condition and are fit for the service for which they are intended.

**4.3** An intermediate survey will include an inspection of the structure, boilers and other pressure vessels, machinery and equipment, the steering gear and the associated control systems and electrical installations, and in the case of tankers, the pump-rooms, cargo, bunker and ventilation piping systems and associated safety devices and the testing of insulation resistance of electrical installations in dangerous zones to ensure that they remain satisfactory for the service for which the ship is intended.

**4.4** An annual survey will include a general inspection of the structure, machinery and equipment referred to above to ensure that they have been maintained to conform with the provisions of the relevant regulations to ensure that the ship in all respects will remain fit to proceed to sea without danger to the ship or persons on board, and that they remain satisfactory for the service for which the ship is intended.

### **5. Inspection of the outside of the ship's bottom**

The inspection of the outside of the ship's bottom is a separate survey.

**5.1** *Passenger ships:* For passenger ships the inspection is required every year. On the years in which the out of water inspection does not take place, an in water inspection of the ship's bottom shall be carried out. As a minimum, two of these surveys in any five year period, at intervals not exceeding 36 months, shall be conducted with the ship out of the water.

**5.2** *Cargo ships:* For cargo ships there shall be a minimum of two inspections during any five year period at intervals not exceeding 36 months. Inspections should normally be carried out with the ship out of the water, however consideration may be given to alternate inspections being carried out with the ship afloat.

### **6. OUTLINE OF HSSC**

The main points of the Harmonised System of Survey and Certification (see Annex for a diagrammatic overview) are as follows:

- 6.1** The maximum period of validity of all certificates except the passenger ship safety certificate is five years. The passenger ship safety certificate shall be renewed annually.
- 6.2** Each full term of five years (or one year) will follow directly on from the previous one (unless a ship is laid up or undergoing major repairs); each certificate will be dated from the expiry date of the previous one.
- 6.3** In order to provide the necessary flexibility, the renewal survey may be carried out up to three months before the expiry of the existing certificate. The new certificate will still be dated from the expiry date of the old certificate.
- 6.4** A certificate may also be extended by a period of up to three months (or for ships engaged on short voyages there is a period of grace of one month) in order that the renewal survey may be carried out. However, the new certificate will still be dated from the expiry date of the old certificate before the extension was granted.
- 6.5** Where a renewal survey has been completed and a certificate cannot be issued or placed aboard the ship before the expiry date of the existing certificate, the existing certificate may be endorsed and shall be accepted as the new certificate for a period of up to five months from the expiry date.
- 6.6** A certificate (other than a passenger certificate) that has been issued initially for a period of less than five years may be extended to the maximum period of five years provided that the minimum pattern of surveys is maintained.
- 6.7** Every certificate will be subject to an Annual, Intermediate or Periodical survey each year within three months of its anniversary date (the day and month of each year corresponding to the date of expiry) as follows:
- 6.7.1** The Passenger Certificate (PC) requires a Renewal survey each year.
- 6.7.2** The Cargo Ship Safety Radio Certificate (RADIO) requires a Periodical survey each year.
- 6.7.3** The International Load Line Certificate (LOADLINE) requires an Annual survey each year.
- 6.7.4** The Cargo Ship Safety Equipment Certificate (SEC) requires an Annual survey every year. On either the second or third year this is replaced with a Periodical survey.
- 6.7.5** The Cargo Ship Safety Construction Certificate (SAFCON), the International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk (IGC/GC), the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk (IBC/BCH), the International Oil Pollution Prevention Certificate (IOPPC) and the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk all require Annual surveys each year. On either the second or third year this is replaced with an Intermediate survey.
- 6.8** Where an Annual, Intermediate or Periodical Survey is completed more than three months before the anniversary date, the anniversary date may be amended to suit and the expiry date of the certificate brought forward by a corresponding period or, if the expiry date is to remain unchanged, additional surveys, as appropriate, carried out so that the pattern of surveys remains the same and the maximum intervals between the various types of surveys are not exceeded.
- 6.9** A new Cargo Ship Safety Certificate (CSSC), which includes provision for recording all the surveys required for the Cargo Ship Safety Equipment Certificate, the Cargo Ship Safety Radio Certificate and the Cargo Ship Safety Construction Certificate, may be issued as an alternative to the existing cargo ship safety certificates.

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6.10 In conducting the surveys referred to in these Regulations surveyors shall follow the Survey Guidelines referred to in the Harmonised System of Survey and Certification adopted by IMO Resolution A.746 (18), as amended or replaced.

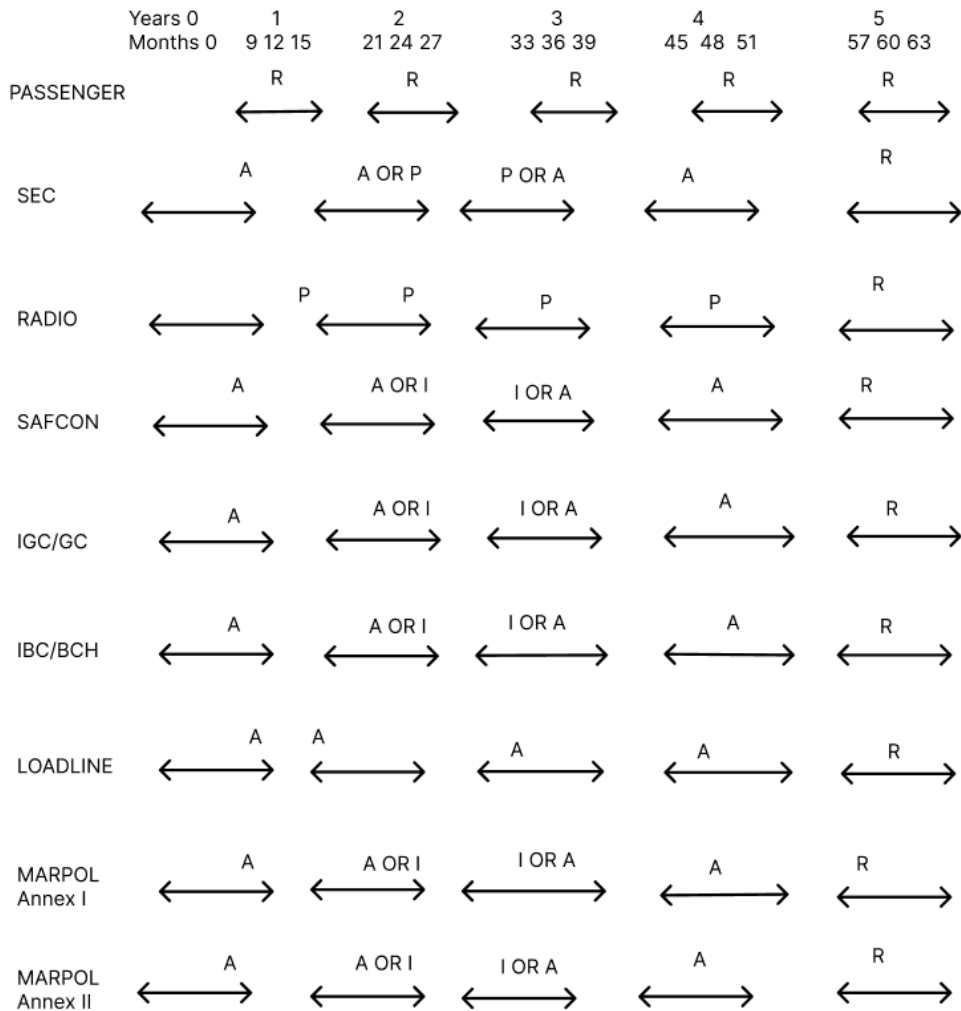
7. Declarations of survey

In complying with the provisions of paragraph 5(1) as they apply to the Cargo Ship Safety Certificate, the Certifying Authority should ensure that they have in their possession declarations of satisfactory survey before the issue of the CSSC.

**ANNEX**

THE HARMONISED SYSTEM OF SURVEY AND CERTIFICATION

Diagrammatic Arrangement



Legend R-Renewal P-Periodical I-Intermediate A Annual

*This diagram can be found in the Survey Guidelines cited in Paragraph 7.10 above.*



**THE MINIMUM SAFE MANNING REGULATIONS**

[Legal Notice 91 of 2014]

***Revoked by Legal Notice 40 of 2016 on 11th March, 2016***



**THE MERCHANT SHIPPING (INTERNATIONAL  
SAFETY MANAGEMENT (ISM) CODE) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation and commencement
2. Interpretation
3. Application
4. Duty to comply with the ISM Code
5. Duty to hold certificates
6. Duty to carry certificates
7. Duty of master
8. Designated person
9. Issue of Document of Compliance and Safety Management Certificate
10. Interim certificate
11. Issue and endorsement of Safety Management Certificate by another government
12. Issue of certificates on behalf of other governments
13. Annual audit of Document of Compliance
14. Intermediate audit of Safety Management Certificate
15. Renewal of certificates
16. Powers of audit, inspection, suspension of service and detention
17. Exemptions
18. Suspension or cancellation of Documents of Compliance and Safety Management Certificates
19. Violations, offences and penalties
20. Director-General may impose penalty upon admission of guilt

SCHEDULES

FORMS

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## THE MERCHANT SHIPPING (INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE) REGULATIONS

[Legal Notice 150 of 2015]

### 1. Citation and commencement

These Regulations may be cited as the Merchant Shipping (International Safety Management (ISM) Code) Regulations and shall be deemed to have come into effect on the date as the Cabinet Secretary may, by notice in the *Gazette*, appoint.

### 2. Interpretation

(1) In these Regulations, unless the context otherwise requires—

"anniversary date" means the day and month of each year that corresponds to the date of expiry of the relevant document or certificate;

"audit" means a systematic and independent examination to determine whether the safety management system is suitable to meet the objectives set out in section 1 of the Code, and, so far as the system has been operated, that the system has been implemented effectively. Such audits shall take into account the Guidelines on the Implementation of the ISM Code by administrations, adopted by IMO pursuant to Assembly Resolution A.788 (19);

"authorised person" means a person authorised by the Director-General to carry out inspections and audits for the purpose of these Regulations and includes any surveyor of ships appointed in terms of the Act or any Regulation;

"bulk carrier" means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers;

"cargo ship" means a cargo ship within the meaning of the Merchant Shipping (Cargo Ship Construction) Regulations, 2011;

"chemical tanker" means a cargo 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;

"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 the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all duties and responsibilities imposed by the Code;

"Document of Compliance" means the "Document of Compliance" issued to a Company which complies with the requirements of the ISM Code;

"gas carrier" means a cargo ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the International Gas Carrier Code;

"high speed craft" means a craft capable of a maximum speed, in metres per second (*m/s*), equal to or exceeding:

$$3.7 \nabla^{0.1667}$$

where:  $\nabla$  = volume of displacement corresponding to the design waterline ( $m^3$ );

"IMO" means the International Maritime Organization;

"ISM Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by IMO by Resolution A.741 (18), together with any amendments which may be in effect in respect of Kenya;

"major non-conformity" means an identifiable deviation that causes a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement of these regulations;

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"mobile offshore drilling unit (MODU)" means a vessel capable of engaging in drilling operations for the exploration of resources beneath the sea-bed such as liquid or gaseous hydrocarbons, sulphur or salt;

"non-conformity" means an observed situation where objective evidence indicates the non-fulfilment of a special requirement;

"objective evidence" means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a safety management system element, which is based on observation, measurement or test and which can be verified;

"observation" means a statement of fact made during a safety management audit and substantiated by objective evidence;

"oil tanker" means a cargo ship constructed or adapted and used for the carriage of any bulk hydrocarbon product;

"passenger ships of Classes I, II and III" means passenger ships so classified within the meaning of the Convention;

- (i) Class I-a passenger ship engaged on voyages which are not short international voyages;
- (ii) Class II-a passenger ship engaged on short international voyages; and
- (iii) Class III-a passenger ship, other than ships of Class IV, V and VI engaged on voyages other than international voyages.

"Safety Convention" means the International Convention for the Safety of Life at Sea, 1974 as amended;

"Safety Management Certificate" means a document issued to a ship which signifies that the Company and its shipboard management operate in accordance with the approved safety management system;

"safety management system" means a structured and documented system enabling company personnel to effectively implement the company safety and environmental protection policy;

"ship" includes hovercraft, and "master" shall be construed accordingly.

(2) In interpreting the ISM Code—

- (a) the requirements of the ISM Code having been made mandatory under regulation 5 the language thereof shall be construed accordingly; and
- (b) references to the Administration shall, in relation to Kenyan ships, be references to the Kenya Maritime Authority.

### **3. Application**

(1) Subject to subregulations (2) and (3), these Regulations apply to—

- (a) Kenyan ships wherever they may be; and
- (b) other ships while they are within Kenyan waters.

(2) These Regulations apply to—

- (a) passenger ships of Classes I, II and III; (International sea going passenger vessels);
- (b) oil tankers, chemical tankers, gas carriers, bulk carriers, and cargo high-speed craft of 500 gross tonnage or more, which engage in international voyages; and
- (c) other cargo ships and mobile offshore drilling units of 500 gross tonnage or more, which engage in international voyages.

(3) These Regulations apply to every company operating a ship to which these Regulations apply.

(4) These Regulations shall not apply to naval vessels, auxiliaries and government operated ships used for non-commercial purposes.

#### 4. Duty to comply with the ISM Code

Every company shall comply with the requirements of the ISM code as it applies to that company and to any ship owned by it or for which it has responsibility.

#### 5. Duty to hold certificates

(1) No Company shall operate a ship unless that company holds a valid certificate of compliance issued under regulation 9.

(2) No company shall operate a ship unless there is in force in respect of that ship a valid Safety Management Certificate.

(3) No Kenyan ship shall be operated unless-

(a) the company holds a Document of Compliance issued by the Director-General in the form set out in the Schedule or accepted by the Director-General; and

(b) there is in force in relation to the ship a Safety Management Certificate issued by the Authority in the form set out in the Schedule.

(4) For the purposes of this regulation a certificate of Compliance or Safety Management Certificate is not valid if it has not been endorsed, in the circumstances required by the ISM Code, showing, in the case of a certificate of Compliance, satisfactory annual audits, or in the case of a Safety Management Certificate, a satisfactory intermediate audit.

#### 6. Duty to carry certificates

It shall be the duty of every company to ensure that a valid Safety Management Certificate and a copy of the Document of Compliance are carried on board each ship to which these Regulations apply.

#### 7. Duty of master

The master of every ship shall operate the ship in accordance with the safety management system on the basis of which the Safety Management Certificate was issued.

#### 8. Designated person

(1) The company shall designate a person ashore who shall be responsible for monitoring the safe and efficient operation of each ship with particular regard to the safety and pollution prevention aspects, and in particular to-

(a) take such steps as are necessary to ensure compliance with the company safety management system on the basis of which the Certificate of Compliance was issued; and

(b) ensure that proper provision is made for each ship to be so manned, equipped and maintained that it is fit to operate in accordance with the safety management system and with statutory requirements.

(2) The company shall ensure that the designated person ashore-

(c) is provided with sufficient Administration and resources; and

(d) has appropriate knowledge and sufficient experience of the operation of ships at sea and in port, to enable him to comply with subregulations (1) and (2).

#### 9. Issue of Document of Compliance and Safety Management Certificate

(1) Where the Authority is satisfied that a company operating Kenyan ships complies with the requirements of the ISM Code the company may be issued with a Document of Compliance valid for a period not exceeding five years.

(2) Where the Authority is satisfied that a ship is operated by a company to which a Document of Compliance has been issued and that the company and its shipboard management operate in accordance with the safety management system that has been approved, the Authority shall issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

*Merchant Shipping*

[Subsidiary]

(3) Where a company operating ships which are registered in more than one country, but at least one of which is registered in Kenya, complies with the requirements of the ISM Code the Authority may accept a Document of Compliance issued by the government of one of those countries to which the Safety Convention applies, if prior to the issue of that document it has agreed to accept it. Conditions for acceptance may include completion of a satisfactory audit of the company by an authorised person.

(4) Where a company newly registers a ship in Kenya, the Authority may accept a Document of Compliance issued by the government of a country to which the Safety Convention applies in which ships operated by the company are registered. Conditions for acceptance may include completion of a satisfactory audit by an authorised person.

(5) Where the Authority is satisfied that a Kenyan ship is operated by a company which has a Document of Compliance accepted by the Authority under paragraph (3) or (4) above and that its shipboard management operates in accordance with a safety management system which complies with the ISM Code the Authority shall issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

**10. Interim certificate**

(1) Where a company is newly established, or the company assumes, for the first time, the responsibility for operating a ship type not covered by a Document of Compliance the company already holds, an interim Document of Compliance may be issued to facilitate implementation of the ISM Code.

(2) An interim Document of Compliance in the form set out in the Schedule, valid for no more than twelve months, may be issued to a company following a demonstration that the company has a safety management system that meets the objectives of section 1.2.3 of the ISM Code. The company shall demonstrate plans to implement a safety management system meeting the full requirements of the ISM Code within the period of validity of the interim Document of Compliance.

(3) An interim Safety Management Certificate, valid for not more than six months, may be issued in respect of a new ship on delivery, when a company takes on the responsibility for the management of a ship which is new to the company or when a ship is transferred between flag states. The Administration, may, as it considers appropriate, extend the validity of the interim Safety Management Certificate for a further six months.

(4) An interim Safety Management Certificate shall only be issued when the Authority is satisfied that-

- (a) the Document of Compliance, or the interim Document of Compliance, is relevant to that ship type;
- (b) the safety management system provided by the company for the ship includes all key elements of the ISM Code and has been assessed during the audit for issuance of the Document of Compliance or issuance of the interim Document of Compliance in the form set out in the Schedule;
- (c) the master and relevant senior officers are familiar with the safety management system and the planned arrangements for its implementation;
- (d) instructions which have been identified as essential to be provided prior to sailing have been given;
- (e) plans for audit, by the company, of the ship within three months exist; and
- (f) the relevant information on the safety management system is given in a working language or languages understood by the ship's personnel.

**11. Issue and endorsement of Safety Management Certificate by another government**

The Authority may request, through a proper officer or otherwise, the government of a country to which the Safety Convention applies-

- (a) to conduct an audit of the safety management system operated onboard a Kenyan ship; and



- (b) where satisfied that the requirements of the ISM Code are complied with, to issue to the ship a Safety Management Certificate or authorise such issue or, where appropriate endorse such certificates in accordance with the requirements of the Safety Convention after intermediate audit. A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Authority.

## **12. Issue of certificates on behalf of other governments**

The Authority may, at the request of a government of a country to which the Safety Convention applies, audit the safety management systems of companies and ships registered in that country and, if satisfied that the requirements of the ISM Code are complied with, and that the audit has been satisfactorily completed in accordance with these Regulations, issue to the company a Document of Compliance or, in respect of the ship a Safety Management Certificate, or, where appropriate, endorse such certificates in accordance with the requirements of the Safety Convention after annual or intermediate audits. A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Authority.

## **13. Annual audit of Document of Compliance**

The Authority shall carry out an annual audit of the safety management system of every company to which he has issued a Document of Compliance, within three months of the anniversary date of the Document of Compliance.

## **14. Intermediate audit of Safety Management Certificate**

The Authority shall carry out an intermediate audit of each ship, to ensure that the conditions for the continued validity of the Safety Management Certificate are being met, between the second and third anniversaries of the Safety Management Certificate issued by it, and at other times if it thinks fit.

## **15. Renewal of certificates**

Before the renewal of any certificate the Authority shall carry out a renewal audit of the company or ship during the six month period preceding the expiry date of the Document of Compliance or Safety Management Certificate as the case may be, to ensure that compliance with the requirements of the ISM Code is maintained.

## **16. Powers of audit, inspection, suspension of service and detention**

- (1) (a) Any authorized person may audit the safety management system of any company.
- (2) where an authorized person considers that a company, notwithstanding that it holds a Document of Compliance, is unable to operate ships without creating a risk of-
- (a) serious danger to safety of life; or
  - (b) serious damage to property; or
  - (c) serious harm to the environment, or that the company does not hold a Document of Compliance, he may suspend the operation of ships by that company until such time as any such risk is removed or a valid Document of Compliance is held.
- (3) Where a service is to be suspended pursuant to paragraph (2) the authorized person shall serve on the company a notice stating that the operation of the service specified in the notice shall be suspended.
- (4) Any authorised person may inspect any ship, and any such inspection may include an audit of its safety management system.

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(5) Where an authorised person is satisfied on inspecting a ship that there is a failure to comply in relation to that ship with the requirements of regulation 4 or 5 he may detain the ship.

(6) In any case where a ship is liable to be detained, section 435 of the Act (which relates to the detention of the ship) shall have effect in relation to the ship;

(7) Where a ship is detained in relation to a failure to comply with a requirement of these Regulations the Act shall apply to the notice of detention, and as if for references to the ship being dangerously unsafe there were substituted references to it being in breach of these Regulations.

(8) An authorized person exercising functions under this regulation shall have the powers conferred on a surveyor by the Act.

**17. Exemptions**

The Director-General may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as he or she may specify, and may, subject to giving reasonable notice, alter or cancel any such exemption.

**18. Suspension or cancellation of Documents of Compliance and Safety Management Certificates**

(1) The Director-General may by notice in writing suspend or cancel any Document of Compliance or Safety Management Certificate issued by him or at his request under these Regulations where it has reason to believe that-

- (a) the certificate was issued on false or erroneous information; or
- (b) since any audit required by these Regulations, the management structure of either the company or ship has changed substantively, or where any audit of a company or ship has revealed a failure to comply with regulation 4.

(2) Any such notice shall contain the grounds for the suspension or cancellation of the certificate.

(3) A notice shall not be given unless the holder has been given the opportunity to make representations, except where the Director— General considers that urgent safety or pollution prevention considerations require the notice to be given immediately.

(4) The Director-General may require that any Document of Compliance or Safety Management Certificate, issued by it under these Regulations, which has expired or has been suspended or cancelled, be surrendered as directed.

(5) No person shall-

- (a) intentionally alter a Document of Compliance or Safety Management Certificate;
- (b) in connection with any audit conducted pursuant to these Regulations, knowingly or recklessly furnish false information;
- (c) with intent to deceive, use, lend or allow to be used by another, a Document of Compliance or Safety Management Certificate;
- (d) fail to surrender a Document of Compliance or Safety Management Certificate required to be surrendered under subregulation (2); or
- (e) forge any Document of Compliance or Safety Management Certificate.

**19. Violations, offences and penalties**

(1) Any person who fails to comply with any regulation as identified hereunder commits an offence and shall be liable, upon conviction, to a fine not exceeding the shillings identified in the table below, or to a term of imprisonment not exceeding the period identified in the table below, or to both such fine and imprisonment.

<i>Regulation</i>	<i>Company</i>	<i>Master</i>	<i>Designa- ted</i>	<i>Any person</i>	<i>Imprison- ment</i>	<i>Penalty in Shs</i>
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		<i>Person ashore</i>		
3,4,5 or 7	X		2 years	700,000
6		X	12 months	350,000
16 (1) (1)	X		2 years	700,000
(b)				
18 (3)		X	2 years	700,000

(2) It shall be a defence to an offence under this regulation to prove that the person who committed the offence, took all reasonable steps to avoid the commission of the offence.

**20. Director-General may impose penalty upon admission of guilt**

(1) If any person—

- (a) admits to the Director-General that he has failed to comply with the provisions of these regulations or Act, or that he has failed to comply with any such provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question, the Director-General may, after such enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by the way of a penalty the whole or any part of the said deposit to be forfeited.

(2) There shall be the right of appeal to the Cabinet Secretary under subregulation (1) whereby a penalty exceeding one hundred thousand shillings is imposed, provided such right is exercised within a period of three months from the date of such determination or order.

(3) The imposition of a penalty under subregulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(4) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

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SCHEDULE

[r. 5(3)(b)]

FORMS

**FORM 1**

REPUBLIC OF KENYA  
 THE MERCHANT SHIPPING ACT  
 (CAP. 389)  
 THE KENYA MARITIME AUTHORITY  
**SAFETY MANAGEMENT CERTIFICATE**

*(Official seal)*

Certificate No. ....

*Issued under the provisions of the*  
 INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974,  
 as amended

Under the authority of the Government of Kenya by .....

*(person or organisation authorised)*

Merchant Shipping

[Subsidiary]

Name of ship:.....
Distinctive number of letter:.....
Port of registry:.....
Type of Ship\*:.....
Gross Tonnage:.....
IMO Number:.....
Name and address of the Company:.....

(see regulation 2(1))

THIS IS TO CERTIFY THAT the safety management system of the ship has been audited and that it complies with the requirements of the International Safety Management Code for the Safe Operation of Ships and for Prevention Control (ISM Code), following verification that the Document of Compliance for the Company is applicable to this type of ship:

This Safety Management Certificate is valid until..... subject to periodical Verification and the Document of Compliance for the Company remaining valid.

Issued at .....
(place of issue oJ the Document)
Date of issue .....
(Signature of the duly authorised official issuing the document)
(Seal or stamp of issuing authority, as appropriate)

FORM 2

(r. (10(1)(b)))

REPUBLIC OF KENYA
THE MERCHANT SHIPPING ACT
(CAP. 389)
THE KENYA MARITIME AUTHORITY
INTERIM SAFETY MANAGEMENT CERTIFICATE
(Official seal)

Certificate No. ....
Issued under the provisions of the
INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974,
as amended

Under the authority of the Government of Kenya by .....
(person or organisation authorised)
Name of ship: .....
Distinctive number of letter: .....
Port of registry: .....
Type of Ship\*: .....
Gross Tonnage: .....
IMO Number: .....
Name and address of the Company:.....

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[Subsidiary]

**(see regulation 2(1))**

THIS IS TO CERTIFY THAT the requirements of regulation.....of the ISM Code have been met and that the Document of Compliance/Interim Document of Compliance (delete as appropriate) of the Company is relevant to this ship.

This Interim Safety Management Certificate is valid until ..... subject to the Document of Compliance/Interim Document of Compliance (*delete as appropriate*) remaining valid.

Issued at .....

*(place of issue of the Document)*

Date of issue .....

*(Signature of the duly authorised official issuing the document)*

*(Seal or stamp of issuing authority, as appropriate)*

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**THE MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS**

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**THE MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS**

[Legal Notice 152 of 2015]

## PART I – PRELIMINARY PROVISIONS

**1. Citation and commencement**

These Regulations may be cited as the Merchant Shipping (Maritime Security) Regulations, 2015 and shall come into force on the date of publication.

**2. Interpretation**

In these Regulations unless the context otherwise requires—

"administration" means the designated maritime authority of the state, other than Kenya, whose flag the ship is entitled to fly;

"all ships" when used in these Regulations, means any ship to which these Regulations apply;

"Authority" means Kenya Maritime Authority established under the Act;

"authorized officer" means the person appointed under Section 10 of the Act for the purposes of these Regulations;

"bulk carrier" means a ship which is constructed generally with a single deck, top side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk and includes such types as ore carriers and combination carriers;

"cargo handling facility" means a common user facility with cargo handling facilities licensed to offer services for handling and temporary storage of import and export laden containers, and motor vehicles under customs control and includes—

- (a) container freight stations (CFS); or
- (b) inland container depot (ICD); or
- (c) empty container handling and storage depot;

"certificate" means an International Ship Security Certificate (ISSC) or an Interim International Ship Security Certificate issued with accordance with regulation 45 and 50 respectively;

"chemical tanker" means a cargo ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983, as amended and "IBC Code" shall be construed accordingly;

"company" means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed responsibility for the 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 chapter XI-2 of the Safety Convention, the International Ship & Port Facility Code and these Regulations;

"company security officer" means the person designated by the Company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained and for liaison with port facility security officers and the ship security officer;

"Contracting Government" means the government of a state which is Party to the Safety Convention and includes an administration;

"declaration of security" means an agreement reached between a ship and either a port facility or another ship with which it interfaces specifying the security measures each will implement;

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"enforcement order" means an order issued by the Director- General prohibiting or restricting certain action by a person named in the enforcement order or requiring the person named in the enforcement order to take specified action;

"gas carrier" means a cargo ship constructed or adapted for carriage in bulk of any liquefied gas or other liquid product listed in chapter 19 of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, 1983, as amended, and "IGC Code" shall be construed accordingly;

"high speed craft" means a vessel capable of a maximum speed in metres per second (m/s) equal to or exceeding:

$$3.7 \nabla^{0.1667}$$

Where—

$\nabla$  = displacement corresponding to the design waterline (m), excluding craft the hull of which is supported completely clear above the water surface in non-displacement mode by aerodynamic forces generated by ground effect;

"internal waters", in relation to Kenya, means Kenyan waters landward of the baselines for measuring the breadth of its territorial sea;

"International Ship and Port Facility Security (ISPS) Code" means the International Code for the Security of Ships and of Port Facilities, 2002, as amended;

"Kenyan waters" means—

- (a) the internal waters;
- (b) the territorial sea; and
- (c) the waters of the exclusive economic zone;

"maritime security" means the combination of preventive measures intended to protect persons, cargo, ships stores, shipping and port facilities against threats of intentional unlawful acts;

"mobile offshore drilling unit" means a vessel capable of engaging in drilling operations for the exploration for, or exploitation of, resources beneath the seabed such as liquid or gaseous hydrocarbons, sulphur or salt;

"oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes—

- (a) a combination carrier;
- (b) a chemical tanker when it is carrying a cargo or part cargo of oil in bulk; and
- (c) a gas carrier when it is carrying a cargo or part cargo of oil in bulk;

"port facility security plan" means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship's stores within the port facility from the risks of a security incident;

"port facility security officer" means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers;

"port facility" means a location, as determined by the Authority or any relevant legislation where the ship or port interface takes place;

"port" means an area of water or land and water (including oil or gas installations or equipment situated in or on that water), intended for use either wholly or partly in connection with the movement, loading, unloading, maintenance, or provisioning of ship and includes—

- (a) areas of water, between the land of the port and the open waters outside the port, intended for use by ships to gain access to loading, unloading or other land based facilities; or
- (b) areas of open water, intended for anchoring or otherwise holding ships before they enter areas of water described in paragraph (a);

"port facility operator" includes all persons entrusted with the function of managing and maintaining a port facility;

"port facility security assessment" means an assessment of the security of a port facility carried out in accordance with regulation 47;

"port facility security evaluation" means an evaluation to determine whether a port facility is required to comply with Part VIII of these Regulations;

"port service provider" means a person, in Kenya, engaged in the business of providing services of port facility, quay side, warehouse or other terminal facilities in connection with a common carrier or a water carrier and includes the following—

- (a) commercial vessel operators, including lighter or barge operators;
- (b) cargo handling operators;
- (c) tug operators;
- (d) towage and salvage operators; and
- (e) any person who provides any of the following port service—
  - (i) offshore provisioning of ships;
  - (ii) offshore transshipment of persons, or goods; and
  - (iii) offshore ship repairer;

"port service provider security officer" means the person designated by the port service provider as responsible for the development, implementation, revision and maintenance of the port service provider security plan and for liaison with the ship security officer, port facility security officer and the company security officer, as applicable;

"recognized security organization" means an organization with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorized to carry out an assessment, or verification, or an approval or a certification activity required under these Regulations;

"restricted area" means an area to which access is restricted for security reasons pursuant to these Regulations;

"Safety Convention" means the International Convention for safety of Life at Sea (SOLAS) 1974, as amended;

"security level" means the qualification of the degree of risk that a security incident will be attempted or will occur;

"security incident" include any of the following incidents—

- (a) the introduction of weapons, explosives or security prohibited items into the port facility or aboard a ship adjacent to a port facility;
- (b) the infiltration of terrorists or hostile persons into the port facility or aboard a ship adjacent to port facility;
- (c) the destruction of, damage to, or tampering with port facility property or ships or cargo within or adjacent to the port facility;
- (d) non accidental death or personal injury within the port facility or aboard ships adjacent to the port facility; and
- (e) the unauthorized breach of the ship-to-port interface,

"security threat" means any breaches of security or occurrence of security threats;

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"security level 1" means the level for which minimum appropriate protective security measures shall be maintained at all times;

"security level 2" means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident;

"security level 3" means the level for which further specific protective security measures shall be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target;

"ship" includes mobile offshore drilling units and high-speed craft;

"ship to ship" activity means any activity between ships that involves the transfer of goods or persons from one ship to another;

"ship or port interface" means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship;

"ship security plan" means a plan developed to ensure the application of measures on board the ship designed to protect persons on board, cargo, cargo transport units, ship's stores or the ship from the risks of a security incident;

"ship security officer" means the person on board the ship, accountable to the master, designated by the Company as responsible for the security of the ship, including implementation and maintenance of the ship security plan and for liaison with the company security officer and port facility security officers;

"short international voyage" means an international voyage in the course of which a ship is not more than 200 nautical miles from a port or place in which the passenger and crew could be placed in safety; and

"tons" means gross tonnage.

### 3. Application

(1) These Regulations apply to—

- (a) the following types of ships engaged on international voyages—
  - (i) passenger ships, including high-speed passenger craft;
  - (ii) cargo ships, including high-speed craft of over 50 tons; and
  - (iii) ships of more than 50 tons trading exclusively in Kenyan waters that interface with ships referred to under paragraphs (i) and (ii) and port facilities to which these Regulations apply;
- (b) mobile offshore drilling units;
- (c) port facilities serving ships referred to under subregulation (1)(a); and
- (d) port facilities which are used primarily by ships not engaged on international voyages but which occasionally serve ships arriving or departing on international voyages.

(2) Part V of these Regulations shall only apply to port facilities referred to in subregulations (1)(c) and (1)(d).

(3) Part VII of these Regulations shall only apply to port facilities used exclusively by ships not engaged on international voyages and private jetties to which a notice of compliance is issued by the Director General.

(4) Part VIII of these Regulations shall only apply to any cargo handling facility used for storage or handling of containerized cargo units and motor vehicles under customs control.

(5) A notice of compliance referred to in subregulation (3) shall be issued to a port facility or a private jetty after a security evaluation has been conducted by the Authority in accordance with regulation 77 and the notice shall specify the extent of application of Part

VII and any other relevant provisions of these Regulations to such port facilities and private jetties.

(6) A notice under subregulation (3) shall not compromise the level of security intended to be provided by these Regulations.

#### **4. Exemptions**

These Regulations do not apply to—

- (a) ships of less than 50 tons;
- (b) fishing vessels regulated under the regulations made by the Cabinet Secretary pursuant to section 260 and section 450(1)(a)(b) and (c) of the Act;
- (c) warships and naval auxiliaries;
- (d) other ships owned or operated by parties to the Safety Convention and used only on Government non-commercial service; or
- (e) port facilities, jetties and cargo handling and storage facilities operated by the government for non-commercial purposes.

#### **PART II – SPECIAL MEASURES TO ENHANCE MARITIME SECURITY**

#### **5. Responsibilities of the Director General**

(1) Without prejudice to any other duties under these Regulations the Director-General shall—

- (a) in accordance with regulation 8 set security levels and ensure the provision of security level information to port facilities within Kenya;
- (b) in accordance with regulation 8 set security levels and ensure the provision of security level information to ships prior to entering a port or whilst in a port within Kenya;
- (c) when changes in security level occur, update security level information as the circumstances require;
- (d) determine which of the port facilities located within Kenya are required to designate a port facility security officer;
- (e) determine which of the port service providers are required to prepare port service provider security plans;
- (f) approve ship security plans and any subsequent amendments to a previously approved plan;
- (g) approve the port facility security plan and any subsequent amendments to a previously approved plan;
- (h) approve port service provider and cargo handling and storage facility security plans and any subsequent amendments to a previously approved plan;
- (i) exercise control and compliance measures over ships intending to enter any ports in Kenya; and
- (j) serve as a contact point for Kenya and to other States and to facilitate follow up and disseminate information on the application of the maritime security measures laid down in these Regulations.

(2) The Director-General may, subject to Part X delegate to a security organization his duties under these Regulations, except—

- (a) setting of the applicable security level for port facilities or ship to ship interface in Kenyan waters;
- (b) approving a port facility security assessment and subsequent amendments to an approved assessment;
- (c) determining the port facilities which will be required to designate a port facility security officer;

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- (d) approving a port facility security plan and subsequent amendments to an approved plan;
- (e) approving port service providers security assessments and security plans;
- (f) exercising control and compliance measures pursuant to regulations 22, 23 and 24; and
- (g) establishing the requirements for a declaration of security.

**6. Requirements, obligations and specific responsibilities of companies**

Companies shall—

- (a) comply with the relevant requirements of these Regulations, taking into account the guidance given in the Second Schedule which incorporates Part B of the ISPS Code and such compliance shall be verified and certified by the Authority as provided for under these Regulations;
- (b) ensure that the ship security plan contains a clear statement emphasizing the master's authority;
- (c) establish in the ship security plan that the master has the overriding authority and responsibility to make decisions with respect to the safety and security of the ship and to request the assistance of the company or of any administration as may be necessary;
- (d) ensure that the company security officer, the master and the ship security officer are given the necessary support to fulfil their duties and responsibilities as required under these Regulations;
- (e) ensure that the master has available on board, at all times, information through which an authorized officer can establish—
  - (i) who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship;
  - (ii) who is responsible for deciding the employment of the ship; and
  - (iii) in cases where the ship is employed under the terms of charterparty, who are the parties to such charterparty.

**7. Requirements for ship owners and masters**

All shipowners and masters shall —

- (a) ensure that prior to entering a port or whilst in a port within Kenya, a ship complies with the relevant requirements of these Regulations, taking into account the guidance given in the Second Schedule and such compliance shall be verified and certified by the Authority;
- (b) that ships shall respond without undue delay to any change to a higher security level; and
- (c) where a ship is not in compliance with the requirements of these regulations or cannot comply with the requirements of the security level set by the Authority or the administration for that ship and applicable to that ship, then the ship shall notify the appropriate competent authority prior to conducting any ship or port interface or prior to entry into port, whichever occurs earlier.

**8. Threats to ships**

(1) The Director-General shall set maritime security levels and in setting the security levels, the Director-General may consult the Maritime Security Committee established under the National Security Council Regulations, 2014 or any other applicable law.

(2) The Director-General shall ensure the provision of maritime security level information to ships operating in or having communicated an intention to enter Kenyan waters.



(3) The Director-General shall provide a point of contact through which such ships can request advice or assistance and to which such ships can report any security concerns about other ships, movements or communications.

(4) Where a security threat has been identified, the Director-General shall advise the ships concerned and their administrations of—

- (a) the current security level;
- (b) any security measures that should be put in place by the ships concerned to protect themselves from security threat, in accordance with the provisions of these regulations; and
- (c) security measures that the Director-General has put in place, as appropriate.

### **9. Master's discretion for safety and security**

(1) The master shall not be prevented by the company, the charterer or any other person from taking or executing any decision which, in the professional judgement of the master, is necessary to maintain the safety and security of the ship which shall include but not limited to denial of access to persons or their effects and refusal to load cargo, including containers or other closed cargo transport units.

(2) If, in the professional judgement of the master, a conflict between any safety and security requirements applicable to the ship arises during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship. In such cases, the master may implement temporary security measures and shall forthwith inform the administration, and, if appropriate, the Authority. Any such temporary security measures under this regulation shall, to the highest possible degree, be commensurate with the prevailing security level. When such cases are identified, the Authority shall ensure that such conflicts are resolved and that the possibility of recurrence is minimized.

### **10. Requirements for port facility operators**

(1) Port facility operators shall comply with the relevant requirements of these Regulations taking into account the guidance given in the Second Schedule.

(2) The Director-General shall ensure that—

- (a) port facility security assessments are carried out, reviewed and approved in accordance with the provisions of these Regulations; and
- (b) port facility security plans are developed, reviewed, approved and implemented in accordance with the provisions of these Regulations.

(3) The Director-General shall designate and communicate the measures required to be addressed in a port facility security plan for the various security levels, including when the submission of a declaration of security shall be required.

### **11. Alternative security agreements**

(1) The Authority may, when implementing these Regulations conclude in writing bilateral or multilateral agreements with other administrations on alternative security arrangements covering short international voyages on fixed routes between port facilities located within their territories.

(2) Any such agreement shall not compromise the level of security of other ships or of port facilities not covered by the agreement.

(3) A ship covered by such an agreement shall not conduct any ship-to-ship activities with any ship not covered by the agreement.

(4) Such agreements shall be reviewed periodically, taking into account the experience gained as well as any changes in the particular circumstances or the assessed threats to the security of the ships, the port facilities or the routes covered by the agreement.

### **12. Equivalent security arrangements**

(1) The Authority may allow a particular ship or a group of ships entitled to fly the Kenyan flag to implement other security measures equivalent to those prescribed in these

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Regulations, provided such security measures are at least as effective as those prescribed in these Regulations.

(2) When implementing these Regulations, the Authority may allow a particular port facility or a group of port facilities located in Kenya, other than those covered by an agreement concluded under regulation 11 to implement security measures equivalent to those prescribed in these Regulations, provided such security measures are at least as effective as those prescribed in these Regulations.

### **13. Notification**

The Authority shall notify the organization of any security measures taken under regulation 11 and 12.

## **PART III – SHIP SECURITY**

### **Ship Security Levels and Security Directions**

#### **14. Ship security**

All ships shall act upon the security levels in the manner set out in this Part, thus—

- (a) all foreign ships shall act upon the security levels set by the administration prior to entering a port within Kenya and whilst in a port within Kenya; and
- (b) all Kenyan ships to which these Regulations apply shall act upon the security levels set by the Authority prior to entering a port within Kenya and whilst in a port within Kenya.

#### **15. Ship security levels**

All ships shall at all times maintain the relevant security levels 1, 2 and 3 as set out in regulations 16, 17 and 18.

#### **16. Ship security level 1**

At security level 1, the following activities shall be carried out, through appropriate measures, on all ships, taking into account the guidance given in the Second Schedule in order to identify and take preventive measures against security incidents—

- (a) ensuring the performance of all ship security duties;
- (b) controlling access to the ship;
- (c) controlling the embarkation of persons and their effects;
- (d) monitoring restricted areas to ensure that only authorized persons have access;
- (e) monitoring of deck areas and areas surrounding the ship;
- (f) supervising the handling of cargo and ship's stores; and
- (g) ensuring that security communication is readily available.

#### **17. Ship security level 2**

At security level 2, the additional protective measures, specified in the ship security plan, shall be implemented for each activity detailed in regulation 16, taking into account the guidance given in the Second Schedule.

#### **18. Ship security level 3**

At security level 3, further specific protective measures, specified in the ship security plan, shall be implemented for each activity detailed in regulation 16, taking into account the guidance given in the Second Schedule.

#### **19. Additional requirements for ship security levels**

(1) Whenever security level 2 or 3 is set by the Authority, the ship shall acknowledge receipt of the instructions on change of the security level.

(2) Prior to entering a port or whilst in a port within Kenya that has set security level 2 or 3, the ship shall acknowledge receipt of this instruction and shall confirm to the port facility security officer the initiation of the implementation of the appropriate measures and procedures as detailed in the ship security plan, and in the case of security level 3, in instructions issued by the Authority, and the ship shall report any difficulties in implementation of any such additional measures, in which case, the port facility security officer and ship security officer shall liaise and co-ordinate the appropriate actions.

(3) If a ship is required by the Authority or an administration to set, or is already at, a higher security level than that set for the port it intends to enter or in which it is already located, then the ship shall advise, without delay, the Authority and the port facility security officer of the situation and in such cases, the ship security officer shall liaise with the port facility security officer and co-ordinate appropriate actions, if necessary.

(4) An administration requiring ships entitled to fly its flag to set security level 2 or 3 in a port within Kenya shall inform the Authority without delay.

(5) The Authority shall ensure the provision of security level information to ships operating in Kenya's territorial sea, or having communicated an intention to enter Kenya's territorial sea. Such ships shall be advised to maintain vigilance and report immediately to their administration and any nearby coastal States any information that comes to their attention that might affect maritime security in the area.

(6) When advising ships of the applicable security level, the Authority shall, taking into account the guidance given in the Second Schedule, advise those ships of any security measure that they should take and, if appropriate, of measures that have been taken by the Authority to provide protection against the threat.

#### ***Ship Security Assessment and Ship Security Plans***

### **20. Ship security assessment**

(1) Ship owners shall undertake ship security assessment and develop and update, as appropriate, the ship security plan.

(2) The company security officer shall ensure that the ship security assessment is undertaken only by recognized security organizational and actual assessment carried out by persons with appropriate skills to evaluate the security of a ship, in accordance with this regulation, taking into account the guidance given in the Second Schedule.

(3) Subject to the provisions of regulation 21 (4), a recognized security organization may carry out the ship security assessment of a specific ship.

(4) The ship security assessment shall include an on-scene security survey and, at least, the following elements—

- (a) identification of existing security measures, procedures and operations;
- (b) identification and evaluation of key ship board operations that it is important to protect;
- (c) identification of possible threats to the key ship board operations and the likelihood of their occurrence, in order to establish and prioritize security measures; and
- (d) identification of weaknesses, including human factors in the infrastructure, policies and procedures.

(5) The ship security assessment shall be documented, reviewed, accepted and retained by the company.

### **21. Ship security plan**

(1) Each ship shall carry on board a ship security plan approved by the Authority or an administration.

(2) The plan shall make provisions for the three security levels as defined in regulations 16, 17 and 18.

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(3) Subject to the provisions of subregulation (4), a recognized security organization may prepare the ship security plan for a specific ship.

(4) The Authority may entrust the review and approval of ship security plans or of amendments to a previously approved plan to recognized security organizations. In such cases, the recognized security organization undertaking the review and approval of a ship security plan or its amendments, for a specific ship, shall not have been involved in either the preparation of the ship security assessment or of the ship security plan or of the amendments under review.

(5) The submission of a ship security plan or of amendments to a previously approved plan for approval shall be accompanied by the security assessment on the basis of which the plan or the amendments have been developed.

(6) Such a plan shall be developed, taking into account the guidance given in the Second Schedule and shall be written in the working language or languages of the ship. If the language or languages used is not English a translation into English shall be included.

(7) The plan shall address, *inter alia*,—

- (a) measures designed to prevent weapons, dangerous substances and devices intended for use against persons, ships or ports and the carriage of which is not authorized from being taken on board the ship;
- (b) identification of the restricted areas and measures for the prevention of unauthorized access to them;
- (c) measures for the prevention of unauthorized access to the ship;
- (d) procedures for responding to security threats or breaches of security, including provisions for maintaining critical operations of the ship or ship/port interface;
- (e) procedures for responding to any security instructions given by the Authority or an administration,
- (f) procedures for evacuation in case of security threats or breaches of security;
- (g) duties of shipboard personnel assigned security responsibilities and of other shipboard personnel on security aspects;
- (h) procedures for auditing the security activities;
- (i) procedures for training, drills and exercises associated with the plan;
- (j) procedures for interfacing with port facility security activities;
- (k) procedures for the periodic review of the plan and for updating;
- (l) procedures for reporting security incidents;
- (m) identification of the ship security officer;
- (n) identification of the company security officer including 24-hour contact details;
- (o) procedures to ensure the inspection, testing, calibration, and maintenance of any security equipment provided on board;
- (p) frequency for testing or calibration of any security equipment provided on board;
- (q) identification of the locations where the ship security alert system activation points are provided;
- (r) procedures, instructions and guidance on the use of the ship security alert system, including the testing, activation, deactivation and resetting and to limit false alerts; and
- (s) subject to paragraph (q) and (r), the ship security plan may provide that the information on the ship security alarm system shall be included in a separate document that shall be kept in location on board known only to the master, the ship security officer and other senior shipboard personnel identified by the company.

(8) Personnel conducting internal audits of the security activities specified in the plan or evaluating its implementation shall be independent of the activities being audited unless this is impracticable due to the size and the nature of the company or of the ship.

(9) The Authority shall determine which changes to an approved ship security plan or to any security equipment specified in an approved plan shall not be implemented unless the relevant amendments to the plan are approved by the Authority or an administration. Any such changes shall be at least as effective as those measures prescribed in subregulation (7).

(10) The nature of the changes to the ship security plan or the security equipment that have been specifically approved by the Authority or an administration under this subregulation shall be documented in a manner that clearly indicates such approval, and the approval shall be available on board and shall be presented together with the International Ship Security Certificate or the Interim International Ship Security Certificate, and if these changes are temporary, once the original approved measures or equipment are reinstated, this documentation no longer needs to be retained by the ship.

(11) The plan may be kept in an electronic format and that in case, it shall be protected by procedures aimed at preventing its unauthorized deletion, destruction or amendment.

(12) The plan shall be protected from unauthorized access or disclosure.

(13) Ship security plans are not subject to inspection by officers duly authorized by an administration or the Authority, as appropriate, to carry out control and compliance measures in accordance with regulations 22, 23 and 24, save in circumstances specified in subregulation (14).

(14) If the officers duly authorized by an administration or the Authority, as appropriate, have clear grounds to believe that the ship is not in compliance with the requirements of these regulations, and the only means to verify or rectify the non-compliance is to review the relevant requirements of the ship security plan, limited access to the specific sections of the plan relating to the non-compliance is exceptionally allowed, but only with the consent of an administration or the Authority, or the master of, the ship concerned.

(15) Nevertheless, the provisions in the plan relating to subregulation (7)(b), (d), (e), (g), (o), (q) and (r) are considered as confidential information, and cannot be subject to inspection unless otherwise agreed by the administrations concerned.

(16) Where a master fails to maintain and implement a ship security plan, he commits an offence and shall on conviction be liable to a fine of a sum not exceeding Kenya shillings fifty thousand for each day of violation or imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(17) Where a master of a ship is convicted under subregulation (16) the authorised officer shall seize and detain the ship and until such time as the ship owner provides on board the original ship security plan duly approved by the ship's Flag State.

(18) The ship security plan shall indicate the operational and physical measures the ship itself shall take to ensure that it always operated at security level 1. The Ship Security Plans shall also indicate the additional security measures the ship itself shall take to operate at security levels 2 or 3 when instructed to do so.

(19) Where the master of a foreign ship fails to implement and maintain operational security measures as required in its ship security plan while within a regulated port in Kenya, the master commits an offence and shall on conviction be liable to a fine not exceeding a sum of Kenya shillings fifty thousand for every day of violation or imprisonment for a term not exceeding six months or to both.

(20) Where the master of a Kenyan ship fails to implement and maintain operational security measures as required in its ship security plan while within a regulated port in Kenya, the master commits an offence and shall on conviction be liable to a fine not exceeding a sum of Kenya Shillings fifty thousand for every day of violation or imprisonment for a term not exceeding six months or to both.

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**Control and Compliance Measures****22. Control of ships in port**

(1) For the purpose of these Regulations—

- (a) every Kenyan ship shall be subject to flag state control while within a port in Kenya; and
- (b) all foreign ships shall be subject to port state control while within a port in Kenya.

(2) Port State control and flag state implementation shall be limited to verifying that there is onboard a valid International Ship Security Certificate or a valid Interim International Ship Security Certificate issued under these Regulations, which if valid, shall be accepted, unless there are clear grounds for believing that the ship is not in compliance with the requirements of these Regulations or equivalent legislation while within a foreign port.

(3) When there are such clear grounds referred to in sub-regulation (2), or where no valid Certificate is produced when required, the authorized officers shall impose any one or more control measures listed in subregulation (4) in relation to that ship, and such measures imposed must be proportionate, taking into account the guidance given in the Second Schedule. Such measures include—

- (a) inspection of the ship; or
- (b) delaying the ship; or
- (c) detention of the ship; or
- (d) restriction of operations including movement of the ship within the port; or
- (e) expulsion of the ship from port.

Provided that such control measures may additionally or alternatively include other lesser administrative or corrective measures.

**23. Ships intending to enter a port within Kenya**

(1) For the purpose of these Regulations, the Authority shall require ships intending to enter a port within Kenya to provide the information set out in this subregulation to authorized officers to ensure compliance with these Regulations prior to entry into port with the aim of avoiding the need to impose control measures referred to in regulation 21 (4) (a) to (d)—

- (a) that the ship possesses a valid Certificate and the name of its issuing authority;
- (b) the security level at which the ship is currently operating;
- (c) the security level at which the ship operated in any previous port where it has conducted a ship or port interface within the timeframe specified in subregulation (2);
- (d) any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship or port interface within the timeframe specified in subregulation (2);
- (e) that the appropriate ship security procedures were maintained during any ship to ship activity within the timeframe specified in subregulation (2); or
- (f) other practical security related information, taking into account the guidance given in the Second Schedule.
- (g) other practical security related information that may assist with ensuring the safety and security of persons, port facilities, ships and other property including—
  - (i) information contained in the Continuous Synopsis Record;
  - (ii) location of the ship at the time the report is made;
  - (iii) expected time of arrival of the ship in port;
  - (iv) crew list;

- (v) general description of cargo aboard the ship;
- (vi) passenger list; and
- (vii) information required to be carried under regulation 6(1)(e).

(2) The ship shall keep records of the information referred to in subregulation (1) for the last ten calls at port facilities.

(3) If, after receipt of the information described in subregulation (1), an authorized officer has clear grounds for believing that the ship is in non-compliance with the requirements of this regulation, such officer shall attempt to establish communication with and between the ship and the administration in order to rectify the non-compliance, and if such communication does not result in rectification, or if such officer has clear grounds otherwise for believing that the ship is in non-compliance with the requirements of this regulations, such officers may take steps in relation to that ship as provided in subregulation (4) and any such steps taken shall be proportionate, taking into account the guidance given in the Second Schedule.

(4) The steps referred to in subregulation (3) include, *inter alia*,—

- (a) a requirement for the rectification of the non-compliance;
- (b) a requirement that the ship proceed to a location specified in Kenya's territorial sea or internal waters;
- (c) inspection of the ship, if the ship is in Kenya's territorial sea the port of which the ship intends to enter; or
- (d) denial of entry into port.

(5) Prior to initiating the steps, set out in subregulation (4) the officer shall inform the master of the ship accordingly, and upon this information the master may withdraw the intention to enter that port, in which cases, this regulation shall not apply.

#### 24. Additional measures

(1) In the event of—

- (a) the imposition of a control measure, other than a lesser administrative or corrective measure, referred to in regulation 22 (4); or
- (b) any of the steps referred to in regulation 23(4),

the authorized officer shall forthwith inform the administration, in writing, specifying which control measures have been imposed or steps taken and the reasons thereof, and shall also notify the recognized security organization, which issued the International Ship Security Certificate or the Interim International Ship Security Certificate relating to the ship concerned and when any such control measures have been imposed or steps taken.

(2) When entry into port within Kenya is denied or the ship is expelled from such a port, the Authority shall communicate the appropriate facts to the administration of the State of the next port of call, when known, and any other appropriate coastal States ensuring confidentiality and security of such notification.

(3) Denial of entry into port, pursuant to regulations 23(4) (d), or expulsion from port, pursuant to regulation 22(3) (e), shall only be imposed where the authorized officer has clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat.

(4) The control measures referred to in regulation 22(3) and the steps referred to in regulation 23(4) shall only be imposed, pursuant to this regulation, until the non-compliance giving rise to the control measures or steps has been corrected to the satisfaction of the Authority, taking into account actions proposed by the ship or the Authority, if any.

(5) When the Authority exercises control measures in respect of a ship under these regulations, necessary access to the ship shall not be prevented for emergency or humanitarian reasons and for security purposes.

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**Ship Security Personnel****25. Company security officer**

(1) A company shall designate a suitably qualified person to be a company security officer.

(2) A person designated as a company security officer may act as the company security officer for one or more ships, depending on the number or types of ships a company operates provided it is clearly identified for which ships the company security officer is responsible for.

(3) A company may, depending on the number or types of ships they operate, designate several persons as company security officers provided it is clearly identified for which ships each company security officer is responsible for.

(4) In addition to those specified elsewhere in these Regulations, the duties and responsibilities of the company security officer shall include, *inter alia*,—

- (a) advising the level of threats likely to be encountered by the ship, using appropriate security assessments and other relevant information;
- (b) ensuring that ship security assessments are carried out;
- (c) ensuring the development, the submission for approval, and thereafter the implementation and maintenance of the ship security plan;
- (d) ensuring that the ship security plan is modified, as appropriate, to correct deficiencies and satisfy the security requirements of the individual ship;
- (e) arranging for internal audits and reviews of security activities;
- (f) arranging for the initial and subsequent verifications of the ship by the administration or the recognized security organization;
- (g) ensuring that deficiencies and non-conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance are promptly addressed and dealt with;
- (h) enhancing security awareness and vigilance;
- (i) ensuring adequate training for personnel responsible for the security of the ship;
- (j) ensuring effective communication and co-operation between the ship security officer and the relevant port facility security officers;
- (k) ensuring consistency between security requirements and safety requirements;
- (l) ensuring that, if sister-ship or fleet security plans are used, the plan for each ship reflects the ship-specific information accurately; and
- (m) ensuring that any alternative or equivalent arrangements approved for a particular ship or group of ships are implemented and maintained.

**26. Ship security officer**

(1) A company shall designate a ship security officer on each of its ships.

(2) In addition to duties those specified elsewhere in these Regulations, the duties and responsibilities of a ship security officer shall include, *inter alia*,—

- (a) undertaking regular security inspections of the ship to ensure that appropriate security measures are maintained;
- (b) maintaining and supervising the implementation of the ship security plan, including any amendments to the plan;
- (c) co-ordinating the security aspects of the handling of cargo and ship's stores with other shipboard personnel and with the relevant port facility security officers;
- (d) proposing modifications to the ship security plan;



- (e) reporting to the company security officer any deficiencies and non-conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance and implementing any corrective actions;
- (f) enhancing security awareness and vigilance on board;
- (g) ensuring that adequate training has been provided to shipboard personnel, as appropriate;
- (h) reporting all security incidents;
- (i) co-ordinating implementation of the ship security plan with the company security officer and the relevant port facility security officer; and
- (j) ensuring that security equipment is properly operated, tested, calibrated and maintained, if any.

## **27. Records**

(1) The master shall keep on board the ship records of the following activities addressed in the ship security plan for at least twelve months—

- (a) training, drills and exercises;
- (b) security threats and security incidents;
- (c) breaches of security;
- (d) changes in security level;
- (e) communications relating to the direct security of the ship such as specific threats to the ship or to port facilities the ship is, or has been;
- (f) internal audits and reviews of security activities;
- (g) periodic review of the ship security assessment;
- (h) periodic review of the ship security plan;
- (i) implementation of any amendments to the plan; and
- (j) maintenance, calibration and testing of any security equipment provided on board including testing of the ship security alert system.

(2) The records shall be kept in the working language of the ship, and where that language is not English a translation into English shall be included.

(3) The records may be kept in an electronic format, in which case, they shall be protected by procedures aimed at preventing their unauthorized deletion, destruction or amendment.

(4) All records shall be protected from unauthorized access or disclosure.

(5) If a master of a ship fails to maintain the security records required under subregulation (1), he commits an offence and shall on conviction be liable to a fine not exceeding a sum of Kenya Shillings two hundred thousand or imprisonment for a term not exceeding six months, or to both such fine or imprisonment.

## **28. Training, drills and exercises on ship security**

(1) The company security officer and appropriate shore-based personnel shall have knowledge and have received training, taking into account the guidance given in the Second Schedule.

(2) The ship security officer shall have knowledge and have received training, taking into account the guidance given in in the Second Schedule.

(3) Shipboard personnel having specific security duties and responsibilities shall understand their responsibilities for ship security as described in the ship security plan and shall have sufficient knowledge and ability to perform their assigned duties, taking into account the guidance given in in the Second Schedule.

(4) To ensure the effective implementation of the ship security plan, drills shall be carried out at appropriate intervals taking into account the ship type, ship personnel changes, port

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facilities to be visited, other relevant circumstances and guidance given in in the Second Schedule.

(5) The company security officer shall ensure the effective coordination and implementation of ship security plans by participating in exercises at appropriate intervals, taking into account the guidance given in in the Second Schedule.

(6) Failure by a master of a ship to conduct scheduled security drills required under subregulation (4) shall be an administrative violation punishable by a fine of a sum of Kenya shillings ten thousand for each day of the violation and the seizure and detention of the offending ship until the accruing fine is paid in full.

***Ship Security Alert System*****29. Ship security alert system**

(1) All ships of the following descriptions shall be provided with a ship security alert system—

- (a) ships constructed on or after the 1st July, 2004;
- (b) passenger ships, including high-speed passenger craft, constructed before the 1st July, 2004, not later than the first survey of the radio installation after the 1st July, 2004;
- (c) oil tankers, chemical tankers, gas carriers, bulk carriers and high speed craft, of 500 gross tonnage and upwards constructed before the 1st July, 2004, not later than the first survey of the radio installation after the 1st July, 2004;
- (d) cargo ships of 500 tons and upwards and mobile offshore drilling units constructed before the 1st July, 2004, later than the first survey of the radio installation after 1st July, 2006; and
- (e) other cargo ships of more than 100 gross tonnage but less than 500 gross tonnage.

(2) The security alert system, when activated, shall be so as—

- (a) to initiate and transmit a ship-to-shore security alert to a competent authority designated by the Director-General, which in the circumstances may include the company, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised;
- (b) not to send any security alert to any other ships;
- (c) not to raise any alarm on-board the ship; and
- (d) to continue the ship security alert until deactivated or reset.

(3) The security alert system shall—

- (a) be capable of being activated from the navigation bridge and in at least one other location; and
- (b) conform to performance standards not inferior to those adopted by the Organization.

(4) The ship security alert system activations points shall be designed so as to prevent the inadvertent initiation of the ship security alert.

(5) The requirement for a ship security alert system may be complied with by using the radio installation fitted, for compliance with the regulations relating to radio communication, provided that-

- (a) the radio system used for a ship security alert system shall comply with all the requirements of subregulations (2) and (3);
- (b) the activation points of a ship security alert system shall operate independently of the radio system so that transmission of a security alert does not require any adjustment of the radio system, such as the tuning of channels or the setting of modes or menu options;

- (c) the operation of a ship security alert system shall not impair the functionality of the Global Maritime Distress and Safety System (GMDSS) installation; and
- (d) if the ship security alert system is powered from the vessel's main source of electrical power, it shall also be possible to operate the system from another source of power.

(6) When the Director-General receives notification of a ship security alert relating to a Kenyan ship he shall immediately notify the State or States in the vicinity of which the ship is presently operating.

(7) When the Director-General receives notification of a ship security alert from a ship which is not entitled to fly the Kenyan flag he shall immediately notify the relevant administration and, if appropriate, the State or States in the vicinity of which the ship is presently operating.

(8) Any contravention of subregulations (1) to (5) of this regulation shall be an offence by both the company and the master.

(9) Failure by the owner of a ship to which subregulation (1) applies to install and maintain a Ship Security Alert System shall be an administrative action punishable by a penalty of a sum of Kenya Shillings ten thousand for each day of violation and the seizure and detention of the ship by an authorized officer of until a Ship Security Alarm System is installed on board the ship

### **30. Automatic identification System and Long Range Identification and Tracking System**

(1) Ships of more than 50 tons but less than 300 tons and operated exclusively within Kenyan water, irrespective of the date of construction, shall be fitted with an automatic identification system as specified in safety of navigation Regulations made pursuant to section 227 of the Act.

(2) Failure by the owner of a ship to which subregulation (1) apply to install and maintain an Automatic Identification System shall be an administrative action punishable by a penalty of a sum of Kenya Shillings ten thousand for each day of violation and the seizure and detention of the ship by an authorized officer of until an Automatic Identification System is installed on board the ship.

(3) Ships of more than 500 tons, irrespective of the date of construction shall be fitted with long-range identification and tracking system.

(4) Failure by the owner of a ship to which subregulation (3) apply to install and maintain a Long Range Identification and Tracking System shall be an administrative action punishable by a penalty of a sum of Kenya Shillings twenty thousand for each day of violation and the seizure and detention of the ship by an authorized officer of until an Long Range Identification and Tracking System is installed on board the ship.

## **PART IV – VERIFICATION AND CERTIFICATION FOR SHIPS**

### **31. Verifications**

(1) Each ship to which these Regulations apply shall be subject to the following verifications—

- (a) an initial verification before the ship is put in service or before the certificate required under regulation 33(1) is issued for the first time, which shall include a complete verification of its security system and any associated security equipment covered by the relevant provisions of these Regulations and the approved ship security plan, which shall ensure that the security system and any associated security equipment of the ship fully complies with the applicable requirements of Part III of these Regulations, is in satisfactory condition and fit for the service for which the ship is intended;
- (b) an annual verification which shall ensure that the security system and any associated security equipment of the ship fully complies with the applicable

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requirements of Part III and the approved ship security plan, is in satisfactory condition and fit for the service for which the ship is intended;

- (c) If only one intermediate verification is carried out it shall take place between the second and third anniversary date of the certificate, and shall include inspection of the security system and any associated security equipment of the ship to ensure that it remains satisfactory for the service for which the ship is intended. Such intermediate verification shall be endorsed on the certificate;
- (d) renewal verification for upon the expiry of the International Ship Security Certificate issued under these regulations; and
- (e) any additional verifications as determined by the Authority.

(2) The verifications of ships shall be carried out by authorized officers, but the Authority however, entrust the verifications to a recognized security organization.

(3) Failure to meet the verification requirements under subregulation (1) by any Kenyan ship shall be an administrative violation punishable by revocation of the International Ship Security Certificate.

(4) Failure to meet the verification requirements under sub- regulation (1) by foreign ships while in Kenyan ports shall be an administrative violation punishable by seizure and detention of the ship until the conduct of the relevant verification and endorsement of the International Ship Security Plan by the flag State or its recognized organization.

### **32. Standard of verification**

The ship security system and any associated security equipment of the ship after verification shall be maintained to conform with the provisions of these regulations and the approved ship security plan, and after any verification under regulation 33(1) has been completed, no changes shall be made in the security system or any associated security equipment or the approved ship security plan without the approval of the Authority.

### **33. Issue and endorsement of certificate**

(1) An International Ship Security Certificate (ISSC) shall be issued after the initial or annual verification in accordance with the provisions of regulation 31(1) (a) or (d) respectively.

(2) An International Ship Security Certificate (ISSC) shall be issued or endorsed either by the Authority or by a recognized security organization acting on behalf of the Authority.

(3) The Authority may, at the request of an administration, cause the ship to be verified and, if satisfied that the provisions of Part III are complied with, shall issue or authorize the issuance of an ISSC to the ship and, where appropriate, endorse or authorize the endorsement of that certificate on the ship, in accordance with these regulations, and a copy of the certificate and a copy of the verification report shall be transmitted as soon as possible to the requesting administration.

(4) The Authority may request an administration to conduct a verification of a Kenyan ship, and, if that administration is satisfied that the provisions of the relevant equivalent legislation on ship security have been complied with, issue or authorize the issuance of an ISSC to the ship and, where appropriate, endorse or authorize the endorsement of that certificate on the ship, in accordance with the said equivalent legislation, and a copy of the certificate and a copy of the verification report shall be transmitted as soon as possible to the Authority.

(5) A certificate so issued under subregulation (3) or (4) shall contain a statement to the effect that it has been issued at the request of the administration or the Authority and it shall have the same force and receive the same recognition as the certificate issued by the administration or the Authority.

**34. Form and Validity of ISSC**

An ISSC issued under this Part shall be in the form set out as Form 1 in the First Schedule and shall be valid for a period of five years.

**35. Calculating the duration of the validity of an ISSC**

(1) When the renewal verification is completed within three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of expiry of the existing certificate.

(2) When the renewal verification is completed after the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of expiry of the existing certificate.

(3) When the renewal verification is completed more than three months before the expiry date of the existing certificate, the new certificate shall be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of completion of the renewal verification.

(4) Where a certificate is issued for a period of less than five years, the Authority may extend the validity of the certificate beyond the expiry date to the maximum period specified in subregulation (1), provided that the verifications referred to in regulation 31 applicable when a certificate is issued for a period of five years are carried out as appropriate.

(5) Where a renewal verification has been completed and a new certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Authority or recognized security organization acting on behalf of the Authority may endorse the existing certificate and such a certificate shall be accepted as valid for a further period which shall not exceed three months from the expiry date.

(6) Where a ship at the time when a certificate expires is not in a port in which it is to be verified, the Authority may extend the period of validity of the certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be verified, and then only in cases where it appears proper and reasonable to do so.

(7) No certificate shall be extended for a period longer than three months, and the ship to which an extension is granted shall not, on its arrival in the port in which it is to be verified, be entitled by virtue of such extension to leave that port without having a new certificate, and when the renewal verification is completed, the new certificate shall be valid to a date not exceeding five years from the expiry date of the existing certificate before the extension was granted.

(8) A certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this regulation may be extended by the Authority for a grace period of up to one month from the date of expiry stated on it, and when the renewal verification is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the renewal was granted.

**36. Calculating period of validity on the basis of intermediate verifications**

When an intermediate verification is completed before the period specified in regulation 31(1)(c)—

- (a) the expiry date shown on the certificate shall be amended by endorsement to a date which shall not be more than three years later than the date on which the intermediate verification was completed; and
- (b) the expiry date may remain unchanged, provided one or more additional verifications are carried out so that the maximum intervals between the verifications prescribed by regulation 35 are not exceeded.

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**37. Cancellation of ISSC**

A certificate issued under regulation 33 (1) shall cease to be valid if—

- (a) the relevant verifications are not completed within the periods specified under regulation 31(1);
- (b) the certificate is not endorsed in accordance with regulation 33, where applicable;
- (c) a company assumes the responsibility for the operation of a ship not previously operated by that company;
- (d) the ship is transferred to the flag of another State;
- (e) where the ship services a regulated ship that does not possess a valid ISSC.

**38. Obligation of the companies upon transfer of a ship's flag on ISSC**

When a company assumes responsibility for the operation of a ship not previously operated by it, the previous company shall as soon as possible, transmit to the company copies of any information related to the ISSC to facilitate the relevant verification described in regulation 31(1).

**39. Interim certification**

(1) The certificate specified in regulation 33 shall be issued only when the Authority or recognized security organization is satisfied that the ship complies with the provisions of Part III—

- (a) a ship without a certificate, on delivery or prior to its entry or re-entry into service;
- (b) transfer of a ship from the flag of an administration to the Kenyan flag;
- (c) transfer of a ship from the flag of a State which is not a party to the Safety Convention to the Kenyan flag; or
- (d) when a company assumes the responsibility for the operation of a ship not previously operated by that Company, until the certificate is issued, the Authority may issue an Interim ISSC which shall be in the form set out as Form 2 in the First Schedule.

(2) An Interim ISSC shall only be issued when the Authority has verified that—

- (a) the ship security assessment has been completed;
- (b) a copy of the ship security plan provided on board has been submitted for review and approval, and is being implemented on the ship;
- (c) the ship is provided with a ship security alert system;
- (d) the company security officer has—
  - (i) ensured—
    - (aa) the review of the ship security plan for compliance with these Regulations;
    - (bb) that the plan has been submitted for approval; and
    - (cc) that the plan is being implemented on the ship; and
  - (ii) established the necessary arrangements, including arrangements for drills, exercises and internal audits, through which the company security officer is satisfied that the ship will successfully complete the required verifications within 6 months;
- (e) arrangements have been made for carrying out the required verifications under regulation 31(1);
- (f) the master, the ship's security officer and other ship's personnel with specific security duties are familiar with their duties and responsibilities as specified in these Regulations and with the relevant provisions of the ship security plan

placed on board, and have been provided such information in the working language of the ship's personnel or languages understood by them; and

- (g) the ship security officer meets the requirements specified in these Regulations.

#### **40. Duration and validity of an Interim ISSC**

(1) An Interim ISSC shall be valid for 3 months, or until the certificate required by regulation 33 (1) is issued, whichever comes first, and may not be extended.

(2) The Authority or a recognized security organization shall not cause a subsequent, consecutive Interim International Ship Security Certificate to be issued to a ship if, in the judgment of the Authority or the authorized recognized security organization, one of the purposes of the ship or a company in requesting such certificate is to avoid full compliance with these Regulations beyond the period of the initial interim certificate.

### **PART V – PORT FACILITY SECURITY**

#### ***General Provisions***

#### **41. Application of Part**

This Part shall only apply to port facilities referred to in regulation 3(2).

#### **42. Port facility security**

(1) All port facilities within Kenya shall be required to act upon the security levels set out in regulation 44, 45 and 46.

(2) Security measures and procedures shall be applied at the port facility in such a manner as to cause minimum interference with, or delay to, passengers, ship, ship's personnel and visitors, goods and services.

#### **43. Port security levels**

There shall be designated three security levels set out in regulation 44, 45 and 46 at all ports within Kenya, relevant to the prevailing security situations.

#### **44. Port facility security level 1**

At security level 1, the following activities shall be carried out through appropriate measures in order to identify and take preventive measures against security incidents—

- (a) ensuring the performance of all port facility security duties;
- (b) controlling access to the port facility;
- (c) monitoring of the port facility, including anchoring and berthing area;
- (d) monitoring restricted areas to ensure that only authorized persons have access;
- (e) supervising the handling of cargo;
- (f) supervising the handling of ship's stores; and
- (g) ensuring that security communication is readily available.

#### **45. Port facility security level 2**

At security level 2, the additional protective measures, specified in the port facility security plan, shall be implemented for each activity detailed in regulation 48 taking into account the guidance given in the Second Schedule.

#### **46. Port Facility Security level 3**

(1) At security level 3, further specific protective measures, specified in the port facility security plan, shall be implemented for each activity detailed in regulation 48 taking into account the guidance given in the Second Schedule.

(2) In addition, to subregulation (1), at security level 3, port facilities shall be required to respond to and implement any security instructions given by the Authority.

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(3) When a port facility security officer is advised that a ship encounters difficulties in complying with the requirements of this Part or in implementing the appropriate measures and procedures as detailed in the ship security plan, and in the case of security level 3 following any security instructions given by the Authority, the port facility security officer and ship security officer shall liaise and co-ordinate appropriate actions.

(4) When a port facility security officer is advised that a ship is at a security level which is higher than that of the port facility, the port facility security officer shall report the matter to the Authority and shall liaise with the ship security officer and coordinate appropriate actions, if necessary.

#### Port Facility Security Assessment and Port Facility Security Plans

### 47. Port facility security assessment

(1) Every port facility in Kenya shall ensure that a port facility security assessment is conducted and a port facility security plan developed and updated whenever it is necessary.

(2) The port facility security assessment shall be carried out by the Authority.

(3) The Authority may authorize a recognized security organization to carry out the port facility security assessment of a specific port facility located within Kenya.

(4) When the port facility security assessment has been carried out by a recognized security organization, the security assessment shall be reviewed and approved for compliance with these Regulations by the Authority.

(5) The persons carrying out the assessment shall be required to possess appropriate skills to evaluate the security of the port facility in accordance with this section, taking into account the provisions of the Second Schedule.

(6) The port facility security assessments shall periodically be reviewed and updated, taking account of changing threats and minor changes in the port facility and shall always be reviewed and updated when major changes to the port facility take place.

(7) The port facility security assessment shall include, *inter alia*, the following elements—

- (a) identification and evaluation of important infrastructure it is important to protect;
- (b) identification of possible threats to the infrastructure and the likelihood of their occurrence, in order to establish and prioritize security measures;
- (c) identification, selection and prioritization of counter measures and procedural changes and their level of effectiveness in reducing vulnerability; and
- (d) identification of security weaknesses, including human factors, infrastructure, policies and procedures.

(8) The Authority may allow a port facility security assessment to cover more than one port facility if the operator, location, operation, equipment, and design of these port facilities are similar, and in the event the Authority allows such an arrangement, the Director-General shall communicate to the organization particulars thereof.

(9) Upon completion of the port facility security assessment, the port facility security officer shall prepare a report consisting of a summary of how the assessment was conducted, a description of each vulnerability found during the assessment and a description of counter measures that could be used to address each vulnerability, and such report shall be protected from unauthorized access or disclosure.

### 48. Port facility security plan

(1) A port facility security plan shall be developed and maintained, on the basis of a port facility security assessment, for each port facility, adequate for the ship or port interface. The plan shall make provisions for the three security levels, as defined in this Part.

(2) Subject to the provisions of subregulation (4), a recognized security organization may prepare the port facility security plan of a specific port facility.

(3) The port facility security plan shall be approved by the Authority.



(4) A port facility security plan shall be developed taking into account the guidance given in the Second Schedule and shall be in the English Language.

(5) The port facility security plan shall include, *inter alia*,—

- (a) measures designed to prevent weapons or any other dangerous substances and devices intended for use against persons, ships or ports and the carriage of which is not authorized, from being introduced into the port facility or on board a ship;
- (b) measures designed to prevent unauthorized access to the port facility, to ships moored at the facility, and to restricted areas of the facility;
- (c) measures to detect and deter threats to the port facility and shipping as a result of transport of containerized cargo;
- (d) procedures for responding to security threats or breaches of security, including provisions for maintaining critical operations of the port facility or ship or port interface;
- (e) the restricted areas within the port facility and measures for monitoring the security of the port facility;
- (f) procedures for responding to any security instructions the Authority may issue at security level 2 and 3;
- (g) procedures for evacuation in case of security threats or breaches of security;
- (h) procedures for provision of emergency services;
- (i) duties of port facility personnel assigned security responsibilities and of other facility personnel on security aspects;
- (j) procedures for interfacing with ship security activities;
- (k) procedures for the periodic review of the plan and updating;
- (l) procedures for reporting security incidents;
- (m) identification of the port facility security officer including twenty four hour contact details;
- (n) measures to ensure the security of the information contained in the plan;
- (o) measures designed to ensure effective security of cargo and the cargo handling equipment at the port facility;
- (p) measures designed to ensure effective security of passengers, screening of passengers baggage and presentation of valid travel documents by passengers;
- (q) procedures for auditing the port facility security plan;
- (r) procedures for responding in case the ship security alert system of a ship at the port facility has been activated;
- (s) procedures for facilitating shore leave for ship's personnel or personnel changes, as well as access of visitors to the ship including representatives of seafarers' welfare and labour organizations;
- (t) procedures for training, drills and exercises on port facility security personnel; and
- (u) procedures for vetting of port facility security personnel and personnel with designated security duties within the port facility.

(6) Personnel conducting internal audits of the security activities specified in the plan or evaluating its implementation shall be independent of the activities being audited unless this is impracticable due to the size and the nature of the port facility.

(7) The port facility security plan may be combined with, or be part of, the port security plan or any other port emergency plan or plans.

(8) The port facility security plan shall be combined with the security plans of all the container freight stations serving such port facility.

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(9) The Authority shall determine which changes to the port facility security plan shall not be implemented unless the relevant amendments to the plan are duly approved.

(10) The plan may be kept in an electronic format. In such a case, it shall be protected by procedures aimed at preventing its unauthorized deletion, destruction or amendment.

(11) The plan shall be protected from unauthorized access or disclosure.

(12) The Authority may allow a port facility security plan to cover more than one port facility if the operator, location, operation, equipment, and design of these port facilities are similar, and where the Authority allows such an arrangement, the Director-General shall communicate to the organization particulars thereof.

#### **49. Port facility security audit**

(1) The Authority shall conduct the following audits of the port facility security system to verify its compliance with the provisions of these Regulations—

- (a) an initial audit for the purposes of approval of the port facility security plan and issuance of the statement of compliance referred to in regulation 50;
- (b) annual port facility security system audit on every anniversary date of the statement of compliance;
- (c) special port facility security audits, thus—
  - (i) audits conducted upon a major review of the port facility security system; and
  - (ii) audits conducted as a result of a port security level 2 or 3 incident; and
- (d) a renewal audit on expiry of the validity of the statement of compliance.

(2) The Authority shall transmit the audit report including any recommendations to the port facility operator and the port facility security officer.

(3) The port facility security officer shall keep a copy of the port audit report for a period of not less than five years.

(4) Failure by a port facility to meet audit requirements shall be an administrative violation punishable by a fine of Kenya Shilling one hundred thousand for each day of violation and revocation of the port facility statement of compliance if the audit deficiencies are not remedied within twenty one dates of the relevant audit.

#### **50. Issue and form of a port facility statement of compliance**

The Authority shall issue to a port facility operator a statement of compliance upon the initial audit of the port facility security system and approval of the port facility security plan. The statement of compliance issued under this regulation shall be in the form set out in Form 3 in the First Schedule.

#### **51. Validity of the port facility statement of compliance**

The statement of compliance issued under regulation 50 shall be valid for a period of five years.

#### **52. Endorsement of the port facility statement of compliance**

The Authority shall endorse the statement of compliance after every annual port facility security system audit under regulation 49(1) (b), if the port facility security system is found to comply with the relevant provisions of these Regulations.

#### **53. Cancellation of Statement of Compliance**

A statement of compliance issued under regulation 50 shall cease to be valid if—

- (a) the port facility operator fails to close any recommendations made by the Authority following a port facility security system audit for a period of fourteen days from the date of receipt of the audit report, provided that the Director-General may grant an extension of the period in this paragraph, if in his

opinion, the recommendations cannot be reasonably closed within a period of the said fourteen days;

- (b) the statement of compliance is not endorsed in accordance with regulation 52, where applicable; and
- (c) there are changes in the ownership or operational control of the port facility.

#### **Port Facility Security Personnel**

#### **54. Port facility security officer**

(1) A port facility security officer shall be designated for each port facility, provided that a person may be designated as the port facility security officer for one or more port facilities subject to regulation 48(12).

(2) In addition to the duties specified elsewhere in these Regulations, the duties and responsibilities of a port facility security officer shall include, *inter alia*,—

- (a) conducting an initial comprehensive security survey of the port facility taking into account the relevant port facility security assessment;
- (b) ensuring the development and maintenance of the port facility security plan;
- (c) implementing the port facility security plan;
- (d) undertaking regular security inspections of the port facility to ensure the continuation of appropriate security measures;
- (e) recommending and incorporating, as appropriate, modifications to the port facility security plan in order to correct deficiencies and to update the plan to take into account of relevant changes to the port facility;
- (f) enhancing security awareness and vigilance of the port facility personnel;
- (g) ensuring adequate training has been provided to personnel responsible for the security of the port facility, including privately contracted security personnel;
- (h) reporting to the Authority and to other relevant authorities and maintaining records of all occurrences of security incidents;
- (i) coordinating implementation of the port facility security plan with the appropriate company and ship security officer;
- (j) coordinating with security services, as appropriate;
- (k) reporting to the Authority every security incident including measures taken to address such an incident;
- (l) ensuring that standards for personnel responsible for security of the port facility are met in accordance with regulation 56;
- (m) ensuring that security equipment is properly operated, tested, calibrated and maintained, if any;
- (n) assisting ship security officers in confirming the identity of those seeking to board the ship when requested; and
- (o) conduct training, drills and exercises for port facility security personnel.

(3) The port facility operator shall give the port facility security officer the necessary support to fulfil the duties and responsibilities imposed on him under these Regulations.

#### **55. Training, drills and exercises on port facility security**

(1) The port facility security officer and appropriate port facility security personnel shall be required to possess knowledge and training, in accordance with the Second Schedule.

(2) Port facility personnel having specific security duties shall be required to understand their duties and responsibilities for port facility security, as described in the port facility security plan and shall have sufficient knowledge and ability to perform their assigned duties.

(3) To ensure the effective implementation of the port facility security plan, drills shall be carried out at appropriate intervals taking into account the types of operation of the port

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facility, port facility personnel changes, the type of ships the port facility is serving and other relevant circumstances as set out in the Second Schedule.

(4) The port facility security officer shall ensure the effective coordination and implementation of the port facility security plan by participating in drills and exercises at appropriate intervals.

(5) Failure by a port facility operator to which this Part applies to conduct scheduled port security training, exercises and drills required under subregulation (3) shall be an administrative violation punishable by a penalty of a sum of Kenya shillings ten thousand for each day of the violation.

#### **56. Standards of training for port facility security officers and other security personnel**

(1) Every port facility operator shall ensure that all personnel with designated security duties are qualified in accordance with Paragraph 18.1 of the Second Schedule.

(2) Every port facility operator shall submit to the Authority evidence of training and certification of all personnel with designated security duties at the port facility, obtained from training institutions duly approved or recognized by the Authority for review and approval for purposes of issuance of the statement of compliance.

#### **PART VI – DECLARATION OF SECURITY INCLUDING NOTIFICATION, DECLARATION AND REVOCATION OF MARITIME SECURITY LEVELS 2 OR 3**

#### **57. Declarations of Security**

(1) The Authority shall determine when a declaration of security is required by assessing the risk the ship or port interface or ship-to-ship activity poses to persons, property or the environment.

(2) A ship may request completion of a declaration of security when—

- (a) the ship is operating at a higher security level than the port facility or another ship it is interfacing with;
- (b) there is an agreement on a declaration of security between the Authority and any administration covering certain international voyages or specific ships on those voyages;
- (c) there has been a security threat or a security incident involving the ship or involving the port facility, as applicable;
- (d) the ship is at a port which is not required to have and implement an approved port facility security plan; or
- (e) the ship is conducting ship-to-ship activities with another ship not required to have and implement an approved ship security plan.

(3) Requests for the completion of a declaration of security, under this regulation, shall be acknowledged by the applicable port facility or ship.

(4) The declaration of security shall be completed by-

- (a) the master or the ship or the ship's security officer on behalf of the ship; and
- (b) if appropriate, the port facility security officer or, if the Authority determines otherwise, by any other body responsible for shore-side security, on behalf of the port facility.

(5) Any declaration of security signed in respect of a port facility or ship shall address the security requirements that are shared between the port facility and a ship, between ships or an offshore facility interfacing with it, state the responsibilities of each and be completed and signed before the interface starts.

#### **58. Form of Declaration of Security**

(1) A declaration of security shall—

- (a) be in English;

- (b) be in the relevant form set out as Form 4A and Form 4B in the First Schedule for declaration of security between a ship and port facility and between ships respectively;
- (c) be completed if there is an interface with a vessel or offshore facility that—
  - (i) is operating at a lower maritime security level than the port facility;
  - (ii) is not required to have a security plan; or
  - (iii) has experienced a security threat, security breach or security incident.

(2) A new declaration of security shall be completed if there is a change in maritime security level.

(3) At maritime security level 1, if the port facility interfaces with a ship or offshore facility that is carrying certain dangerous cargo in bulk or is to be loaded with certain dangerous cargo in bulk, the port facility security officer shall complete and sign a declaration of security.

(4) The port facility security officer shall complete and sign a declaration of security if he identifies a potential security threat at the ship or port facility interface.

(5) At maritime security level 1 and maritime security level 2 the port facility security officer may implement a continuing declaration of security for a ship or offshore facility with which the port facility frequently interfaces if the effective period of the declaration does not exceed—

- (a) ninety days for maritime security level 1; and
- (b) thirty days for maritime security level 2.

#### **59. Director-General may declare maritime security level 2 or 3**

(1) The Director-General may, in writing, declare that maritime security level 2 or 3 shall be in force for one or more of the following as specified in the declaration—

- (a) a port facility;
- (b) an area within a port facility;
- (c) a Kenyan ship;
- (d) a port service provider; and
- (e) operations conducted by a port service provider within, or in connection with, a port facility.

(2) The Director-General may in writing, declare that maritime security level 2 or 3 is in force for a foreign regulated ship.

(3) The Director-General shall not make a declaration under sub-regulation (1) or (2) unless it is appropriate for a higher level of security to be put into place for the port facility, ship, area or port service provider concerned because a heightened risk of unlawful interference with maritime transport has been identified.

#### **60. Notifying declarations covering ports**

(1) Whenever the Director-General declares that a maritime security level is in force for a port facility, he shall within two hours of such declaration, notify—

- (a) the port facility operator; and
- (b) each port service provider who is required to have a security plan and who—
  - (i) controls an area within the boundaries of the port facility; or
  - (ii) operates within the boundaries of the port facility.

(2) Whenever the Director-General gives a port facility operator notice of a declaration under subregulation (1), the port facility operator shall within two hours of receipt of the notification of the Director General, give notice of the declaration to—

- (a) every port service provider who is covered by the port facility operator's security plan and who—
  - (i) controls an area within the boundaries of the port;

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- (ii) operates within the boundaries of the port; and
- (b) the master of every ship to which these regulations apply that is within the port facility or intending to enter the port facility.

(3) If a port facility operator fails to comply with subregulation(2) the port facility operator commits an offence and shall on conviction be liable to a penalty not exceeding a sum of five million Shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

### **61. Notifying ships**

(1) Whenever the Director-General declares that maritime security level 2 or 3 is in force for a ship to which these regulations apply, the Director-General shall, within two hour of such declaration, notify—

- (a) the ship owner or agent;
- (b) the master of the ship; and
- (c) if the ship is in port, the port facility operator.

(2) Where the master of ship fails to comply with security directions issued by the Director General under this regulation within two hours of receipt of such directions commits an offence and shall on conviction be liable to a fine not exceeding a sum of one million shillings or imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

### **62. Notifying declarations covering areas within ports**

(1) Whenever the Director-General declares that a maritime security level 2 or 3 is in force for an area within a Notifying declarations port facility, he shall, as soon as practicable, notify—

- (a) the port service provider who controls the area; and
- (b) if the port service provider is not the port facility operator, also the port facility operator.

(2) Where a port facility operator fails to comply with security directions issued by the Director-General under this regulation it shall be an administrative violation punishable by a penalty of Kenya shillings one million and suspension of the service providers' operation until the fine is paid in full.

### **63. Notifying revocations**

(1) Whenever—

- (a) the Director-General has notified a person in terms of regulations 60, 61 and 62 that a maritime security level 2 or 3 is in force; and
- (b) the Director-General revokes the declaration concerned;

the Director-General shall, as soon as practicable, notify all persons concerned of the revocation.

(2) Whenever—

- (a) a port facility operator has notified a person in terms of regulation 60(2) that a maritime security level is in force; and
- (b) the Director-General revokes the declaration concerned, the facility operator shall, within twelve hours of receipt of such notification of revocation of a security level 2 or 3 declaration, notify all persons concerned of the revocation.

(3) If a port facility operator fails to comply with sub- regulation (2) the port facility operator commits an offence and shall be liable upon conviction to a fine of a sum not exceeding of two hundred and fifty thousand shillings or imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

**64. Communicating declarations and revocations**

(1) The Director-General may notify a person of a declaration under regulation 60, 61 and 62 by facsimile, courier or electronic mail.

(2) A port facility operator required to give notice of a declaration under regulation 60 (2) may do so by facsimile, courier or electronic mail.

(3) The Director-General may also notify a person of the revocation of a declaration under regulation 63(1) by facsimile, courier or electronic mail.

(4) A port facility operator required to notify a person of the revocation of a declaration under regulation 63(2) may do so by facsimile, courier or electronic mail.

**65. Requirement for information sharing and cooperation**

The National Intelligence Service or other relevant security agencies shall inform the Authority of any threats requiring a declaration of security levels 2 and 3 within a port facility. The Director-General shall, upon receiving such information and prior to making a declaration under regulations 61 or 62 make appropriate consultations with the port facility operator.

**66. Coordination of security procedures during interfacing**

(1) The port facility operator shall ensure that the implementation of the port facility security procedures is coordinated with ships and offshore facilities interfacing with the port facility.

(2) At maritime security level 1, if the port facility interfaces with a ship or offshore facility that is carrying certain dangerous cargo in bulk or is to be loaded with certain dangerous cargo in bulk, the port facility security officer shall complete and sign a declaration of security.

(3) The port facility security officer shall complete and sign a declaration of security if he identifies an interface that is of special concern.

(4) At maritime security level 1 and maritime security level 2, the port facility security officer may implement a continuing declaration of security for a ship or offshore facility with which the port facility frequently interfaces if the effective period of the declaration does not exceed—

- (a) ninety days for maritime security level 1; and
- (b) thirty days for maritime security level 2.

**67. Port facility operator-further duties**

The port facility operator shall, further to the duties referred to in regulation 10(1) —

- (a) establish an administrative and organizational structure for security in the port facility;
- (b) provide every officer who has security responsibilities in the port facility with the support needed to fulfill those responsibilities and identify how those officers can be contacted;
- (c) ensure that the port facility operates in compliance with its approved port facility security plan;
- (d) provide to the Director-General the information necessary for the conduct of a security assessment of the port facility in accordance with regulation 47;
- (e) ensure that a procedure for the coordination of security issues between the port facility and ships and offshore facilities, including the signature of a declaration of security, is established;
- (f) report any significant security threat, breach of security or security incident to the Director-General; and
- (g) ensure that the port facility security officer develops the port facility security plan.

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[Subsidiary]

**68. Record keeping by the port facility security officer**

(1) The port facility security officer shall keep records of—

- (a) security training, including the date, duration and description and the names of the participants;
- (b) security drills and exercises, including the date and description, the names of the participants and any best practices or lessons learned that might improve the port facility security plan;
- (c) security threats, breaches of security and security incidents including the date, time, location, description and response and the identity of the person to whom it was reported;
- (d) changes in the maritime security level, including the date, the time that notification was received and the time of compliance with the security requirements of the new level;
- (e) maintenance, calibration and testing of equipment used in security, including the date and time of the activity and the specific equipment involved;
- (f) declarations of security signed in respect of the port facility;
- (g) all audits and reviews of security activities;
- (h) each periodic review of the port facility security assessment, including the date on which it was conducted and the findings of the review;
- (i) each periodic review of the port facility security plan, including the date on which it was conducted, the findings of the review and any amendments to the port facility security plan that are recommended;
- (j) each amendment to the port facility security plan including the date of approval and implementation; and
- (k) a list of the names of the persons who have security responsibilities.

(2) Records in respect of equipment that is not used exclusively for security may be kept separately from the records in respect of the equipment used exclusively for security if—

- (a) the port facility security officer documents, in written or electronic form, their existence and the location and name of the person responsible for their maintenance; and
- (b) they are accessible by the port facility security officer.

(3) The port facility security officer shall ensure that the records are kept for at least five years after they are made and make them available to the Authority on request.

(4) If a port facility security officer fails to maintain the security records required under subregulation (1) he commits an offence and shall on conviction be liable to a fine not exceeding a sum of Kenya Shillings two hundred and fifty thousand or imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

**69. Communications**

(1) The port facility security officer shall have the means to notify the port facility personnel of changes in security conditions at the port facility.

(2) The port facility shall have communication systems and procedures that allow effective communications—

- (a) between the port facility security personnel, ships and offshore facilities interfacing with the port facility; and
- (b) with the Director-General and relevant security agencies;

(3) The communication systems shall have a backup to ensure internal and external communications.



PART VII – SECURITY REQUIREMENTS FOR PORT FACILITIES SERVING  
SHIPS NOT ENGAGED ON INTERNATIONAL VOYAGES AND PRIVATE JETTIES

**General Provisions**

**70. Application**

This Part shall apply exclusively to—

- (a) all port facilities used exclusively for ships not engaged on international voyages and which are not at any time required to serve ships arriving or departing on international voyages; and
- (b) all private jetties.

**71. Interpretation**

In this part, unless the context otherwise requires—

"jetty" means any berthing place or landing place, stage, platform, or similar structure, whether fixed or floating, erected or placed, wholly or in part in or over any waters including any ramp or slipway used for landing or launching a vessel;

"port facility" means any port facility or private jetty referred to in regulation 3;

"wharf" includes quay, pier, jetty, ramp or other landing place.

**72. Port facility security levels**

(1) All port facilities and private jetties to which this Part applies shall be required to act upon the security levels set by the Authority.

(2) Security measures and procedures shall be applied at the port facilities and private jetties in such a manner as to cause minimum interference with, or delay to, passengers, ship, ship's personnel and visitors, goods and services.

**73. Security level 1**

At security level 1, the following activities shall be carried out through appropriate measures in order to identify and take preventive measures against security incidents and ensuring the performance of all security duties including—

- (a) controlling access to the facility;
- (b) monitoring of the facility, including anchoring and berthing area(s);
- (c) monitoring restricted areas to ensure that only authorized persons have access;
- (d) supervising the handling of cargo;
- (e) supervising the handling of ship's stores; and
- (f) ensuring that security communication is readily available.

**74. Security level 2**

At security level 2, the additional protective measures, specified in the port facility security plan, shall be implemented for each activity detailed in regulation 73.

**75. Security level 3**

At security level 3, further specific protective measures, specified in the facility security plan, shall be implemented for each activity detailed in regulation 73 taking into account the guidance given in the Second Schedule.

**76. Additional measures**

(1) In addition, at security level 2 and 3, port facilities and private jetties under this Part shall be required to respond to and implement all security directions given by the Director General.

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[Subsidiary]

(2) The master of a ship or any person in charge of the ship and the port facility security officer or the private jetty security officer shall cooperate in implementing the appropriate measures and procedures required under security level 2 or 3 following any security directions given by the Director-General.

(3) Where a port facility operator fails to comply with security directions issued by the Director General under this regulation it shall be an administrative violation punishable by closure of the port facility or the private jetty.

#### **Security Evaluation, Assessment and Plans**

### **77. Security Evaluation**

(1) The Authority shall conduct a security evaluation of port facilities or private jetties to determine those that shall be required to comply with the provisions of this Part in accordance with regulation 3 (3).

(2) The Director-General shall issue a notice to comply specified in regulation 3 (3) to a port facility or a jetty specifying the extent of application of the provisions of this Part.

### **78. Port facility security assessment**

(1) Every operator of a port facility or private jetty to which this Part applies, upon receiving the notice to comply from the Director-General shall ensure that a security assessment is conducted and a security plan developed within forty calendar days of receipt of the notice to comply from the Director-General.

(2) The security assessment required under subregulation (1) shall be carried out by the Authority.

(3) The Authority may authorize a recognized security organization to carry out the security assessment in respect of a specific port facility to which this part applies located within Kenya.

(4) When a port facility security assessment has been carried out by a recognized security organization, the security assessment shall be reviewed and approved for compliance with these Regulations by the Authority.

(5) The security assessments shall periodically be reviewed and updated, taking account of changing threats and minor changes in the facility and shall always be reviewed and updated when major changes to the facility take place.

(6) The port facility security assessment shall include, *inter alia*,—

- (a) identification and evaluation of important assets and infrastructure it is important to protect;
- (b) identification of possible threats to human life, assets and infrastructure and the likelihood of their occurrence, in order to establish and prioritize security measures;
- (c) identification, selection and prioritization of counter measures and procedural changes and their level of effectiveness in reducing vulnerability; and
- (d) identification of security weaknesses, including human factors, infrastructure, policies and procedures.

### **79. Security plans**

(1) A port facility security plan or private jetty security plan shall be developed and maintained by the port facility operator or private jetty operator, on the basis of the security assessment. The plan shall make provisions for the security levels defined in this Part.

(2) A recognized security organization may prepare the security plan for a port facility or private jetty.

(3) The port facility or private jetty security plan shall be approved by the Authority.

(4) The port facility or private jetty security plan shall be developed taking into account the guidance given in the Second Schedule and shall be in the English language.

- (5) The security plan shall include, *inter alia*,—
- (a) measures designed to prevent weapons or any other dangerous substances and devices intended for use against persons, ships or ports and the carriage of which is not authorized, from being introduced into the port facility, private jetty or on board a ship;
  - (b) measures designed to prevent unauthorized access to the port facility or private jetty, to ships moored and to restricted areas;
  - (c) procedures for responding to security threats or breaches of security;
  - (d) identification of restricted areas and measures for monitoring its security;
  - (e) procedures for responding to any security instructions the Authority may issue;
  - (f) procedures for emergency and security evacuation;
  - (g) duties of personnel assigned security responsibilities;
  - (h) procedures for the periodic review and update of the plan;
  - (i) procedures for reporting security incidents;
  - (j) identification of the port facility security officer including twenty four hour contact details;
  - (k) measures to ensure the security of the information contained in the plan;
  - (l) procedures for auditing the security plan;
  - (m) procedures for conducting security training, drills and exercises.
- (6) The Authority shall approve any significant change to the plan before implementation.
- (7) The plan shall be protected from unauthorized access or disclosure.
- (8) Failure by the port facility or private jetty operator to maintain and implement a security plan under this regulation shall be an administrative violation punishable by a penalty two hundred thousand shillings for each day of violation and closure of the facility if the plan is not submitted to the Authority for approval within forty calendar days of notice to comply.

## 80. Security Certificate

The Authority shall issue to a port facility operator or a private jetty operator a port facility security certificate or a private jetty security certificate, respectively upon conducting an initial audit specified in regulation 82 (1) (a) and approval of the plan.

## 81. Form and validity of the security certificate

The security certificate shall be as set out in the Form 5A and 5B for ports serving ships not engaged on international voyages and private jetties respectively in the First Schedule and shall be valid for a period of two years.

## 82. Security audit

- (1) The Authority shall conduct the following audits of the security system of facilities to which this Part applies—
- (a) initial audit for the purposes of approval of the plan and issuance of the security certificate specified in regulation 80;
  - (b) renewal audit for the purposes of renewal of the port facility security certificate or private jetty security certificate;
  - (c) special audits such as—
    - (i) audits conducted upon a major review of the security system; or
    - (ii) audits conducted as a result of a port security level 2 or 3 incident.
- (2) The Authority shall transmit the audit report including any recommendations to the facility or jetty operator.

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[Subsidiary]

(3) The operator shall keep a copy of the port audit report for a period of not less than three years.

(4) If a port facility or private jetty operator fails to remedy all deficiencies identified and in respect of which recommendations for closure are made during a security audit within twenty one days of such audit, he commits an offence and shall on conviction be liable to a fine not exceeding a sum of Kenya shillings one million or imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(5) Where a port facility or private jetty operator is convicted under subregulation (4), the Director General shall revoke the port facility or private jetty Security Certificate for a period of twelve months from the date of sentencing of the operator.

### **83. Cancellation security certificate**

A security certificate issued under regulation 80 shall cease to be valid if—

- (a) the operator of a port facility or private jetty fails to close any recommendations made by the Authority following a security system audit for a period of fourteen days from the date of receipt of the audit report, and the Director-General may grant an extension of the period in this paragraph, if in his opinion, the recommendations cannot be reasonably closed within a period of the said fourteen days.
- (b) there are changes in the ownership or operational control of the relevant port facility.

### ***Security Personnel***

### **84. Security Personnel**

(1) The port facility operator or private jetty operator shall designate the port facility security officer or private jetty security officer.

(2) The duties and responsibilities of the port facility security officer shall include, *inter alia*,—

- (a) implementation of the plan;
- (b) undertaking regular security inspections of the port facility to ensure the continuation of appropriate security measures;
- (c) reporting to the Authority every security incident including measures taken to address such an incident;
- (d) ensuring personnel responsible for security are qualified in accordance with the Kenya Maritime Code of Qualifications;
- (e) ensuring that security equipment, if any, is properly operated, tested, calibrated and maintained;
- (f) conduct training, drills and exercises for port facility security personnel.

(3) The port facility operator shall give the port facility security officer the necessary support to fulfill the duties and responsibilities imposed on him under these Regulations.

### **85. Security training, drills and exercises**

(1) The port facility security officer and appropriate port facility security personnel shall have knowledge and have received training, taking into account the guidance given in the Second Schedule.

(2) The port facility security officer shall ensure the effective coordination and implementation of the port facility security plan by participating in drills and exercises at appropriate intervals.

(3) Failure by the operator of a port facility or a private jetty to conduct scheduled security drills required under subregulation (2) it shall be an administrative violation punishable by a penalty of a sum of ten thousand shillings for each day of the violation and the seizure and detention of the offending ship until the accruing fine is paid in full.

## PART VIII – SECURITY REQUIREMENTS FOR CARGO HANDLING FACILITIES

**86. Application**

(1) This Part shall apply to cargo handling facilities such as—

- (a) container freight stations;
- (b) inland container depots; and
- (c) empty container depots.

(2) In this Part, unless the context otherwise requires—

"operator" means the person or entity that has for the time being, the operational control and management of the cargo handling facility.

**87. Responsibilities of cargo handling facility owner or operator**

The cargo handling facility owner or operator shall—

- (a) comply with the relevant requirements of this Part;
- (b) designate a cargo handling facility security officer;
- (c) ensure that personnel with designate security duties are given the necessary support to fulfill their duties and responsibilities;
- (d) every cargo handling and facility operator shall ensure that all personnel with designated security duties are qualified in accordance with Paragraph 18.1 of the Second Schedule; and
- (e) submit to the Authority evidence of training and certification of all personnel with designated security duties, obtained from training institutions duly approved or recognized by the Authority for review and approval for purposes of issuance of the cargo handling facility security certificate.

**88. Cargo Handling facility security assessment**

(1) Every cargo handling facility operator shall ensure that a security assessment is conducted and a security plan developed and updated whenever it is necessary.

(2) The security assessment shall be carried out by the Authority.

(3) The Authority may authorize a recognized security organization to carry out the security assessment in respect of a specific cargo handling facility located within Kenya.

(4) When a cargo handling facility assessment has been carried out by a recognized security organization, the security assessment shall be reviewed and approved for compliance with these regulations by the Authority.

(5) The security assessments shall periodically be reviewed and updated, taking account of changing threats and minor changes in the facility and shall always be reviewed and updated when major changes to the facility take place.

(6) The cargo handling facility assessment shall include, *inter alia*,—

- (a) identification and evaluation of infrastructure it is meant to protect;
- (b) identification of possible threats to cargo, life, and infrastructure and the likelihood of their occurrence, in order to establish and prioritize security measures;
- (c) identification, selection and prioritization of counter measures and procedural changes and their level of effectiveness in reducing vulnerability; and
- (d) identification of security weaknesses, including human factors, infrastructure, policies and procedures.

**89. Cargo handling facility security plan**

(1) The cargo handling facility operator shall develop and maintain a cargo handling facility security plan on the basis of the security assessment and subject to the guidance given in Paragraph 16 of the Second Schedule, as appropriate.

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[Subsidiary]

(2) A recognized security organization may prepare the security plan for a cargo handling facility.

(3) The cargo handling facility security plan shall be approved by the Authority.

(4) The security plan shall include measures to, *inter alia*,—

- (a) make provisions for the implementation of the security levels established under regulations 91, 92 and 93;
- (b) deter tampering;
- (c) ensure only approved cargo is transported for loading on board ships;
- (d) control cargo procedures at access points to the facility;
- (e) identify cargo that is accepted for temporary storage in a restricted area while awaiting loading or pick up;
- (f) restrict the entry of cargo to the facility that does not have a confirmed date for loading, where possible;
- (g) ensure the release of cargo only to the carrier specified in the cargo documentation;
- (h) coordinate regular or repeated cargo operations with the same shipper or other responsible party in accordance with an established agreement and procedure; and
- (i) create, update, and maintain a continuous inventory of all dangerous goods and hazardous substances from receipt to delivery within the facility, giving the location of those dangerous goods and hazardous substances.

(5) If a cargo handling facility operator fails to maintain and implement a cargo handling facility security plan he commits an offence and shall on conviction be liable to a fine not exceeding a sum of Kenya shillings one million or imprisonment for a term not exceeding six months, or to both such fine and imprisonment and closure of the facility if a cargo handling facility security plan is not submitted to the Authority for approval within twenty one calendar days of such conviction.

## 90. Cargo handling and storage facility security levels

(1) All cargo-handling facilities specified in regulation 86 shall be required to act upon the security levels set by the Authority.

(2) Security measures and procedures shall be applied at the cargo handling facilities in such a manner as to cause minimum interference to cargo handling services.

### 91. Security level 1

At security level 1, the facility operator must ensure the implementation of measures to—

- (a) routinely check cargo, cargo transport units, and cargo storage areas within the facility prior to, and during, cargo handling operations for evidence of tampering;
- (b) check that cargo, containers, or other cargo transport units entering the facility match the delivery note or equivalent cargo documentation;
- (c) screen trucks; and
- (d) check seals and other methods used to prevent tampering upon entering or leaving the facility and upon storage within the facility.

### 92. Security level 2

In addition to the security measures required for security level 1, at security level 2, the facility operator shall ensure the implementation of additional security measures as specified in the approved cargo handling security plan. These additional security measures shall include—

- (a) conducting checks on cargo transport units, and cargo storage areas within the facility;

- (b) intensifying checks, as appropriate, to ensure that only the documented cargo enters the facility, is temporarily stored there, and then loaded onto the truck or rail;
- (c) intensifying the screening of truck or rail;
- (d) increasing frequency and detail in checking of seals and other methods used to prevent tampering;
- (e) coordinating enhanced security measures with the shipper or other responsible party in accordance with an established agreement and procedures;
- (f) increasing the frequency and intensity of visual and physical inspections; or
- (g) limiting the number of locations where dangerous goods and hazardous substances, including certain dangerous cargoes, can be stored.

### **93. Security level 3**

In addition to the security measures required for security level 1, at security level 3, the facility operator shall ensure the implementation of additional security measures as specified in the approved cargo handling security plan. These additional security measures shall include —

- (a) restricting or suspending cargo movements or operations within all or part of the facility;
- (b) emergency and security response; and
- (c) verifying the inventory and location of any dangerous goods and hazardous substances, including certain dangerous cargoes, held within the facility and their location.

### **94. Cargo handling facility security certificate**

The Authority shall issue to a cargo handling facility operator a cargo handling facility security certificate upon conducting an initial audit specified in regulation 96 (1) (a) and approval of the plan.

### **95. Form and validity of cargo handling facility security certificate**

The cargo handling facility security certificate shall be in the form set out in the Form 6 of First Schedule and shall be valid for a period of one year.

### **96. Audits**

(1) The Authority shall conduct the following audits of the cargo handling facilities security system to verify its compliance with the provisions of these Regulations —

- (a) initial audit for the purposes of approval of the plan and issuance of the cargo handling facility certificate specified in regulation 94;
- (b) renewal audit for the purposes of renewal of the cargo handling facility certificate;
- (c) Special audits such as —
  - (iii) audits conducted upon a major review of the security system; or
  - (iv) audits conducted as a result of a port security level 2 or 3 incident.

(2) The Authority shall transmit the audit report including any recommendations to the facility.

(3) The operator shall keep a copy of the port audit report for a period of not less than seven years.

### **97. Cancellation of cargo handling facility security certificate**

A security certificate issued under regulation 94 shall cease to be valid if —

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- (a) the operator of a cargo handling facility fails to close any recommendations made by the Authority following a security system audit for a period of fourteen days from the date of receipt of the audit report. The Director-General may grant an extension of the period in this paragraph, if in his opinion, the recommendations cannot be reasonably closed within a period of the said fourteen days;
- (b) there are changes in the ownership or operational control of the cargo handling facility.

### **98. Offences by cargo handling and storage handling facilities**

A cargo handling facility operator who fails to comply with the requirements of this Part commits an offence and shall on conviction be liable to a fine of a sum not exceeding Kenya shillings one million or imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

#### PART IX – ADDITIONAL REQUIREMENTS FOR SHIPS AND PORT FACILITIES

### **99. Requirement to provide information**

(1) Without prejudice to regulation 61, but subject to regulation 69 the Authority may, by notice in writing require the persons listed in paragraphs (a) to (d) to provide the Director-General with such information specified in the notice as the Director-General may require in connection with the exercise by the Director-General of his functions under this Part—

- (a) the owner, charterer, manager or master of any ship which is in, or appears to the Director-General to be likely to enter, a port facility;
- (b) a port facility operator;
- (c) any person who carries on operations in a port facility;
- (d) port facility service provider; and
- (e) any person who is permitted to have access to a restricted area of a port facility for the purposes of the activities of a business carried on by him.

(2) A notice under subregulation (1) shall specify a date before which the information required by the notice is to be furnished to the Director-General.

(3) Any such notice may also require the person on whom it is served, after he has furnished to the Director-General the information required by the notice, to inform the Director-General if at any time the information previously furnished to the Director-General, including any information furnished in pursuance of a requirement imposed by virtue of this regulation, is rendered inaccurate by any change of circumstances, including the taking of any further measures for purposes of this Part or the alteration or discontinuance of any measures already being taken.

(4) In so far as such a notice requires further information to be furnished to the Director-General in accordance with subregulation (3), he shall require that information to be furnished to him before the end of such period as is specified in the notice for the purposes of this regulation.

(5) A notice served on any person under subregulation (1) may at any time—

- (a) be revoked by a notice in writing served on him by the Director-General; or
- (b) be varied by a further notice under paragraph (1).

(6) The port facility security officer may in like manner require the owner, charterer, manager or master of any Kenyan ship to provide him with information, and subregulations (1) to (5) shall apply as if references to the port facility security officer were references to the Director-General.

(7) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this regulation; or



- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, commits an offence and shall on conviction be liable to a fine of a sum not exceeding Kenya shillings two hundred and fifty thousand or imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

#### **100. Powers of inspection**

(1) An authorized person shall have power, on production of his credentials if required, to inspect —

- (a) any Kenyan ship;
- (b) any other ship while in a port facility in Kenya;
- (c) any part of any port facility; or
- (d) any facility outside a port facility that is occupied by a port service provider. For the purposes of this paragraph, a port service provider shall include any person who —
  - (i) carries on or appears to the authorized person to be about to carry on harbor operations in a port facility for the purposes of that business; or
  - (ii) is permitted or appears to the authorized person to be about to be permitted to have access to a restricted area of a port facility for the purposes of the activities of that business.

(2) An authorized person inspecting a ship or any part of a port facility or any facility outside a port facility that is occupied by a port service provider under subregulation (1) above shall have power to—

- (a) subject any property he finds on the ship or on the port facility, or on the land as the case may be, to such tests; or
- (b) take such steps to—
  - (i) ascertain what practices or procedures are being followed in relation to security; or
  - (ii) test the effectiveness of any practice or procedure relating to security; or require the owner, charterer, manager or master of the ship, the port facility operator or the occupier of the land to furnish to him such information as the authorized person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to subregulation (4), an authorized person, for the purpose of exercising any power conferred on him by subregulation (1) or (2) in relation to a ship, a facility outside a port facility that is occupied by a port service provider, shall have power —

- (a) for the purpose of inspecting a ship, to go on board and to take all such steps as are necessary to ensure that the ship is not moved; or
- (b) for the purpose of inspecting any part of a port facility, to enter any building or works in the port facility or enter upon any land in the port facility; or
- (c) for the purpose of inspecting any facility outside a port facility that is occupied by a port service provider, to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by subregulation (3) shall not include power for an authorized person to use force for the purpose of going on board any ship, entering any building or works or entering upon any land.

(5) Any person who—

- (a) without reasonable excuse, fails to comply with a requirement imposed on him under subregulation (2)(b)(ii); or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or

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[Subsidiary]

- (c) recklessly makes a statement which is false in a material particular, commits an offence and shall on conviction be liable, to a fine of a sum not exceeding Kenya shillings two hundred and fifty thousand or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

### **101. Equivalent security arrangements**

(1) The Director-General may allow a particular ship or a group of Kenyan ships to implement other security measures equivalent to those prescribed in these Regulations, provided that such security measures are at least as effective as those prescribed in these Regulations. The Director-General, where he allows such security measures, shall communicate particulars thereof to the Organization.

(2) When implementing these Regulations, the Director-General may allow a particular port facility or a group of port facilities located within Kenya, other than those covered by an agreement concluded under regulation 11, to implement security measures equivalent to those prescribed in these Regulations, provided such security measures are at least as effective as those prescribed in these Regulations.

(3) Where the Director-General allows the security measures under subregulation (2), he shall communicate to the organization the particulars thereof.

### **102. Application of Regulations to ships of less than 50 GT**

The Director-General may require the following ships of less than 50 gross tonnage to comply with the requirements of these Regulations—

- (a) ships that interface with ships to which these Regulations apply;
- (b) ships that interface with mobile offshore drilling units to which these Regulations apply; and
- (c) when engaged on an international voyage.

#### **PART X – RECOGNIZED SECURITY ORGANIZATIONS**

### **103. Delegation of Authority to recognized security organizations**

(1) The Authority may appoint a recognized security organization to undertake security assessments in respect of –

- (a) a regulated ship; or
- (b) a regulated port facility to which Part V of these Regulations apply; or
- (c) a regulated port facility to which Part VII of these Regulations apply; or
- (d) a regulated cargo handling facility; or
- (e) a regulated private jetty.

(2) A recognized security organization authorized to undertake security assessments under subregulation (1) may advise or provide assistance to port facilities on port facility security assessments and plans, including their completion.

(3) The National Intelligence Service may be appointed as a recognized security organization provided that they possesses the appropriate security-related expertise provided under regulation 105.

(4) A recognized security organization shall not approve, verify or certify work or products that it has either developed or used sub-contractors to develop.

(5) A recognized security organization shall submit the security assessment report to the Authority for approval.

### **104. Authority of recognized security organizations**

A recognized security organization shall when undertaking a security assessment have the authority to—

- (a) enter land or premises;
- (b) inspect documents, records and plans; and

- (c) inspect security equipment.

### **105. Criteria for selecting recognized security organizations**

A company applying to be appointed as a recognized security organization by the Authority for the purpose of undertaking security assessments shall—

- (a) subject to regulation 103(3), be a private security intelligence company or a classification society;
- (b) demonstrate organizational effectiveness by providing evidence of having –
  - (i) clear lines of managerial oversight for the proposed delegation of authority;
  - (ii) relevant qualifications and experience of key personnel proposed for the delegation of authority including security clearances which shall be matched with their proposed work assignments;
  - (iii) planned training of key personnel during the duration of the delegation to ensure that qualifications are maintained and upgraded as necessary;
  - (iv) replacement strategy for key personnel;
  - (v) company code of ethics or code of conduct;
  - (vi) successful testing of procedures established to avoid unauthorized disclosure of, or access to, security sensitive material;
  - (vii) successful completion of similar activities to those identified in the proposed delegation of authority; and
  - (viii) adequate records management and internal quality control systems;
- (c) demonstrate technical capabilities for ship-related delegations, to be demonstrated by provision of evidence of possession by key personnel of—
  - (i) appropriate knowledge of ship operations including design and construction considerations;
  - (ii) appropriate knowledge of the requirements and guidance specified in the special measures and relevant national legislation, regulations, policies and operating procedures;
  - (iii) appropriate knowledge of current security threats and patterns and their relevance to ship operations;
  - (iv) experience in the application and maintenance of security and surveillance equipment and systems installed on board ships;
  - (v) appropriate knowledge of their operational limitations including techniques used to circumvent them; and
  - (vi) experience in assessing the likely security risks that could occur during ship operations including the ship or port interface and identifying options to minimize such risks; and
- (d) demonstrate technical capabilities for port-related delegations, by provision evidence that the key personnel to undertake port security assessments possess —
  - (i) appropriate knowledge of port operations including design and construction considerations;
  - (ii) appropriate knowledge of the requirements and guidance specified in the special measures and relevant national legislation, regulations, policies and operating procedures;
  - (iii) experience in assessing the likely security risks that could occur during port facility operations including the ship or port and identifying options to minimize such risks;

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- (iv) appropriate knowledge of current security threats and patterns and their relevance to port operations;
- (v) experience in the application and maintenance of security and surveillance equipment and systems installed in port areas;
- (vi) appropriate knowledge of their operational limitations including techniques used to circumvent them.

## PART XI – OFFENCES AND MISCELLANEOUS PROVISIONS

**Offences****106. False statements relating to baggage, cargo, etc.**

- (1) A person commits an offence if, in answer to a question which—
- (a) relates to any baggage, cargo or stores, whether belonging to him or to another, that is or are intended for carriage by sea —
    - (i) by a Kenyan ship; or
    - (ii) by any other ship to or from Kenya; and
  - (b) is put to him for purposes of enforcement of these Regulations by any of the persons mentioned in sub-regulation (2), by any employee or agent of any such person in his capacity as employee or agent; or by a police officer, he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.
- (2) The persons referred to in subregulation (1) (b) are —
- (a) a port facility operator;
  - (b) a port facility service;
  - (c) the owner, charterer or manager of any ship;
  - (d) any person who is permitted to have access to a restricted area of a port facility for the purposes of the activities of a business carried on by him;
  - (e) any person who is permitted to have access to a restricted area of a cargo handling and storage facility for the purposes of the activities of a business carried on by him;
  - (f) any person who has control in that restricted area over the baggage, cargo or stores to which the question relates; or
  - (g) any person who is permitted to have access to a restricted area of a private jetty for the purposes of the activities of a business carried on by him.

(3) Any person who commits an offence under this regulation, shall on conviction be liable, to a fine of a sum not exceeding Kenya shillings five hundred thousand or imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

**107. False statements in connection with identity documents**

- (1) Any person commits an offence if—
- (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this paragraph applies; or
  - (b) in connection with the continued holding by him or another of any such document which has already been issued,

he makes to any of the persons specified in subregulation (4), to any employee or agent of such any person or to a police officer, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a police officer, a statement which is false in a material particular.

(2) subregulation (1) applies to any identity document which is to be or has been issued by any of the persons specified in sub-regulation (4) for the purposes of a ship security plan or a port facility security plan.

(3) Any person who commits an offence under this regulation, shall on conviction be liable, to a fine of a sum not exceeding Kenya shillings one hundred thousand, or, imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

(4) The persons referred to in subregulation (2) are—

- (a) a port facility operator;
- (b) a port facility service;
- (c) the owner, charterer or manager of any ship;
- (d) any person who is permitted to have access to a restricted area of a port facility for the purposes of the activities of a business carried on by him;
- (e) any person who is permitted to have access to a restricted area of a cargo handling and storage facility for the purposes of the activities of a business carried on by him;
- (f) any person who has control in that restricted area over the baggage, cargo or stores to which the question relates; or
- (g) any person who is permitted to have access to a restricted area of a private jetty for the purposes of the activities of a business carried on by him.

#### **108. Unauthorized presence in restricted areas**

(1) No person shall—

- (a) go, with or without a vehicle or ship, onto or into any part of a restricted area of a port facility except with the permission of the port facility operator or any person acting on behalf of the port facility operator and in accordance with any conditions subject to which that permission is for the time being granted; or
- (b) remain in any part of such a restricted area after being requested to leave by the port facility operator or any person acting on behalf of the port facility operator.

(2) subregulation (1)(a) shall not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted area was posted so as to be readily seen and read by persons entering the restricted area.

(3) For the purposes of this Part, any person is permitted to have access to a restricted area of a port facility if he is permitted to enter that area, or if arrangements exist for permitting any of his employees or agents to enter the zone.

(4) Any person who contravenes subregulation (1) commits an offence and shall on conviction be liable to a fine of a sum not exceeding Kenya shillings ten thousand or to imprisonment for a term not exceeding one month, or to both such fine and imprisonment.

#### **109. Offences relating to authorized persons**

Any person who—

- (a) intentionally obstructs an authorized person acting in the exercise of a power conferred on him by or under these Regulations; or
- (b) falsely pretends to be an authorized person commits an offence;

shall be liable conviction, to a fine of a sum not exceeding one hundred thousand shillings, or imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

#### **110. Offences by the company**

Any Company which fails, in relation to each of its ships—

---

[Subsidiary]

- (a) to provide to the Director-General the information required by regulation 23 if requested by the Director-General, or
- (b) to ensure the continuous synopsis record is left on the ship and is available for inspection,

commits an offence and, shall be liable, upon conviction to a fine of a sum not exceeding Kenya shillings two hundred and fifty thousand.

#### **111. Offences relating to masters**

Any master who fails to make any changes in the continuous synopsis record and ensure the continuous synopsis record is left on the ship and is available for inspection commits an offence, and shall be liable upon conviction to a fine of a sum not exceeding fifty thousand shillings.

#### **112. Interference with law enforcement security personnel**

Any person who knowingly or intentionally prevents, obstructs, resists or otherwise delays law enforcement or ship or port or cargo handling facility personnel in the discharge of their duties commits an offence, and shall be liable upon conviction to a fine of a sum not exceeding Kenya shillings fifty thousand or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

#### **113. Tampering**

Any person who knowingly or intentionally alters, destroys, removes or manipulates in regulated ship or within a regulated port facility, cargo handling facility or a private jetty a container, containers or cargo without authorization commits an offence and shall be liable upon conviction to a fine of a sum not exceeding twice the value of the container or the cargo altered, removed, damaged or manipulated or an imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

#### **114. Endangering persons or property**

Any person who knowingly or intentionally endangers a person, or property inside a regulated port facility, cargo handling and storage facility or a private jetty or on board a regulated ship commits an offence and shall be liable upon conviction to a fine of a sum not exceeding Kenya shillings five hundred thousand or imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

#### **115. Interference with port facilities, cargo-handling facilities or vessels**

Any person who knowingly or intentionally interferes with the operation of a regulated ship, a non-regulated ship interfacing with a regulated ship or a port facility commits an offence and shall be liable upon conviction to a fine of a sum not exceeding Kenya shillings five hundred thousand or imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

#### **116. Threat**

Any person who knowingly or intentionally communicates or falsely reports the threat or injury to persons or damage to property inside a regulated port facility, cargo handling and storage facility or on board a regulated ship commits an offence and shall be liable upon conviction to a fine of a sum not exceeding Kenya shillings five hundred thousand or imprisonment for a term not exceeding twelve months or both such fine and imprisonment.

#### **117. Unauthorised disclosure**

Any person who knowingly or intentionally discloses a port facility security assessments, a cargo handling and storage facility security assessments, port facility security plan, a cargo handling and storage facility security plan, ship security assessments or a ship security plan commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding twelve months.

**Miscellaneous****118. Fees and fines**

(1) The following fees shall be payable under these Regulations:

<i>Service</i>	<i>Regulation</i>	<i>Fee (Us\$)</i>
PART IV: VERIFICATION AND CERTIFICATION FOR SHIPS		
Ships of more than 500 GT		
Ships Security Audits - Initial or Renewal		700
International Ship Security Certificate (ISSC)		500
Interim ISSC		600
Endorsement of ISSC - Annual or Intermediate		500
Ships of Less than 500 GT		
Ships Security Audits - Initial or Renewal		200
International Ship Security Certificate (ISSC)		100
Interim ISSC		300
Endorsement of ISSC - Annual or Intermediate		100
PART V: PORT FACILITY SECURITY		
Port Facility Security Audits - Initial, Annual or Renewal		3000
Port Facility Security Audit - Special		2000
Statement of Compliance		700
PART VII: SECURITY OF PORT FACILITIES SERVING SHIPS NOT ENGAGED ON INTERNATIONAL VOYAGES AND JETTIES		
Port Facility Security Audit - Initial, Renewal or Special		1000
Private Jetty Security Audit - Initial, Renewal or Special		500
Statement of Security Compliance		250
PART VIII: CARGO HANDLING FACILITY SECURITY		

*Merchant Shipping*

[Subsidiary]

Cargo Handling Facility Security Audit - Initial, Annual or Special	1000
Cargo Handling Facility Security Certificate	500

(2) All fees under these Regulations shall be paid into the Authority.

**119. Transitional provisions**

(1) Any security measures implemented by the persons to whom Part VII and Part VIII of these Regulations apply immediately before the coming into force of these Regulations, shall be deemed to have been done under the corresponding provisions of these Regulations.

(2) Any person referred to under subregulation (1) who immediately before the commencement of these Regulations was authorized under a statute or license to carry on the business of a cargo handling facility operator, private jetty operator or port facility operator shall within twelve months of coming into force of these Regulations put in place the necessary measures for security verification and certification under these Regulations.

(3) Any person referred to under subregulation (1) who elects not to comply with the requirements of these Regulations on the expiration of the period referred to in subregulation (2), commits an offence and shall on conviction be subject to the relevant penal provisions under these Regulations.

**120. Repeal**

(1) The Merchant Shipping (Maritime Security) Regulations, 2004 are revoked.

(2) Part VII.1 of the First Schedule to the Merchant Shipping (Fees) Regulations, L.N. 192/2011, is revoked.

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FIRST SCHEDULE

FORMS

(r. 34)

**FORM 1**

FORM OF THE INTERNATIONAL SHIP SECURITY CERTIFICATE

.....  
*(official seal)*

THE REPUBLIC OF KENYA  
 THE MERCHANT SHIPPING ACT  
*(Cap. 389, section 378)*

KENYA MARITIME AUTHORITY  
 INTERNATIONAL SHIP SECURITY CERTIFICATE

Certificate Number .....

*Issued under Regulation 34 of the*  
 MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS, 2015

Under the authority of the Government of the Republic of  
 KENYA

by

.....  
 (person(s) or organization authorized)

Name of ship:  
 Distinctive number or  
 letters:  
 Port of registry:



Merchant Shipping

[Subsidiary]

Type of ship:
Gross tonnage:
IMO Number:
Name and address of the
Company:
Company identification
number:

THIS IS TO CERTIFY:

- 1. That the security system and any associated security equipment of the ship has been verified in accordance with regulation 31;
2. That the verification showed that the security system and any associated security equipment of the ship is in all respects satisfactory and that the ship complies with the applicable requirements of the Merchant Shipping (Maritime Security) Regulations, 2015.
3. That the ship is provided with an approved Ship Security Plan.

Date of initial/renewal verification on which this certificate is based: .....

This Certificate is valid until:.....subject to verifications in accordance with Regulation 39.

Issued at: .....

(see overleaf)

Date of issue: .....

(signature of the duly authorized official issuing the Certificate)



ENDORSEMENTS
ENDORSEMENT FOR INTERMEDIATE
VERIFICATION

THIS IS TO CERTIFY that at an intermediate verification required by Regulation 31 of the Merchant Shipping (Maritime Security) Regulations, 2015, the ship was found to comply with the relevant provisions of the Regulations.

Intermediate verification

Signed:.....

(Signature of authorized official)

Place:

.....

Date:

.....

(Seal or stamp of the Authority)

ENDORSEMENT FOR ADDITIONAL VERIFICATION

Additional verification Signed: .....

(Signature of authorized official)

Merchant Shipping

[Subsidiary]

Place: .....  
 Date: .....  
 (Seal or stamp of the Authority)  
 Additional verification Signed: .....  
 (Signature of authorized official)  
 Place: .....  
 Date: .....  
 (Seal or stamp of the Authority)  
 Additional verification Signed: .....  
 (Signature of authorized official)  
 (see overleaf)  
 Place: .....  
 Date: .....

(Seal or stamp of the Authority)  
 ADDITIONAL VERIFICATION IN ACCORDANCE WITH REGULATION ....  
 THIS IS TO CERTIFY that at an additional verification required by the Merchant  
 Shipping (Maritime Security) Regulations, 2015, the ship was found to comply  
 with the relevant provisions of the Regulations  
 Additional verification Signed: .....  
 (Signature of authorized official)  
 Place: .....  
 Date: .....

(Seal or stamp of the Authority)  
 ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN  
 5 YEARS WHERE REGULATION ..... OF THE MERCHANT SHIPPING  
 (MARITIME SECURITY) REGULATIONS, 2015 APPLIES

The ship complies with the relevant provisions of the Merchant Shipping (Maritime  
 Security) Regulations, 2015, and the Certificate shall, in accordance with Regulation ....be  
 accepted as valid until: .....

Additional verification

Signed: .....  
 (Signature of authorized  
 official)  
 Place: .....  
 Date: .....

(Seal or stamp of the  
 Authority)

ENDORSEMENT FOR ADVANCEMENT OF EXPIRY DATE WHERE  
 REGULATION ..... OF THE MERCHANT SHIPPING (MARITIME  
 SECURITY) REGULATIONS APPLIES  
 In accordance with Regulation ..... of the Merchant Shipping (Maritime Security)  
 Regulations, 2015, the new expiry date is: .....  
 (In case of completion of this part of the certificate the expiry date shown on  
 the front of the certificate shall also be amended accordingly)  
 Additional verification

Signed  
 .....  
 (Signature of authorized official)  
 Place:  
 .....

Date: .....

(Seal or stamp of the Authority)

FORM 2 (r. 39(1) (d))

FORM OF THE INTERNATIONAL SHIP SECURITY CERTIFICATE

(official seal) THE REPUBLIC OF KENYA THE MERCHANT SHIPPING ACT (Cap. 389, section 378) KENYA MARITIME AUTHORITY Certificate Number Issued under regulation 39(1) (d) of the MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS, 2015 Under the authority of the Government of the Republic of KENYA by

(person(s) or organization authorized) Name of ship: Distinctive number or letters: Port of registry: Type of ship: Gross tonnage: IMO Number: Name and address of the Company: Company identification number:

(see overleaf)

Is this a subsequent, consecutive interim certificate? YES/ NO (delete as appropriate) If YES, date of issue of initial interim certificate:

THIS IS TO CERTIFY THAT the requirements of regulation 31 of the Merchant Shipping (Maritime Security) Regulations, 2015, have been complied with. This Certificate is issued pursuant to Regulation 39 This Certificate is valid until:

Issued at: .....

Date of issue: (Signature of the duly authorized official issuing the Certificate) (Seal or stamp of the Authority)

Merchant Shipping

[Subsidiary]

Date of issue: ..... (Signature of the duly authorized official issuing the Certificate) (Seal or stamp of the Authority)

FORM 3 (r. 50) FORM OF A STATEMENT OF COMPLIANCE OF A PORT FACILITY

(Official seal) Statement Number..... Issued under regulation 50 of THE MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS, 2015 The Government of the Republic of KENYA

Name of the Port Facility: Address of the Port Facility: THIS IS TO CERTIFY that the compliance of this port facility with the provisions of the Merchant Shipping (Maritime Security) Regulations, 2015, has been verified and that this port facility operates in accordance with the approved Port Facility Security Plan. This plan has been approved for the type(s) of ship(s) indicated below: Passenger ship Passenger high speed craft Cargo high speed craft Bulk carrier Oil tanker Chemical tanker Gas carrier Mobile offshore Drilling Units Cargo ships other than those referred to above This Statement of Compliance is valid until ....., subject to verifications (as indicated overleaf)

Issued at: ..... Date of issue: ..... (Signature of the duly authorized official issuing the document and Seal of the Authority)

ENDORSEMENT FOR VERIFICATIONS The Government of .....KENYA.....has established that the validity of this Statement of Compliance is subject to <insert relevant details of the verifications (e.g. mandatory annual or unscheduled)>.

THIS IS TO CERTIFY that, during a verification carried out in accordance with regulation 31 of the Merchant Shipping (Maritime Security) Regulations, 2015, the port facility was found to comply with the relevant provisions of chapter the regulations.

1st VERIFICATION Signed:..... (Signature of authorized official) Place:..... Date: ..... (see overleaf)

2nd VERIFICATION Signed:..... (Signature of authorized official)

Merchant Shipping

[Subsidiary]

Place:.....  
 Date: .....

3rd VERIFICATION Signed:.....  
 (Signature of authorized official)  
 Place:.....  
 Date: .....

4th VERIFICATION Signed:.....  
 (Signature of authorized official)  
 Place:.....  
 Date: .....

**FORM 4A** (r. 58(1))  
 THE REPUBLIC OF KENYA  
 THE MERCHANT SHIPPING ACT  
 (Cap. 389, section 378)  
 DECLARATION OF SECURITY BETWEEN A SHIP AND A PORT FACILITY  
 DECLARATION OF SECURITY  
*Issued under regulation 58(1) of*  
 THE MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS

This Declaration of Security is valid from.....  
 until.....for the following activities

.....  
 (list of the activities with relevant details)  
 under the following security levels:  
 Security level(s) for  
 the ship:  
 Security level(s) for  
 the port facility:

(see overleaf)

The port facility and ship agree to the following security measures and responsibilities to ensure compliance with the requirements of the Merchant Shipping (Maritime Security) Regulations, 2015.

The affixing of the initials of the Ship Security Officer or the Port Facility Security Officer under these columns indicates that the activity will be done, in accordance with relevant approved plan, by

*Activity*  
 Ensuring the performance of all security duties

*The Port Facility:*

*The Ship:*





Merchant Shipping

[Subsidiary]

Monitoring of the ship, including berthing areas and areas surrounding the ship
Handling of cargo
Delivery of ship's stores
Handling unaccompanied baggage
Controlling the embarkation of persons and their effects
Ensuring that security communication is readily available between the ships

The signatories to this agreement certify that security measures and arrangements for both ships during the specified activities meet the provisions of the Merchant Shipping (Maritime Security) Regulations, 2015, that will be implemented in accordance with the provisions already stipulated in their approved plan or the specific arrangements agreed to and set out in the attached annex.

Dated at ..... on the ..... (see overleaf)

Signed for and on behalf of the Ship Declaring: the Ship Interfacing:

(Signature of Master or Ship Security officer) (Signature of Master or Ship Security Officer)

Name and title of person who signed

Name: Name:
Title: Title:

Contact Details

(telephone numbers or the radio channels or frequencies to be used)

for the Ship Declaring : for the Ship Interfacing:
Master: Master:
Ship Security Officer: Ship Security Officer:
Company: Company:
Company Security Officer: Company Security Officer:

FORM 5A (r. 81)

THE REPUBLIC OF KENYA
THE MERCHANT SHIPPING ACT
(Cap. 389, section 378)
FORM OF A STATEMENT OF COMPLIANCE FOR PRIVATE JETTIES
STATEMENT OF COMPLIANCE FOR PRIVATE JETTIES
(Official seal)

Statement Number.....

Issued under regulation 81 of
THE MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS, 2015
The Government of the Republic of

KENYA



Name of the Private

Jetties: .....

Address of the Private Jetties: .....

THIS IS TO CERTIFY that the compliance of this Private Jetties with the provisions of the Merchant Shipping (Maritime Security) Regulations, 2015, has been verified and that this Private Jetties operates in accordance with the approved Private Jetties Security Plan.

This plan has been approved for the type(s) of ship(s) indicated below:

Passenger ship

Passenger high speed craft

Private yachts

Cargo ships other than those referred to above

This Statement of Compliance is valid until ....., subject to verifications (as indicated overleaf)

Issued at: .....

Date of issue: .....

(Signature of the duly authorized official issuing the document and Seal of the Authority

**ENDORSEMENT FOR VERIFICATIONS**

The Government of .....KENYA..... has established that the validity of this Statement of Compliance is subject to <insert relevant details of the verifications (e.g. mandatory annual or unscheduled)>.

THIS IS TO CERTIFY that, during a verification carried out in accordance with regulation 31 of the Merchant Shipping (Maritime Security) Regulations, 2015, the port facility was found to comply with the relevant provisions of chapter the regulations.

1st. VERIFICATION Signed:.....

(Signature of authorized official)

Place:.....

Date: .....

(see overleaf)

2nd VERIFICATION Signed:.....

(Signature of authorized official)

Place:.....

Date: .....

3rd VERIFICATION Signed:.....

(Signature of authorized official)

Place:.....

Date: .....

4th VERIFICATION Signed:.....

(Signature of authorized official)

Place:.....

Date: .....

**FORM 5B**

(r. 81)

THE REPUBLIC OF KENYA  
THE MERCHANT SHIPPING ACT  
(Cap. 389, section 378)

[Subsidiary]

**FORM OF A STATEMENT OF COMPLIANCE FOR PORT FACILITIES SERVING SHIPS NOT ENGAGED ON INTERNATIONAL VOYAGES**

(Official seal)

Statement Number .....

*Issued under regulation 81 of*

THE MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS, 2015

The Government of the Republic of

\_\_\_\_\_ KENYA \_\_\_\_\_

Name of the Port Facilities Serving Ships Not Engaged On International Voyages:

Address of the Port Facilities Serving Ships Not Engaged On International Voyages:

THIS IS TO CERTIFY that the compliance of this Port Facilities Serving Ships Not Engaged on International Voyages with the provisions of the Merchant Shipping (Maritime Security) Regulations, 2015, has been verified and that this Facilities operates in accordance with the approved Port Facility Security Plan. This plan has been approved for the type(s) of ship(s) indicated below

- Passenger ship
- Passenger high speed craft
- Cargo high speed craft
- Bulk carrier
- Oil tanker
- Gas carrier
- Mobile offshore Drilling Units
- Cargo ships other than those referred to above

This Statement of Compliance is valid until ....., subject to verifications (as indicated overleaf)

Issued at: .....

Date of issue: .....

(Signature of the duly authorized official issuing the document and Seal of the Authority

**ENDORSEMENT FOR VERIFICATIONS**

The Government of ..... **KENYA** ..... has established that the validity of this Statement of Compliance is subject to <insert relevant details of the verifications (e.g. mandatory annual or unscheduled)>.

HIS IS TO CERTIFY that, during a verification carried out in accordance with regulation 31 of the Merchant Shipping (Maritime Security) Regulations, 2015, the port facility was found to comply with the relevant provisions of part IV of the regulations.

*(see overleaf)*

1st. VERIFICATION Signed:.....  
(Signature of authorized official)

Place:.....

Date: .....

2nd VERIFICATION Signed:.....  
(Signature of authorized official)

Place:.....

Merchant Shipping

[Subsidiary]

Date: .....

3rd VERIFICATION Signed:.....  
 (Signature of authorized official)  
 Place:.....  
 Date: .....

4th VERIFICATION Signed:.....  
 (Signature of authorized official)  
 Place:.....  
 Date: .....

**FORM 6** (r. 95)

THE REPUBLIC OF KENYA  
 THE MERCHANT SHIPPING ACT  
 (Cap. 389, section 378)  
 CARGO HANDLING FACILITY SECURITY CERTIFICATE  
 (Official seal)

Certificate Number .....

*Issued under regulation 81 of*

THE MERCHANT SHIPPING (MARITIME SECURITY) REGULATIONS, 2015

The Government of the Republic of

KENYA

Name of the Cargo Handling

Facility .....

Address of the Cargo Handling Facility:

.....

THIS IS TO CERTIFY that the compliance of this Port Facilities Serving Ships  
 Not Engaged on International Voyages with the provisions of the Merchant  
 Shipping (Maritime Security) Regulations, 2015, has been verified and that this  
 Facilities operates in accordance with the approved Port Facility Security Plan.  
 This plan has been approved for the type(s) of cargo handling and storage  
 facilities indicated below:

Container Freight Station

Inland Container Depot

Empty Container Depot

This Certificate is valid until ....., subject to verifications (as indicated overleaf)

Issued at: .....

Date of issue: .....

(Signature of the duly authorized official issuing the document and Seal of the Authority

**ENDORSEMENT FOR VERIFICATIONS**

The Government of .....KENYA.....has established that the validity of this Certificate

is subject to <insert relevant details of the verifications (e.g. mandatory annual or unscheduled)>.

THIS IS TO CERTIFY that, during a verification carried out in accordance with regulation 31 of the Merchant Shipping (Maritime Security) Regulations, 2015, the Cargo

Handling Facility was found to comply with the relevant provisions of chapter of the regulations.

*Merchant Shipping*

[Subsidiary]

1st. VERIFICATION Signed:.....  
 (Signature of authorized official)  
                                   Place:.....  
                                   Date: .....

2nd VERIFICATION Signed:.....  
 (Signature of authorized official)  
                                   Place:.....  
                                   Date: .....

3rd VERIFICATION Signed:.....  
 (Signature of authorized official)  
                                   Place:.....  
                                   Date: .....

4th VERIFICATION Signed:.....  
 (Signature of authorized official)  
                                   Place:.....  
                                   Date: .....

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SECOND SCHEDULE  
 [r. 45]

THE INTERNATIONAL SHIP AND PORT FACILITY SECURITY (ISPS) CODE

Part B

Guidance regarding the provisions of Chapter XI-2 of the Annex to the International Convention for the Safety of Life at Sea, 1974 as amended and Part A of this Code

1. Introduction

*General*

1.1 The preamble of this Code indicates that these regulations establish the new international framework of measures to enhance maritime security and through which ships and port facilities can co-operate to detect and deter acts which threaten security in the maritime transport sector.

1.2 This introduction outlines, in a concise manner, the processes envisaged in establishing and implementing the measures and arrangements needed to achieve and maintain compliance with the provisions of chapter XI-2 and of part A of this Code and identifies the main elements on which guidance is offered. The guidance is provided in paragraphs 2 through to 19. It also sets down essential considerations, which should be taken into account when considering the application of the guidance relating to ships and port facilities.

1.3 If the reader's interest relates to ships alone, it is strongly recommended that this Part of the Code is still read as a whole, particularly the sections relating to port facilities. The same applies to those whose primary interests are port facilities; they should also read the sections relating to ships.

1.4 The guidance provided in the following sections relates primarily to protection of the ship when it is at a port facility. There could, however, be situations when a ship may pose a threat to the port facility, e.g. because, once within the port facility, it could be used as a base from which to launch an attack. When considering the appropriate security measures to respond to ship-based security threats, those completing the port facility security assessment or preparing the port facility security plan should consider making appropriate adaptations to the guidance offered in the following sections.

1.5 The reader is advised that nothing in this Part of the Code should be read or interpreted in conflict with any of the provisions of either chapter XI-2 or part A of this Code and that the aforesaid provisions always prevail and override any unintended inconsistency which may have been inadvertently expressed in this Part of the Code. The guidance provided in this Part of the Code should always be read, interpreted and applied in a manner which is consistent with the aims, objectives and principles established in chapter XI-2 and part A of this Code.

*Responsibilities of Contracting Governments*

1.6 Contracting Governments have, under the provisions of chapter XI-2 and part A of this Code, various responsibilities, which, amongst others, include

- (a) setting the applicable security level; approving the ship security plan and relevant amendments to a previously approved plan;
- (b) verifying the compliance of ships with the provisions of these Regulations and issuing to ships the International Ship Security Certificate;
- (c) determining which of the port facilities located within their territory are required to designate a port facility security officer who will be responsible for the preparation of the port facility security plan;
- (d) ensuring completion and approval of the port facility security assessment and of any subsequent amendments to a previously approved assessment;
- (e) approving the port facility security plan and any subsequent amendments to a previously approved plan; and - exercising control and compliance measures;
- (f) testing approved plans; and
- (g) communicating information to the International Maritime Organization and to the shipping and port industries.

1.7 Contracting Governments can designate, or establish, designated authorities within Government to undertake, with respect to port facilities, their security duties under these Regulations and allow recognized security organizations to carry out certain work with respect to port facilities but the final decision on the acceptance and approval of this work should be given by the Contracting Government or the designated authority. Administrations may also delegate the undertaking of certain security duties, relating to ships, to recognized security organizations. The following duties or activities cannot be delegated to a recognized security organization—

- (a) setting of the applicable security level;
- (b) determining which of the port facilities located within the territory of a Contracting Government are required to designate a port facility security officer and to prepare a port facility security plan;
- (c) approving a port facility security assessment or any subsequent amendments to a previously approved assessment;
- (d) approving a Port Facility Security Plan or any subsequent amendments to a previously approved plan;
- (e) exercising control and compliance measures; and
- (f) establishing the requirements for a declaration of security.

*Setting the security level*

1.8 The setting of the security level applying at any particular time is the responsibility of Contracting Governments and can apply to ships and port facilities. Part A of this Code defines three security levels for international use. These are—

- (a) Security Level 1, normal; the level at which ships and port facilities normally operate;

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(b) Security Level 2, heightened; the level applying for as long as there is a heightened risk of a security incident; and

(c) Security Level 3, exceptional, the level applying for the period of time when there is the probable or imminent risk of a security incident.

*The Company and the Ship*

1.9 Any company operating ships to which these Regulations apply has to designate a company security officer for the company and a ship security officer for each of its ships. The duties, responsibilities and training requirements of these officers and requirements for drills and exercises are defined in part A of this Code.

1.10 The company security officer's responsibilities include, in brief amongst others, ensuring that a ship security assessment is properly carried out, that a ship security plan is prepared and submitted for approval by, or on behalf of, the administration and thereafter is placed on board each ship to which part A of this Code applies and in respect of which that person has been appointed as the company security officer.

1.11 The ship security plan should indicate the operational and physical security measures the ship itself should take to ensure it always operates at security level 1. The plan should also indicate the additional, or intensified, security measures the ship itself can take to move to and operate at security level 2 when instructed to do so. Furthermore, the plan should indicate the possible preparatory actions the ship could take to allow prompt response to the instructions that may be issued to the ship by those responding at security level 3 to a security incident or threat thereof.

1.12 The ships to which the requirements of these Regulations apply are required to have, and operated in accordance with, a ship security plan approved by, or on behalf of, the administration. The company and ship security officer should monitor the continuing relevance and effectiveness of the plan, including the undertaking of internal audits. Amendments to any of the elements of an approved plan, for which the administration has determined that approval is required, have to be submitted for review and approval before their incorporation in the approved plan and their implementation by the ship.

1.13 The ship has to carry an International Ship Security Certificate indicating that it complies with the requirements of chapter XI-2 and part A of this Code. Part A of this Code includes provisions relating to the verification and certification of the ship's compliance with the requirements on an initial, renewal and intermediate verification basis.

1.14 When a ship is at a port or is proceeding to a port of a Contracting Government, the Contracting Government has the right, under the provisions of regulation XI-2/9, to exercise various control and compliance measures with respect to that ship. The ship is subject to port State control inspections but such inspections will not normally extend to examination of the ship security plan itself except in specific circumstances. The ship may, also, be subject to additional control measures if the Contracting Government exercising the control and compliance measures has reason to believe that the security of the ship has, or the port facilities it has served have, been compromised.

1.15 The ship is also required to have onboard information, to be made available to Contracting Governments upon request, indicating who is responsible for deciding the employment of the ship's personnel and for deciding various aspects relating to the employment of the ship.

*The port facility*

1.16 Each Contracting Government has to ensure completion of a port facility security assessment for each of the port facilities, located within its territory, serving ships engaged on international voyages. The Contracting Government, a designated authority or a recognized security organization may carry out this assessment. The completed port facility security assessment has to be approved by the Contracting Government or the designated

authority concerned. This approval cannot be delegated. port facility security assessments should be periodically reviewed.

1.17 The port facility security assessment is fundamentally a risk analysis of all aspects of a port facility's operation in order to determine which part of it is more susceptible and more likely, to be the subject of attack. Security risk is a function of the threat of an attack coupled with the vulnerability of the target and the consequences of an attack.

The assessment must include the following components—

- (a) the perceived threat to port installations and infrastructure must be determined;
- (b) the potential vulnerabilities identified; and
- (c) the consequences of incidents calculated.

On completion of the analysis, it will be possible to produce an overall assessment of the level of risk. The port facility security assessment will help determine which port facilities are required to appoint a port facility security officer and prepare a port facility security plan.

1.18 The port facilities which have to comply with the requirements of these regulations are required to designate a port facility security officer. The duties, responsibilities and training requirements of these officers and requirements for drills and exercises are defined in part A of this Code.

1.19 The port facility security plan should indicate the operational and physical security measures the port facility should take to ensure that it always operates at security level 1. The plan should also indicate the additional, or intensified, security measures the port facility can take to move to and operate at security level 2 when instructed to do so. Furthermore, the plan should indicate the possible preparatory actions the port facility could take to allow prompt response to the instructions that may be issued by those responding at security level 3 to a security incident or threat thereof.

1.20 The port facilities which have to comply with the requirements of these regulations are required to have, and operate in accordance with, a port facility security plan approved by the Contracting Government or by the designated authority concerned. The port facility security officer should implement its provisions and monitor the continuing effectiveness and relevance of the plan, including commissioning internal audits of the application of the plan. Amendments to any of the elements of an approved plan, for which the Contracting Government or the designated authority concerned has determined that approval is required, have to be submitted for review and approval before their incorporation in the approved plan and their implementation at the port facility. The Contracting Government or the designated authority concerned may test the effectiveness of the plan. The port facility security assessment covering the port facility or on which the development of the plan has been based should be regularly reviewed. All these activities may lead to amendment of the approved plan. Any amendments to specified elements of an approved plan will have to be submitted for approval by the Contracting Government or by the designated authority concerned.

1.21 Ships using port facilities may be subject to the port State control inspections and additional control measures outlined in regulation XI-2/9. The relevant authorities may request the provision of information regarding the ship, its cargo, passengers and ship's personnel prior to the ship's entry into port. There may be circumstances in which entry into port could be denied.

#### *Information and communication*

1.22 These Regulations require Contracting Governments to provide certain information to the International Maritime Organization and for information to be made available to allow effective communication between Contracting Governments and between Company and Ship security officers and the port facility security officers.

## **2. Definitions**

[Subsidiary]

2.1 No guidance is provided with respect to the definitions set out in chapter XI-2 or part A of this Code.

2.2 For the purpose of this Part of the Code—

"section" means a section of part A of the Code and is indicated as "section A/<followed by the number of the section>";

"paragraph" means a paragraph of this Part of the Code and is indicated as

"paragraph <followed by the number of the paragraph>"; and

"Contracting Government", when used in paragraphs 14 to 18, means the "Contracting Government within whose territory the port facility is located" and includes a reference to the "designated authority".

### **3. Application**

#### *General*

3.1 The guidance given in this Part of the Code should be taken into account when implementing the requirements of chapter XI-2 and part A of this Code.

3.2 However, it should be recognized that the extent to which the guidance on ships applies will depend on the type of ship, its cargoes and passengers, its trading pattern and the characteristics of the port facilities visited by the ship.

3.3 Similarly, in relation to the guidance on port facilities, the extent to which this guidance applies will depend on the port facilities, the types of ships using the port facility, the types of cargo and passengers and the trading patterns of visiting ships.

3.4 The provisions of these Regulations are not intended to apply to port facilities designed and used primarily for military purposes.

### **4. Responsibilities of Contracting Governments Security of assessments and plans**

4.1 Contracting Governments should ensure that appropriate measures are in place to avoid unauthorized disclosure of, or access to, security sensitive material relating to Ship security assessments, ship security plans, port facility security assessments and port facility security plans, and to individual assessments or plans.

#### *Designated authorities*

4.2 Contracting Governments may identify a designated authority within Government to undertake their security duties relating to port facilities as set out in chapter XI-2 or part A of this Code

#### *Recognized Security Organizations*

4.3 Contracting Governments may authorize a recognized security organization to undertake certain security related activities, including—

- (a) approval of ship security plans, or amendments thereto, on behalf of the administration ;
- (b) verification and certification of compliance of ships with the requirements of these regulations on behalf of the administration; and
- (c) conducting port facility security assessments required by the Contracting Government.

4.4 A recognized security organization may also advise or provide assistance to companies or port facilities on security matters, including ship security assessments, ship security plans, port facility security assessments and port facility security plans. This can include completion of a ship security assessment or plan or port facility security assessment or plan. If a recognized security organization has done so in respect of a ship security assessment or plan that recognized security organization should not be authorized to approve that ship security plan.



4.5 When authorizing a recognized security organization, Contracting Governments should give consideration to the competency of such an organization. A recognized security organization should be able to demonstrate—

- (a) expertise in relevant aspects of security;
- (b) appropriate knowledge of ship and port operations, including knowledge of ship design and construction if providing services in respect of ships and port design and construction if providing services in respect of port facilities;
- (c) their capability to assess the likely security risks that could occur during ship and port facility operations including the ship/port interface and how to minimise such risks;
- (d) their ability to maintain and improve the expertise of their personnel;
- (e) their ability to monitor the continuing trustworthiness of their personnel;
- (f) their ability to maintain appropriate measures to avoid unauthorized disclosure of, or access to, security sensitive material;
- (g) their knowledge of the requirements these regulations and relevant national and international legislation and security requirements;
- (h) their knowledge of current security threats and patterns;
- (i) their knowledge on recognition and detection of weapons, dangerous substances and devices;
- (j) their knowledge on recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;
- (k) their knowledge on techniques used to circumvent security measures; and
- (l) their knowledge of security and surveillance equipment and systems and their operational limitations.

When delegating specific duties to a recognized security organization, Contracting Governments, including administrations, should ensure that the RSO has the competencies needed to undertake the task.

4.6 A Recognized Organization, as defined in regulation I/6 and fulfilling the requirements of regulation XI-1/1, may be appointed as a recognized security organization provided it has the appropriate security related expertise listed in paragraph 4.5.

4.7 A Port or harbour authority or port facility operator may be appointed as a recognized security organization provided it has the appropriate security related expertise listed in paragraph 4.5.

#### *Setting the security level*

4.8 In setting the security level Contracting Governments should take account of general and specific threat information. Contracting Governments should set the security level applying to ships or port facilities at one of three levels—

- (a) security level 1: normal, the level at which the ship or port facility normally operates;
- (b) security level 2: heightened, the level applying for as long as there is a heightened risk of a security incident; and
- (c) security level 3: exceptional, the level applying for the period of time when there is the probable or imminent risk of a security incident.

4.9 Setting security level 3 should be an exceptional measure applying only when there is credible information that a security incident is probable or imminent. Security level 3 should only be set for the duration of the identified security threat or actual security incident. While the security levels may change from security level 1, through security level 2 to security

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level 3, it is also possible that the security levels will change directly from security level 1 to security level 3.

4.10 At all times the Master of a ship has the ultimate responsibility for the safety and security of the ship. Even at security level 3 a Master may seek clarification or amendment of instructions issued by those responding to a security incident, or threat thereof, if there are reasons to believe that compliance with any instruction may imperil the safety of the ship.

4.11 The company security officer or the ship security officer should liaise at the earliest opportunity with the port facility security officer of the port facility the ship is intended to visit to establish the security level applying for that ship at the port facility. Having established contact with a ship, the PFSO should advise the ship of any subsequent change in the port facility's security level and should provide the ship with any relevant security information.

4.12 While there may be circumstances when an individual ship may be operating at a higher security level than the port facility it is visiting, there will be no circumstances when a ship can have a lower security level than the port facility it is visiting. If a ship has a higher security level than the port facility it intends to use, the company security officer or ship security officer should advise the port facility security officer without delay. The port facility security officer should undertake an assessment of the particular situation in consultation with the company security officer or ship security officer and agree on appropriate security measures with the ship, which may include completion and signing of a declaration of security.

4.13 Contracting Governments should consider how information on changes in security levels should be promulgated rapidly. Administrations may wish to use NAVTEX messages or Notices to Mariners as the method for notifying such changes in security levels to ship and company security officer and ship security officer. Or, they may wish to consider other methods of communication that provide equivalent or better speed and coverage. Contracting Governments should establish means of notifying PFSO of changes in security levels. Contracting Governments should compile and maintain the contact details for a list of those who need to be informed of changes in security levels. Whereas the security level need not be regarded as being particularly sensitive, the underlying threat information may be highly sensitive. Contracting Governments should give careful consideration to the type and detail of the information conveyed and the method by which it is conveyed, to ship security officers, company security officers and port facility security officers.

*Contact points and information on Port Facility Security Plans*

4.14 Where a port facility has a port facility security plan, that fact has to be communicated to the organization and that information must also be made available to company and ship security officers. No further details of the port facility security plan have to be published other than that it is in place. Contracting Governments should consider establishing either central or regional points of contact, or other means of providing up to date information on the locations where port facility security plans are in place, together with contact details for the relevant port facility security officer. The existence of such contact points should be publicised. They could also provide information on the recognized security organizations appointed to act on behalf of the Contracting Government, together with details of the specific responsibility and conditions of authority delegated to such recognized security organizations.

4.15 In the case of a port that does not have a port facility security plan (and therefore does not have a port facility security officer) the central or regional point of contact should be able to identify a suitably qualified person ashore who can arrange for appropriate security measures to be in place, if needed, for the duration of the ship's visit.

4.16 Contracting Governments should also provide the contact details of Government officers to whom a ship security officer, a company security officer and a port facility security officer can report security concerns. These Government officers should assess such reports before taking appropriate action. Such reported concerns may have a bearing on the security measures falling under the jurisdiction of another Contracting Government. In

that case, the Contracting Governments should consider contacting their counterpart in the other Contracting Government to discuss whether remedial action is appropriate. For this purpose, the contact details of the Government officers should be communicated to the International Maritime Organization.

4.17 Contracting Governments should also make the information indicated in paragraphs 4.14 to 4.16, available to other Contracting Governments on request.

*Identification documents*

4.18 Contracting Governments are encouraged to issue appropriate identification documents to Government officials entitled to board ships or enter port facilities when performing their official duties and to establish procedures whereby the authenticity of such documents might be verified.

*Fixed and floating platforms and mobile offshore drilling units on location*

4.19 Contracting Governments should consider establishing appropriate security measures for fixed and floating platforms and mobile offshore drilling units on location to allow interaction with ships which are required to comply with the provisions of chapter XI-2 and part A of this Code.

*Ships which are not required to comply with part A of this Code*

4.20 Contracting Governments should consider establishing appropriate security measure to enhance the security of ships to which these regulations does not apply and to ensure that any security provisions applying to such ships allow interaction with ships to which part A of this Code applies.

*Threats to ships and other incidents at sea*

4.21 Contracting Governments should provide general guidance on the measures considered appropriate to reduce the security risk to ships flying their flag when at sea. They should provide specific advice on the action to be taken in accordance with security levels 1 to 3, if—

- (a) there is a change in the security level applying to the ship while it is at sea, e.g. because of the geographical area in which it is operating or relating to the ship itself; and
- (b) there is a security incident or threat thereof involving the ship while at sea.

Contracting Governments should establish the best methods and procedures for these purposes. In the case of an imminent attack the ship should seek to establish direct communication with those responsible in the flag State for responding to security incidents.

4.22 Contracting Governments should also establish a point of contact for advice on security for any ship—

- (a) entitled to fly their flag; or
- (b) operating in their territorial sea or having communicated an intention to enter their territorial sea.

4.23 Contracting Governments should offer advice to ships operating in their territorial sea or having communicated an intention to enter their territorial sea, which could include advice—

- (a) to alter or delay their intended passage;
- (b) to navigate on a particular course or proceed to a specific location;
- (c) on the availability of any personnel or equipment that could be placed on the ship;
- (d) to co-ordinate the passage, arrival into port or departure from port, to allow escort by patrol craft or aircraft (fixed-wing or helicopter).

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Contracting Governments should remind ships operating in their territorial sea, or having communicated an intention to enter their territorial sea, of any temporary restricted areas that they have published.

4.24 Contracting Governments should recommend that ships operating in their territorial sea, or having communicated an intention to enter their territorial sea, implement expeditiously, for the ship's protection and for the protection of other ships in the vicinity, any security measure the Contracting Government may have advised.

4.25 The plans prepared by the Contracting Governments for the purposes given in paragraph 4.22 should include information on an appropriate point of contact, available on a 24-hour basis, within the Contracting Government including the administration. These plans should also include information on the circumstances in which the administration considers assistance should be sought from nearby coastal States, and a procedure for liaison between port facility security officers and ship security officers.

*Alternative security agreements*

4.26 Contracting Governments, in considering how to implement chapter XI-2 and part A of this Code, may conclude one or more agreements with one or more Contracting Governments. The scope of an agreement is limited to short international voyages on fixed routes between port facilities in the territory of the parties to the agreement. When concluding an agreement, and thereafter, the Contracting Governments should consult other Contracting Governments and administrations with an interest in the effects of the agreement. Ships flying the flag of a State that is not party to the agreement should only be allowed to operate on the fixed routes covered by the agreement if their administration agrees that the ship should comply with the provisions of the agreement and requires the ship to do so. In no case can such an agreement compromise the level of security of other ships and port facilities not covered by it, and specifically, all ships covered by such an agreement may not conduct ship-to-ship activities with ships not so covered. Any operational interface undertaken by ships covered by the agreement should be covered by it. The operation of each agreement must be continually monitored and amended when the need arises and in any event should be reviewed every 5 years.

*Equivalent arrangements for port facilities*

4.27 For certain specific port facilities with limited or special operations but with more than occasional traffic, it may be appropriate to ensure compliance by security measures equivalent to those prescribed in chapter XI-2 and in part A of this Code. This can, in particular, be the case for terminals such as those attached to factories, or quaysides with no frequent operations.

*Manning level*

4.28 In establishing the minimum safe manning of a ship the administration should take into account that the minimum safe manning provisions established by regulation V/14 only address the safe navigation of the ship. The administration should also take into account any additional workload which may result from the implementation of the ship's security plan and ensure that the ship is sufficiently and effectively manned. In doing so the administration should verify that ships are able to implement the hours of rest and other measures to address fatigue which have been promulgated by national law, in the context of all shipboard duties assigned to the various shipboard personnel.

*General*

4.29 Regulation XI-2/9 describes the control and compliance measures applicable to ships under chapter XI-2. It is divided into three distinct sections; control of ships already in a port, control of ships intending to enter a port of another Contracting Government, and additional provisions applicable to both situations.

4.30 Regulation XI-2/9.1, control of ships in port, implements a system for the control of ships while in the port of a foreign country where duly authorized officers of the Contracting

Government (duly authorized officers) have the right to go on board the ship to verify that the required certificates are in proper order. Then if there are clear grounds to believe the ship does not comply, control measures such as additional inspections or detention may be taken. This reflects current control systems. Regulation XI-2/9.1 builds on such systems and allows for additional measures (including expulsion of a ship from a port to be taken as a control measure) when duly authorized officers have clear grounds for believing that a ship is in non-compliance with the requirements of chapter XI-2 or part A of this Code. Regulation XI-2/9.3 describes the safeguards that promote fair and proportionate implementation of these additional measures.

4.31 Regulation XI-2/9.2 applies control measures to ensure compliance to ships intending to enter a port of another Contracting Government and introduces an entirely different concept of control within chapter XI-2, applying to security only. Under this regulation measures may be implemented prior to the ship entering port, to better ensure security. Just as in regulation XI-2/9.1, this additional control system is based on the concept of clear grounds for believing the ship does not comply with chapter XI-2 or part A of this Code, and includes significant safeguards in regulations XI-2/9.2.2 and XI-2/9.2.5 as well as in regulation XI-2/9.3.

4.32 Clear grounds that the ship is not in compliance means evidence or reliable information that the ship does not correspond with the requirements of chapter XI-2 or part A of this Code, taking into account the guidance given in this Part of the Code. Such evidence or reliable information may arise from the duly authorized officer's professional judgement or observations gained while verifying the ship's International Ship Security Certificate or Interim International Ship Security Certificate issued in accordance with part A of this Code (certificate) or from other sources. Even if a valid certificate is on board the ship, the duly authorized officers may still have clear grounds for believing that the ship is not in compliance based on their professional judgment.

4.33 Examples of possible clear grounds under regulations XI-2/9.1 and XI-2/9.2 may include, when relevant—

- (a)** evidence from a review of the certificate that it is not valid or it has expired;
- (b)** evidence or reliable information that serious deficiencies exist in the security equipment, documentation or arrangements required by chapter XI-2 and part A of this Code;
- (c)** receipt of a report or complaint which, in the professional judgment of the duly authorized officer, contains reliable information clearly indicating that the ship does not comply with the requirements of chapter XI-2 or part A of this Code;
- (d)** evidence or observation gained by a duly authorized officer using professional judgment that the master or ship's personnel is not familiar with essential shipboard security procedures or cannot carry out drills related to the security of the ship or that such procedures or drills have not been carried out;
- (e)** evidence or observation gained by a duly authorized officer using professional judgment that key members ship's personnel are not able to establish proper communication with any other key members of ship's personnel with security responsibilities on board the ship;
- (f)** evidence or reliable information that the ship has embarked persons, or loaded stores or goods at a port facility or from another ship where either the port facility or the other ship is in violation of chapter XI-2 or part A of this Code, and the ship in question has not completed a Declaration of Security, nor taken appropriate, special or additional security measures or has not maintained appropriate ship security procedures;
- (g)** evidence or reliable information that the ship has embarked persons, or loaded stores or goods at a port facility or from another source (e.g., another ship or helicopter transfer) where either the port facility or the other source is not required to comply with chapter XI-2 or part A of this Code, and the ship has not taken appropriate, special or additional security measures or has not maintained appropriate security procedures; and

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**(h)** if the ship holds a subsequent, consecutively issued Interim International Ship Security Certificate as described in section A/19.4, and if, in the professional judgment of an officer duly authorized, one of the purposes of the ship or a Company in requesting such a certificate is to avoid full compliance with these regulations beyond the period of the initial interim certificate as described in section A/19.4.4.

4.34 The international law implications of regulation XI-2/9 are particularly relevant, and the regulation should be implemented with regulation XI-2/2.4 in mind, as the potential exists for situations where either measures will be taken which fall outside the scope of chapter XI-2, or where rights of affected ships, outside chapter XI-2, should be considered. Thus, regulation XI-2/9 does not prejudice the Contracting Government from taking measures having a basis in, and consistent with, international law, to ensure the safety or security of persons, ships, port facilities and other property in cases where the ship, although in compliance with chapter XI-2 and part A of this Code, is still considered to present a security risk.

4.35 When a Contracting Government imposes control measures on a ship, the administration should, without delay, be contacted with sufficient information to enable the administration to fully liaise with the Contracting Government.

*Control of ships in port*

4.36 Where the non-compliance is either a defective item of equipment or faulty documentation leading to the ship's detention and the non-compliance cannot be remedied in the port of inspection, the Contracting Government may allow the ship to sail to another port provided that any conditions agreed between the port States and the administration or master are met.

*Ships intending to enter the port of another Contracting Government*

4.37 Regulation XI-2/9.2.1 lists the information Contracting Governments may require from a ship as a condition of entry into port. One item of information listed is confirmation of any special or additional measures taken by the ship during its last ten calls at a port facility. Examples could include—

- (a)** records of the measures taken while visiting a port facility located in the territory of a State which is not a Contracting Government especially those measures that would normally have been provided by port facilities located in the territories of Contracting Governments; and
- (b)** any declarations of security that were entered into with port facilities or other ships.

4.38 Another item of information listed, that may be required as a condition of entry into port, is confirmation that appropriate ship security procedures were maintained during ship-to-ship activity conducted within the period of the last 10 calls at a port facility. It would not normally be required to include records of transfers of pilots, customs, immigration, security officials nor bunkering, lightering, loading of supplies and unloading of waste by ship within port facilities as these would normally fall within the auspices of the port facility security plan. Examples of information that might be given include—

- (a)** records of the measures taken while engaged in a ship to ship activity with a ship flying the flag of a State which is not a Contracting especially those measures that would normally have been provided by ships flying the flag of Contracting Governments;
- (b)** records of the measures taken while engaged in a ship to ship activity with a ship that is flying the flag of a Contracting Government but is not required to comply with the provisions of these regulations such as a copy of any security certificate issued to that ship under other provisions; and
- (c)** in the event that persons or goods rescued at sea are on board, all known information about such persons or goods, including their identities when known and the results of any checks run on behalf of the ship to establish the security status of those rescued. It is not the intention of chapter XI-2 or part A of this Code to delay or prevent the delivery of those in distress at sea to a place of safety. It is the sole intention of chapter XI- 2 and part A of

this Code to provide States with enough appropriate information to maintain their security integrity.

4.39 Examples of other practical security related information on that may be required as a condition of entry into port in order to assist with ensuring the safety and security of persons, port facilities, ships and other property include—

- (a) information contained in the Continuous Synopsis Record;
- (b) location of the ship at the time the report is made;
- (c) expected time of arrival of the ship in port;
- (d) crew list;
- (e) general description of cargo aboard the ship;
- (f) passenger list; and
- (g) information required to be carried under regulation XI- 2/5.

4.40 Regulation XI-2/9.2.5 allows the master of a ship, upon being informed that the coastal or port State will implement control measures under regulation XI-2/9.2, to withdraw the intention for the ship to enter port. If the master withdraws that intention, regulation XI-2/9 no longer applies, and any other steps that are taken must be based on, and consistent with, international law.

*Additional provisions*

4.41 In all cases where a ship is denied entry or expelled from a port, all known facts should be communicated to the authorities of relevant States. This communication should consist of the following when known—

- (a) name of ship, its flag, the ship's identification number, call sign, ship type and cargo;
- (b) reason for denying entry or expulsion from port or port areas;
- (c) if relevant, the nature of any security non-compliance;
- (d) if relevant, details of any attempts made to rectify any non-compliance, including any conditions imposed on the ship for the voyage;
- (e) past port(s) of call and next declared port of call;
- (f) time of departure and likely estimated time of arrival at those ports;
- (g) any instructions given to ship, e.g., reporting on route;
- (h) available information on the security level at which the ship is currently operating;
- (i) information regarding any communications the port State has had with the administration;
- (j) contact point within the port State making the report for the purpose of obtaining further information;
- (k) crew list; and
- (l) any other relevant information.

4.42 Relevant States to contact should include those along the ship's intended passage to its next port, particularly if the ship intends to enter the territorial sea of that coastal State. Other relevant States could include previous ports of call, so that further information might be obtained and security issues relating to the previous ports resolved.

4.43 In exercising control and compliance measures, the duly authorized officers should ensure that any measures or steps imposed are proportionate. Such measures or steps should be reasonable and of the minimum severity and duration necessary to rectify or mitigate the non-compliance.

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[Subsidiary]

4.44 The word "delay" in regulation XI-2/9.3.5.1 also refers to situations where, pursuant to actions taken under this regulation, the ship is unduly denied entry into port or the ship is unduly expelled from port.

*Non-party ships and ships below convention size*

4.45 With respect to ships flying the flag of a State which is not a Contracting Government to the Convention and not a Party to the 1988 SOLAS Protocol, Contracting Governments should not give more favourable treatment to such ships. Accordingly, the requirements of regulation XI-2/9 and the guidance provided in this Part of the Code should be applied to those ships.

4.46 Ships below Convention size are subject to measures by which States maintain security. Such measures should be taken with due regard to the requirements in chapter XI-2 and the guidance provided in this Part of the Code.

5. Declaration of Security

*General*

5.1 A declaration of security should be completed when the Contracting Government of the port facility deems it to be necessary or when a ship deems it necessary.

5.1.1 The need for a declaration of security may be indicated by the results of the port facility security assessment ( and the reasons and circumstances in which a declaration of security is required should be set out in the port facility security plan.

5.1.2 The need for a declaration of security may be indicated by an administration for ships entitled to fly its flag or as a result of a ship security assessment and should be set out in the ship security plan.

5.2 It is likely that a declaration of security will be requested at higher security levels, when a ship has a higher security level than the port facility, or another ship with which it interfaces, and for ship/port interface or ship to ship activities that pose a higher risk to persons, property or the environment for reasons specific to that ship, including its cargo or passengers or the circumstances at the port facility or a combination of these factors.

5.2.1 In the case that a ship or an administration, on behalf of ships entitled to fly its flag, requests completion of a declaration of security, the port facility security officer or ship security officer should acknowledge the request and discuss appropriate security measures.

5.3 A port facility security officer may also initiate a declaration of security prior to ship/port interfaces that are identified in the approved port facility security assessment as being of particular concern. Examples may include the embarking or disembarking passengers, and the transfer, loading or unloading of dangerous goods or hazardous substances. The port facility security assessment may also identify facilities at or near highly populated areas or economically significant operations that warrant a declaration of security.

5.4 The main purpose of a declaration of security is to ensure agreement is reached between the ship and the port facility or with other ships with which it interfaces as to the respective security measures each will undertake in accordance with the provisions of their respective approved security plans.

5.4.1 The agreed declaration of security should be signed and dated by both the port facility and the ship(s), as applicable, to indicate compliance with these regulations and should include its duration, the relevant security level, or levels and the relevant contact details.

5.4.2 A change in the security level may require that a new or revised declaration of security be completed.

5.5 The declaration of security should be completed in English, French or Spanish or in a language common to both the port facility and the ship or the ships, as applicable.



5.6 A model declaration of security is included in First Schedule of these regulations. This model is for declaration of security between a ship and a port facility. If the declaration of security is to cover two ships this model should be appropriately adjusted.

## 6. Obligations of the Company

### *General*

6.1 Regulation XI-2/5 requires the company to provide the master of the ship with information to meet the requirements of the company under the provisions of this regulation. This information should include items such as—

**(a)** parties responsible for appointing shipboard personnel, such as ship management companies, manning agents, contractors, concessionaries (for example, retail sales outlets, casinos, etc.);

**(b)** parties responsible for deciding the employment of the ship including, time or bareboat charterer(s) or any other entity acting in such capacity; and

**(c)** in cases when the ship is employed under the terms of a charter party, the contact details of those parties including time or voyage charterers.

6.2 In accordance with regulation XI-2/5 the company is obliged to update and keep this information current as and when changes occur.

6.3 This information should be in English, French or Spanish language.

6.4 With respect to ships constructed before 1 July 2004, this information should reflect the actual condition on that date.

6.5 With respect to ships constructed on or after 1 July 2004 and for ships constructed before 1 July 2004 which were out of service on 1 July 2004, the information should be provided as from the date of entry of the ship into service and should reflect the actual condition on that date.

6.6 After 1 July 2004 when a ship is withdrawn from service the information should be provided as from the date of re-entry of the ship into service and should reflect the actual condition on that date.

6.7 Previously provided information that does not relate to the actual condition on that date need not be retained on board.

6.8 When the responsibility for the operation of the ship is assumed by another company, the information relating to the company, which operated the ship, is not required to be left on board.

In addition other relevant guidance is provided under sections 8, 9 and 13.

## 7. Ship Security

*Relevant guidance is provided under sections 8, 9, 11, 12 and 14.*

## 8. Ship Security Assessment Security assessment

8.1 The company security officer is responsible for ensuring that a ship security assessment is carried out for each of the ships in the company's fleet which is required to comply with the provisions of these regulations for which the company security officer is responsible. While the company security officer need not necessarily personally undertake all the duties associated with the post, the ultimate responsibility for ensuring that they are properly performed remains with the individual company security officer.

8.2 Prior to commencing the ship security assessment, the company security officer should ensure that advantage is taken of information available on the assessment of threat for the ports at which the ship will call or at which passengers embark or disembark and about the port facilities and their protective measures. The company security officer should study previous reports on similar security needs. Where feasible, the company security officer

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should meet with appropriate persons on the ship and in the port facilities to discuss the purpose and methodology of the assessment. The company security officer should follow any specific guidance offered by the Contracting Governments.

8.3 A ship security assessment should address the following elements on board or within the ship—

- (a) physical security;
- (b) structural integrity;
- (c) personnel protection systems;
- (d) procedural policies;
- (e) radio and telecommunication systems, including computer systems and networks; and
- (f) other areas that may, if damaged or used for illicit observation, pose a risk to persons, property, or operations on board the ship or within a port facility.

8.4 Those involved in a ship security assessment should be able to draw upon expert assistance in relation to—

- (a) knowledge of current security threats and patterns;
- (b) recognition and detection of weapons, dangerous substances and devices;
- (c) recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;
- (d) techniques used to circumvent security measures;
- (e) methods used to cause a security incident;
- (f) effects of explosives on ship's structures and equipment;
- (g) ship security;
- (h) ship/port interface business practices;
- (i) contingency planning, emergency preparedness and response;
- (j) physical security;
- (k) radio and telecommunications systems, including computer systems and networks;
- (l) marine engineering; and
- (m) ship and port operations.

8.5 The company security officer should obtain and record the information required to conduct an assessment, including—

- (a) the general layout of the ship;
- (b) the location of areas which should have restricted access, such as navigation bridge, machinery spaces of category A and other control stations as defined in chapter II-2, etc.;
- (c) the location and function of each actual or potential access point to the ship;
- (d) changes in the tide which may have an impact on the vulnerability or security of the ship;
- (e) the cargo spaces and stowage arrangements;
- (f) the locations where the ship's stores and essential maintenance equipment is stored;
- (g) the locations where unaccompanied baggage is stored;
- (h) the emergency and stand-by equipment available to maintain essential services;
- (i) the number of ship's personnel, any existing security duties and any existing training requirement practices of the company;

- (j) existing security and safety equipment for the protection of passengers and ship's personnel;
- (k) escape and evacuation routes and assembly stations which have to be maintained to ensure the orderly and safe emergency evacuation of the ship;
- (l) existing agreements with private security companies providing ship/waterside security services; and
- (m) existing security measures and procedures in effect, including inspection and, control procedures, identification systems, surveillance and monitoring equipment, personnel identification documents and communication, alarms, lighting, access control and other appropriate systems.

8.6 The ship security assessment should examine each identified point of access, including open weather decks, and evaluate its potential for use by individuals who might seek to breach security. This includes points of access available to individuals having legitimate access as well as those who seek to obtain unauthorized entry.

8.7 The ship security assessment should consider the continuing relevance of the existing security measures and guidance, procedures and operations, under both routine and emergency conditions and should determine security guidance including—

- (i) the restricted areas;
- (ii) the response procedures to fire or other emergency conditions;
- (iii) the level of supervision of the ship's personnel, passengers, visitors, vendors, repair technicians, dock workers, etc.;
- (iv) the frequency and effectiveness of security patrols;
- (v) the access control systems, including identification systems;
- (vi) the security communications systems and procedures;
- (vii) the security doors, barriers and lighting; and
- (viii) the security and surveillance equipment and systems, if any.

8.8 The ship security assessment should consider the persons, activities, services and operations that it is important to protect. This includes—

- (a) the ship's personnel;
- (b) passengers, visitors, vendors, repair technicians, port facility personnel, etc;
- (c) the capacity to maintain safe navigation and emergency response;
- (d) the cargo, particularly dangerous goods or hazardous substances;
- (e) the ship's stores;
- (f) the ship security communication equipment and systems, if any; and
- (g) the ship's security surveillance equipment and systems, if any.

8.9 The ship security assessment should consider all possible threats, which may include the following types of security incidents—

- (a) damage to, or destruction of, the ship or of a port facility, e.g. by explosive devices, arson, sabotage or vandalism;
- (b) hijacking or seizure of the ship or of persons on board;
- (c) tampering with cargo, essential ship equipment or systems or ship's stores;
- (d) unauthorized access or use, including presence of stowaways;
- (e) smuggling weapons or equipment, including weapons of mass destruction;
- (f) use of the ship to carry those intending to cause a security incident and/or their equipment;

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- (g) use of the ship itself as a weapon or as a means to cause damage or destruction;
- (h) attacks from seaward whilst at berth or at anchor; and
- (i) attacks whilst at sea.

8.10 The ship security assessment should take into account all possible vulnerabilities, which may include—

- (a) conflicts between safety and security measures;
- (b) conflicts between shipboard duties and security assignments;
- (c) watch-keeping duties, number of ship's personnel, particularly with implications on crew fatigue, alertness and performance;
- (d) any identified security training deficiencies; and
- (e) any security equipment and systems, including communication systems.

8.11 The company security officer and ship security officer should always have regard to the effect that security measures may have on ship's personnel who will remain on the ship for long periods. When developing security measures, particular consideration should be given to the convenience, comfort and personal privacy of the ship's personnel and their ability to maintain their effectiveness over long periods.

8.12 Upon completion of the ship security assessment, a report shall be prepared, consisting of a summary of how the assessment was conducted, a description of each vulnerability found during the assessment and a description of counter measures that could be used to address each vulnerability. The report shall be protected from unauthorized access or disclosure.

8.13 If the SSA has not been carried out by the company, the report of the SSA should be reviewed and accepted by the company security officer.

*On-scene security survey*

8.14 The on-scene security survey is an integral part of any ship security assessment.

The on-scene security survey should examine and evaluate existing shipboard protective measures, procedures and operations for—

- (a) ensuring the performance of all ship security duties;
- (b) monitoring restricted areas to ensure that only authorized persons have access;
- (c) controlling access to the ship, including any identification systems;
- (d) monitoring of deck areas and areas surrounding the ship;
- (e) controlling the embarkation of persons and their effects (accompanied and unaccompanied baggage and ship's personnel personal effects);
- (f) supervising the handling of cargo and the delivery of ship's stores; and
- (g) ensuring that ship security communication, information, and equipment are readily available.

**9. Ship Security Plan***General*

9.1 The Company Security Officer has the responsibility of ensuring that a ship security plan is prepared and submitted for approval. The content of each individual ship security plan should vary depending on the particular ship it covers. The Ship security assessment will have identified the particular features of the ship and the potential threats and vulnerabilities. The preparation of the ship security plan will require these features to be addressed in detail. Administrations may prepare advice on the preparation and content of a ship security plan.

9.2 All ship security plans should—

- (a) detail the organizational structure of security for the ship;
- (b) detail the ship's relationships with the company, port facilities, other ships and relevant authorities with security responsibility;
- (c) detail the communication systems to allow effective continuous communication within the ship and between the ship and others, including port facilities;
- (d) detail the basic security measures for security level 1, both operational and physical, that will always be in place;
- (e) detail the additional security measures that will allow the ship to progress without delay to security level 2 and, when necessary, to security level 3;
- (f) provide for regular review, or audit, of the ship security plan and for its amendment in response to experience or changing circumstances; and
- (g) reporting procedures to the appropriate Contracting Governments contact points.

9.3 Preparation of an effective ship security plan should rest on a thorough assessment of all issues that relate to the security of the ship, including, in particular, a thorough appreciation of the physical and operational characteristics, including the voyage pattern, of the individual ship.

9.4 All ship security plans should be approved by, or on behalf of, the administration. If an administration uses a recognized security organization to review or approve the ship security plan the recognized security organization should not be associated with any other recognized security organization that prepared, or assisted in the preparation of, the plan.

9.5 Company security officers and ship security officers should develop procedures to—

- (a) assess the continuing effectiveness of the ship security plan; and
- (b) prepare amendments of the plan subsequent to its approval.

9.6 The security measures included in the ship security plan should be in place when the initial verification for compliance with the requirements of these regulations will be carried out. Otherwise the process of issue to the ship of the required International Ship Security Certificate cannot be carried out. If there is any subsequent failure of security equipment or systems, or suspension of a security measure for whatever reason, equivalent temporary security measures should be adopted, notified to, and agreed by, the administration.

#### *Organization and performance of ship security duties*

9.7 In addition to the guidance given in section 9.2, the ship security plan should establish the following which relate to all security levels—

- (a) the duties and responsibilities of all shipboard personnel with a security role;
- (b) the procedures or safeguards necessary to allow such continuous communications to be maintained at all times;
- (c) the procedures needed to assess the continuing effectiveness of security procedures and any security and surveillance equipment and systems, including procedures for identifying and responding to equipment or systems failure or malfunction;
- (d) the procedures and practices to protect security sensitive information held in paper or electronic format;
- (e) the type and maintenance requirements, of security and surveillance equipment and systems, if any;
- (f) the procedures to ensure the timely submission, and assessment, of reports relating to possible breaches of security or security concerns; and

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(g) procedures to establish, maintain and up-date an inventory of any dangerous goods or hazardous substances carried on board, including their location.

9.8 The remainder of this section addresses specifically the security measures that could be taken at each security level covering—

- (a) access to the ship by ship's personnel, passengers, visitors, etc;
- (b) restricted areas on the ship;
- (c) handling of cargo;
- (d) delivery of ship's stores;
- (e) handling unaccompanied baggage; and
- (f) monitoring the security of the ship.

*Access to the ship*

9.9 The ship security plan should establish the security measures covering all means of access to the ship identified in the ship security assessment. This should include any—

- (a) access ladders;
- (b) access gangways;
- (c) access ramps;
- (d) access doors, side scuttles, windows and ports;
- (e) mooring lines and anchor chains; and
- (f) cranes and hoisting gear.

9.10 For each of these the ship security plan should identify the appropriate locations where access restrictions or prohibitions should be applied for each of the security levels. For each security level the ship security plan should establish the type of restriction or prohibition to be applied and the means of enforcing them.

9.11 The ship security plan should establish for each security level the means of identification required to allow access to the ship and for individuals to remain on the ship without challenge, this may involve developing an appropriate identification system allowing for permanent and temporary identifications, for ship's personnel and visitors respectively. Any ship identification system should, when it is practicable to do so, be co-ordinated with that applying to the port facility. Passengers should be able to prove their identity by boarding passes, tickets, etc., but should not be permitted access to restricted areas unless supervised. The ship security plan should establish provisions to ensure that the identification systems are regularly updated, and that abuse of procedures should be subject to disciplinary action.

9.12 Those unwilling or unable to establish their identity and/or to confirm the purpose of their visit when requested to do so should be denied access to the ship and their attempt to obtain access should be reported, as appropriate, to the ship security officers, the company security officers, the port facility security officer and to the national or local authorities with security responsibilities.

9.13 The ship security plan should establish the frequency of application of any access controls particularly if they are to be applied on a random, or occasional, basis.

*Security Level 1*

9.14 At security level 1, the ship security plan should establish the security measures to control access to the ship, where the following may be applied—

- (a) checking the identity of all persons seeking to board the ship and confirming their reasons for doing so by checking, for example, joining instructions, passenger tickets, boarding passes, work orders etc;

- (b) in liaison with the port facility the ship should ensure that designated secure areas are established in which inspections and searching of persons, baggage (including carry on items), personal effects, vehicles and their contents can take place;
- (c) in liaison with the port facility the ship should ensure that vehicles destined to be loaded on board car carriers, ro-ro and other passenger ships are subjected to search prior to loading, in accordance with the frequency required in the ship security plan;
- (d) segregating checked persons and their personal effects from unchecked persons and their personal effects;
- (e) segregating embarking from disembarking passengers;
- (f) identification of access points that should be secured or attended to prevent unauthorized access;
- (g) securing, by locking or other means, access to unattended spaces adjoining areas to which passengers and visitors have access; and
- (h) providing security briefings to all ship personnel on possible threats, the procedures for reporting suspicious persons, objects or activities and the need for vigilance.

9.15 At security level 1, all those seeking to board a ship should be liable to search. The frequency of such searches, including random searches, should be specified in the approved ship security plan and should be specifically approved by the administration. Such searches may best be undertaken by the port facility in close co-operation with the ship and in close proximity to it. Unless there are clear security grounds for doing so, members of the ship's personnel should not be required to search their colleagues or their personal effects. Any such search shall be undertaken in a manner which fully takes into account the human rights of the individual and preserves their basic human dignity.

#### *Security Level 2*

9.16 At security level 2, the ship security plan should establish the security measures to be applied to protect against a heightened risk of a security incident to ensure higher vigilance and tighter control, which may include—

- (a) assigning additional personnel to patrol deck areas during silent hours to deter unauthorized access;
- (b) limiting the number of access points to the ship, identifying those to be closed and the means of adequately securing them;
- (c) deterring waterside access to the ship, including, for example, in liaison with the port facility, provision of boat patrols;
- (d) establishing a restricted area on the shore-side of the ship, in close co- operation with the port facility;
- (e) increasing the frequency and detail of searches of persons, personal effects, and vehicles being embarked or loaded onto the ship;
- (f) escorting visitors on the ship;
- (g) providing additional specific security briefings to all ship personnel on any identified threats, re-emphasising the procedures for reporting suspicious persons, objects, or activities and the stressing the need for increased vigilance; and
- (h) carrying out a full or partial search of the ship.

#### *Security Level 3*

9.17 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The ship security plan should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include—

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- (a) limiting access to a single, controlled, access point;
- (b) granting access only to those responding to the security incident or threat thereof;
- (c) directions of persons on board;
- (d) suspension of embarkation or disembarkation;
- (e) suspension of cargo handling operations, deliveries etc;
- (f) evacuation of the ship;
- (g) movement of the ship; and
- (h) preparing for a full or partial search of the ship.

*Restricted areas on the ship*

9.18 The ship security plan should identify the restricted areas to be established on the ship, specify their extent, times of application, the security measures to be taken to control access to them and those to be taken to control activities within them. The purpose of restricted areas are to—

- (a) prevent unauthorized access;
- (b) protect passengers, ship's personnel, and personnel from port facilities or other agencies authorized to be on board the ship;
- (c) protect sensitive security areas within the ship; and
- (d) protect cargo and ship's stores from tampering.

9.19 The ship security plan should ensure that there are clearly established policies and practices to control access to all restricted areas them.

9.20 The ship security plan should provide that all restricted areas should be clearly marked indicating that access to the area is restricted and that unauthorized presence within the area constitutes a breach of security.

9.21 Restricted areas may include—

- (a) navigation bridge, machinery spaces of category A and other control stations as defined in chapter II-2;
- (b) spaces containing security and surveillance equipment and systems and their controls and lighting system controls;
- (c) ventilation and air-conditioning systems and other similar spaces;
- (d) spaces with access to potable water tanks, pumps, or manifolds;
- (e) spaces containing dangerous goods or hazardous substances;
- (f) spaces containing cargo pumps and their controls;
- (g) cargo spaces and spaces containing ship's stores;
- (h) crew accommodation; and
- (i) any other areas as determined by the company security officer, through the ship security assessment to which access must be restricted to maintain the security of the ship.

*Security Level 1*

9.22 At security level 1, the ship security plan should establish the security measures to be applied to restricted areas, which may include—

- (a) locking or securing access points;
- (b) using surveillance equipment to monitor the areas;



- (c) using guards or patrols; and
- (d) using automatic intrusion detection devices to alert the ship's personnel of unauthorized access.

*Security Level 2*

9.23 At security level 2, the frequency and intensity of the monitoring of, and control of access to restricted areas should be increased to ensure that only authorized persons have access. The ship security plan should establish the additional security measures to be applied, which may include—

- (a) establishing restricted areas adjacent to access points;
- (b) continuously monitoring surveillance equipment; and
- (c) dedicating additional personnel to guard and patrol restricted areas.

*Security Level 3*

9.24 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The ship security plan should detail the security measures which could be taken by the ship, in close co-operations with those responding and the port facility, which may include—

- (a) setting up of additional restricted areas on the ship in proximity to the security incident, or the believed location of the security threat, to which access is denied; and
- (b) searching of restricted areas as part of a search of the ship.

*Handling of cargo*

9.25 The security measures relating to cargo handling should—

- (a) prevent tampering; and
- (b) prevent cargo that is not meant for carriage from being accepted and stored on board the ship.

9.26 The security measures, some of which may have to be applied in liaison with the port facility, should include inventory control procedures at access points to the ship. Once on board the ship, cargo should be capable of being identified as having been approved for loading onto the ship. In addition, security measures should be developed to ensure that cargo, once on board, is not tampered with.

*Security Level 1*

9.27 At security level 1, the ship security plan should establish the security measures to be applied during cargo handling, which may include—

- (a) routine checking of cargo, cargo transport units and cargo spaces prior to, and during, cargo handling operations;
- (b) checks to ensure that cargo being loaded matches the cargo documentation;
- (c) ensuring, in liaison with the port facility, that vehicles to be loaded on board car-carriers, ro-ro and passenger ships are subjected to search prior to loading, in accordance with the frequency required in the SSP; and
- (d) checking of seals or other methods used to prevent tampering.

9.28 Checking of cargo may be accomplished by the following means—

- (a) visual and physical examination; and
- (b) using scanning and detection equipment, mechanical devices, or dogs.

9.29 When there are regular, or repeated, cargo movement the company security officer or ship security officer may, in consultation with the port facility, agree arrangements with

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shippers or others responsible for such cargo covering offsite checking, sealing, scheduling, supporting documentation, etc. Such arrangements should be communicated to and agreed with the port facility security officer concerned.

*Security Level 2*

9.30 At security level 2, the ship security plan should establish the additional security measures to be applied during cargo handling, which may include—

- (a) detailed checking of cargo, cargo transport units and cargo spaces;
- (b) intensified checks to ensure that only the intended cargo is loaded;
- (c) intensified searching of vehicles to be loaded on car-carriers, ro-ro and passenger ships; and
- (d) increased frequency and detail in checking of seals or other methods used to prevent tampering.

9.31 Detailed checking of cargo may be accomplished by the following means—

- (a) increasing the frequency and detail of visual and physical examination;
- (b) increasing the frequency of the use of scanning and detection equipment, mechanical devices, or dogs; and
- (c) co-ordinating enhanced security measures with the shipper or other responsible party in accordance with an established agreement and procedures.

*Security Level 3*

9.32 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The ship security plan should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include—

- (a) suspension of the loading or unloading of cargo; and
- (b) verify the inventory of dangerous goods and hazardous substances carried on board, if any, and their location.

*Delivery of ship's stores*

9.33 The security measures relating to the delivery of ship's stores should—

- (a) ensure checking of ship's stores and package integrity;
- (b) prevent ship's stores from being accepted without inspection;
- (c) prevent tampering; and
- (d) prevent ship's stores from being accepted unless ordered.

9.34 For ships regularly using the port facility it may be appropriate to establish procedures involving the ship, its suppliers and the port facility covering notification and timing of deliveries and their documentation. There should always be some way of confirming that stores presented for delivery are accompanied by evidence that they have been ordered by the ship.

*Security Level 1*

9.35 At security level 1, the ship security plan should establish the security measures to be applied during delivery of ship's stores, which may include—

- (a) checking to ensure stores match the order prior to being loaded on board; and
- (b) ensuring immediate secure stowage of ship's stores.

*Security Level 2*

9.36 At security level 2, the ship security plan should establish the additional security measures to be applied during delivery of ship's stores by exercising checks prior to receiving stores on board and intensifying inspections.

*Security Level 3*

9.37 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The ship security plan should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include—

- (a) subjecting ship's stores to more extensive checking;
- (b) preparation for restriction or suspension of handling of ship's stores; and
- (c) refusal to accept ship's stores on board the ship.

*Handling unaccompanied baggage*

9.38 The ship security plan should establish the security measures to be applied to ensure that unaccompanied baggage (i.e. any baggage, including personal effects, which is not with the passenger or member of ship's personnel at the point of inspection or search) is identified and subjected to appropriate screening, including searching, before it is accepted on board the ship. It is not envisaged that such baggage will be subjected to screening by both the ship and the port facility, and in cases where both are suitably equipped, the responsibility for screening should rest with the port facility. Close co-operation with the port facility is essential and steps should be taken to ensure that unaccompanied baggage is handled securely after screening.

*Security Level 1*

9.39 At security level 1, the ship security plan should establish the security measures to be applied when handling unaccompanied baggage to ensure that unaccompanied baggage is screened or searched up to and including one hundred percent, which may include use of x-ray screening.

*Security Level 2*

9.40 At security level 2, the ship security plan should establish the additional security measures to be applied when handling unaccompanied baggage which should include 100 percent x-ray screening of all unaccompanied baggage.

*Security Level 3*

9.41 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The ship security plan should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include—

- (a) subjecting such baggage to more extensive screening, for example x-raying it from at least two different angles;
- (b) preparation for restriction or suspension of handling of unaccompanied baggage; and
- (c) refusal to accept unaccompanied baggage on board the ship.

*Monitoring the Security of the Ship*

9.42 The ship should have the capability to monitor the ship, the restricted areas on board and areas surrounding the ship. Such monitoring capabilities may include use of—

- (a) lighting;
- (b) watch-keepers, security guards and deck watches including patrols; and
- (c) automatic intrusion detection devices and surveillance equipment.

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9.43 When used, automatic intrusion detection devices should activate an audible and/or visual alarm at a location that is continuously attended or monitored.

9.44 The SSP should establish the procedures and equipment needed at each security level and the means of ensuring that monitoring equipment will be able to perform continually, including consideration of the possible effects of weather conditions or of power disruptions.

*Security Level 1*

9.45 At security level 1, the ship security plan should establish the security measures to be applied which may be a combination of lighting, watch keepers, security guards or use of security and surveillance equipment to allow ship's security personnel to observe the ship in general, and barriers and restricted areas in particular.

9.46 The ship's deck and access points to the ship should be illuminated during hours of darkness and periods of low visibility while conducting ship and port interface activities or at a port facility or anchorage when necessary. While underway, when necessary, ships should use the maximum lighting available consistent with safe navigation, having regard to the provisions of the International Regulations for the Prevention of Collisions at Sea in force. The following should be considered when establishing the appropriate level and location of lighting—

- (a) the ship's personnel should be able to detect activities beyond the ship, on both the shore side and the waterside;
- (b) coverage should include the area on and around the ship;
- (c) coverage should facilitate personnel identification at access points; and
- (d) coverage may be provided through coordination with the port facility.

*Security Level 2*

9.47 At security level 2, the ship security plan should establish the additional security measures to be applied to enhance the monitoring and surveillance capabilities, which may include—

- (a) increasing the frequency and detail of security patrols;
- (b) increasing the coverage and intensity of lighting or the use of security and surveillance and equipment;
- (c) assigning additional personnel as security lookouts; and
- (d) ensuring coordination with waterside boat patrols, and foot or vehicle patrols on the shore-side, when provided.

9.48 Additional lighting may be necessary to protect against a heightened risk of a security incidents. When necessary, the additional lighting requirements may be accomplished by coordinating with the port facility to provide additional shore side lighting.

*Security Level 3*

9.49 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The ship security plan should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include—

- (a) switching on of all lighting on, or illuminating the vicinity of, the ship;
- (b) switching on of all on board surveillance equipment capable of recording activities on, or in the vicinity of, the ship;
- (c) maximising the length of time such surveillance equipment can continue to record;
- (d) preparation for underwater inspection of the hull of the ship; and

(e) initiation of measures, including the slow revolution of the ship's propellers, if practicable, to deter underwater access to the hull of the ship.

*Differing security levels*

9.50 The SSP should establish details of the procedures and security measures the ship could adopt if the ship is at a higher security level than that applying to a port facility.

*Activities not covered by the Code*

9.51 The SSP should establish details of the procedures and security measures the ship should apply when—

- (a) it is at a port of a State which is not a Contracting Government;
- (b) it is interfacing with a ship to which this Code does not apply;
- (c) it is interfacing with fixed or floating platforms or a mobile drilling unit on location; or
- (d) it is interfacing with a port or port facility which is not required to comply with chapter XI-2 and part A of this Code.

*Declarations of security*

9.52 The ship security plan should detail how requests for declaration of security from a port facility will be handled and the circumstances under which the ship itself should request a declaration of security.

*Audit and review*

9.53 The ship security plan should establish how the company security officer and the ship security officer intend to audit the continued effectiveness of the SSP and the procedure to be followed to review, update or amend the ship security plan.

**10. Records**

*General*

10.1 Records should be available to duly authorized officers of Contracting Governments to verify that the provisions of ship security plans are being implemented.

10.2 Records may be kept in any format but should be protect from unauthorized access or disclosure.

**11. Company Security Officer**

*Relevant guidance is provided under regulations 20, 21 and 25.*

**12. Ship Security Officer**

*Relevant guidance is provided under regulation 19, 26 and 28.*

**13. Training, drills and exercises on ship security**

*Training*

13.1 The company security officer and appropriate shore based company personnel, and the ship security officer , should have knowledge of, and receive training, in some or all of the following, as appropriate—

- (a) security administration ;
- (b) relevant international conventions, codes and recommendations;
- (c) relevant Government legislation and regulations;
- (d) responsibilities and functions of other security organizations;
- (e) methodology of ship security assessment;
- (f) methods of ship security surveys and inspections;

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- (g) ship and port operations and conditions;
- (h) ship and port facility security measures;
- (i) emergency preparedness and response and contingency planning;
- (j) instruction techniques for security training and education, including security measures and procedures;
- (k) handling sensitive security related information and security related communications;
- (l) knowledge of current security threats and patterns;
- (m) recognition and detection of weapons, dangerous substances and devices;
- (n) recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;
- (o) techniques used to circumvent security measures;
- (p) security equipment and systems and their operational limitations;
- (q) methods of conducting audits, inspection, control and monitoring;
- (r) methods of physical searches and non-intrusive inspections;
- (s) security drills and exercises, including drills and exercises with port facilities; and
- (t) assessment of security drills and exercises.

13.2 In addition the ship security officer should have adequate knowledge of, and receive training, in some or all of the following, as appropriate—

- (a) the layout of the ship;
- (b) the ship security plan and related procedures (including scenario-based training on how to respond);
- (c) crowd management and control techniques;
- (d) operations of security equipment and systems; and
- (e) testing, calibration and whilst at sea maintenance of security equipment and systems.

13.3 Shipboard personnel having specific security duties should have sufficient knowledge and ability to perform their assigned duties, including, as appropriate—

- (a) knowledge of current security threats and patterns;
- (b) recognition and detection of weapons, dangerous substances and devices;
- (c) recognition of characteristics and behavioural patterns of persons who are likely to threaten security;
- (d) techniques used to circumvent security measures;
- (e) crowd management and control techniques;
- (f) security related communications;
- (g) knowledge of the emergency procedures and contingency plans;
- (h) operations of security equipment and systems;
- (i) testing, calibration and whilst at sea maintenance of security equipment and systems;
- (j) inspection, control, and monitoring techniques; and
- (k) methods of physical searches of persons, personal effects, baggage, cargo, and ship's stores.

13.4 All other shipboard personnel should have sufficient knowledge of and be familiar with relevant provisions of the ship security plan, including—

- (a) the meaning and the consequential requirements of the different security levels;
- (b) knowledge of the emergency procedures and contingency plans;
- (c) recognition and detection of weapons, dangerous substances and devices;
- (d) recognition, on a non discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security; and
- (e) techniques used to circumvent security measures.

#### *Drills and exercises*

13.5 The objective of drills and exercises is to ensure that shipboard personnel are proficient in all assigned security duties at all security levels and the identification of any security related deficiencies, which need to be addressed.

13.6 To ensure the effective implementation of the provisions of the ship security plan, drills should be conducted at least once every three months. In addition, in cases where more than twenty five percent of the ship's personnel has been changed, at any one time, with personnel that has not previously participated in any drill on that ship, within the last three months, a drill should be conducted within one week of the change. These drills should test individual elements of the plan such as those security threats listed in paragraph 8.9.

13.7 Various types of exercises which may include participation of company security officers, port facility security officers, relevant authorities of Contracting Governments as well as ship security officers, if available, should be carried out at least once each calendar year with no more than 18 months between the exercises. These exercises should test communications, coordination, resource availability, and response. These exercises may be—

- (a) full scale or live;
- (b) tabletop simulation or seminar; or
- (c) combined with other exercises held such as search and rescue or emergency response exercises.

13.8 Company participation in an exercise with another Contracting Government should be recognized by the administration.

### **14. Port Facility Security**

*Relevant guidance is provided under regulation 16, 17 and 18.*

### **15. Port Facility Security Assessment**

#### *General*

15.1 The port facility security assessment may be conducted by a recognized security organization . However, approval of a completed PFSA should only be given by the relevant Contracting Government.

15.2 If a Contracting Government uses a recognized security organization , to review or verify compliance of the port facility security assessment, the recognized security organization should not be associated with any other recognized security organization that prepared or assisted in the preparation of that assessment.

15.3 A port facility security assessment should address the following elements within a port facility—

- (a) physical security;
- (b) structural integrity;

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- (c) personnel protection systems;
- (d) procedural policies;
- (e) radio and telecommunication systems, including computer systems and networks;
- (f) relevant transportation infrastructure;
- (g) utilities; and
- (h) other areas that may, if damaged or used for illicit observation, pose a risk to persons, property, or operations within the port facility.

15.4 Those involved in a port facility security assessment should be able to draw upon expert assistance in relation to—

- (a) knowledge of current security threats and patterns;
- (b) recognition and detection of weapons, dangerous substances and devices;
- (c) recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;
- (d) techniques used to circumvent security measures;
- (e) methods used to cause a security incident;
- (f) effects of explosives on structures and port facility services;
- (g) port facility security;
- (h) port business practices;
- (i) contingency planning, emergency preparedness and response;
- (j) physical security measures e.g. fences;
- (k) radio and telecommunications systems, including computer systems and networks;
- (l) transport and civil engineering; and
- (m) ship and port operations.

Identification and evaluation of important assets and infrastructure it is important to protect

15.5 The identification and evaluation of important assets and infrastructure is a process through which the relative importance of structures and installations to the functioning of the port facility can be established. This identification and evaluation process is important because it provides a basis for focusing mitigation strategies on those assets and structures which it is more important to protect from a security incident. This process should take into account potential loss of life, the economic significance of the port, symbolic value, and the presence of Government installations.

15.6 Identification and evaluation of assets and infrastructure should be used to prioritise their relative importance for protection. The primary concern should be avoidance of death or injury. It is also important to consider whether the port facility, structure or installation can continue to function without the asset and the extent to which rapid re-establishment of normal functioning is possible.

15.7 Assets and infrastructure that should be considered important to protect may include—

- (a) accesses, entrances, approaches, and anchorages, manoeuvring and berthing areas;
- (b) cargo facilities, terminals, storage areas, and cargo handling equipment;
- (c) systems such as electrical distribution systems, radio and telecommunication systems and computer systems and networks;



- (d) port vessel traffic management systems and aids to navigation;
- (e) power plants, cargo transfer piping, and water supplies;
- (f) bridges, railways, roads;
- (g) port service vessels, including pilot boats, tugs, lighters etc;
- (h) security and surveillance equipment and systems; and
- (i) the waters adjacent to the port facility.

15.8 The clear identification of assets and infrastructure is essential to the evaluation of the port facility's security requirements, the prioritisation of protective measures, and decisions concerning the allocation of resources to better protect the port facility. The process may involve consultation with the relevant authorities relating to structures adjacent to the port facility which could cause damage within the facility or be used for the purpose of causing damage to the facility or for illicit observation of the facility or for diverting attention.

Identification of the possible threats to the assets and infrastructure and the likelihood of their occurrence, in order to establish and prioritise security measures

15.9 Possible acts that could threaten the security of assets and infrastructure, and the methods of carrying out those acts, should be identified to evaluate the vulnerability of a given asset or location to a security incident, and to establish and prioritise security requirements to enable planning and resource allocations. Identification and evaluation of each potential act and its method should be based on various factors, including threat assessments by Government agencies. By identifying and assessing threats, those conducting the assessment do not have to rely on worst-case scenarios to guide planning and resource allocations.

15.10 The port facility security assessment should include an assessment undertaken in consultation with the relevant national security organizations to determine—

- (a) any particular aspects of the port facility, including the vessel traffic using the facility, which make it likely to be the target of an attack;
- (b) the likely consequences in terms of loss of life, damage to property, economic disruption, including disruption to transport systems, of an attack on, or at, the port facility;
- (c) the capability and intent of those likely to mount such an attack; and
- (d) the possible type, or types, of attack,

producing an overall assessment of the level of risk against which security measures have to be developed.

15.11 The port facility security assessment should consider all possible threats, which may include the following types of security incidents—

- (a) damage to, or destruction of, the port facility or of the ship, e.g. by explosive devices, arson, sabotage or vandalism;
- (b) hijacking or seizure of the ship or of persons on board;
- (c) tampering with cargo, essential ship equipment or systems or ship's stores;
- (d) unauthorized access or use including presence of stowaways;
- (e) smuggling weapons or equipment, including weapons of mass destruction;
- (f) use of the ship to carry those intending to cause a security incident and their equipment;
- (g) use of the ship itself as a weapon or as a means to cause damage or destruction;
- (h) blockage; of port entrances, locks, approaches etc; and
- (i) nuclear, biological and chemical attack.

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15.12 The process should involve consultation with the relevant authorities relating to structures adjacent to the port facility which could cause damage within the facility or be used for the purpose of causing damage to the facility or for illicit observation of the facility or for diverting attention.

Identification, selection, and prioritisation of countermeasures and procedural changes and their level of effectiveness in reducing vulnerability

15.13 The identification and prioritisation of countermeasures is designed to ensure that the most effective security measures are employed to reduce the vulnerability of a port facility or ship/port interface to the possible threats.

15.14 Security measures should be selected on the basis of factors such as whether they reduce the probability of an attack and should be evaluated using information that includes—

- (a) security surveys, inspections and audits;
- (b) consultation with port facility owners and operators, and owners/operators of adjacent structures if appropriate;
- (c) historical information on security incidents; and
- (d) operations within the port facility.

*Identification of vulnerabilities*

15.15 Identification of vulnerabilities in physical structures, personnel protection systems, processes, or other areas that may lead to a security incident can be used to establish options to eliminate or mitigate those vulnerabilities. For example, an analysis might reveal vulnerabilities in a port facility's security systems or unprotected infrastructure such as water supplies, bridges etc that could be resolved through physical measures, e.g. permanent barriers, alarms, surveillance equipment etc.

15.16 Identification of vulnerabilities should include consideration of—

- (a) waterside and shore-side access to the port facility and ships berthing at the facility;
- (b) structural integrity of the piers, facilities, and associated structures;
- (c) existing security measures and procedures, including identification systems;
- (d) existing security measures and procedures relating to port services and utilities;
- (e) measures to protect radio and telecommunication equipment, port services and utilities, including computer systems and networks;
- (f) adjacent areas that may be exploited during, or for, an attack;
- (g) existing agreements with private security companies providing waterside/shore-side security services;
- (h) any conflicting policies between safety and security measures and procedures;
- (i) any conflicting port facility and security duty assignments;
- (j) any enforcement and personnel constraints;
- (k) any deficiencies identified during training and drills; and
- (l) any deficiencies identified during daily operation, following incidents or alerts, the report of security concerns, the exercise of control measures, audits etc.

**16. Port Facility Security Plan**

*General*

16.1 Preparation of the port facility security plan is the responsibility of the port facility security officer . While the port facility security officer need not necessarily personally

undertake all the duties associated with the post the ultimate responsibility for ensuring that they are properly performed remains with the individual port facility security officer.

16.2 The content of each individual port facility security plan should vary depending on the particular circumstances of the port facility, or facilities, it covers. The port facility security will have identified the particular features of the port facility, and of the potential security risks, that have led to the need to appoint a port facility security officer and to prepare a port facility security plan. The preparation of the port facility security plan will require these features, and other local or national security considerations, to be addressed in the port facility security plan and for appropriate security measures to be established so as to minimise the likelihood of a breach of security and the consequences of potential risks. Contracting Governments may prepare advice on the preparation and content of a port facility security plan.

16.3 All port facility security plans should—

- (a) detail the security organization of the port facility,
- (b) the organization's links with other relevant authorities and the necessary communication systems to allow the effective continuous operation of the organization and its links with others, including ships in port;
- (c) detail the basic security level 1 measures, both operational and physical, that will be in place;
- (d) detail the additional security measures that will allow the port facility to progress without delay to security level 2 and, when necessary, to security level 3;
- (e) provide for regular review, or audit, of the port facility security plan and for its amendments in response to experience or changing circumstances; and
- (f) reporting procedures to the appropriate Contracting Governments contact points.

16.4 Preparation of an effective port facility security plan will rest on a thorough assessment of all issues that relate to the security of the port facility, including, in particular, a thorough appreciation of the physical and operational characteristics of the individual port facility.

16.5 Contracting Government should approve the port facility security plans of the port facilities under their jurisdiction. Contracting Governments should develop procedures to assess the continuing effectiveness of each port facility security plan and may require amendment of the port facility security plan prior to its initial approval or subsequent to its approval. The port facility security plan should make provision for the retention of records of security incidents and threats, reviews, audits, training, drills and exercises as evidence of compliance with those requirements.

16.6 The security measures included in the port facility security plan should be in place within a reasonable period of the port facility security plans approval and the port facility security plan should establish when each measure will be in place. If there is likely to be any delay in their provision this should be discussed with the Contracting Government responsible for approval of the port facility security plan and satisfactory alternative temporary security measures that provide an equivalent level of security should be agreed to cover any interim period.

16.7 The use of firearms on or near ships and in port facilities may pose particular and significant safety risks, in particular in connection with certain dangerous or hazardous substances and should be considered very carefully. In the event that a Contracting Government decides that it is necessary to use armed personnel in these areas, that Contracting Government should ensure that these personnel are duly authorized and trained in the use of their weapons and that they are aware of the specific risks to safety that are present in these areas. If Contracting Government authorizes the use of firearms they should issue specific safety guidelines on their use. The port facility security plan should contain specific guidance on this matter in particular with regard its application to ships carrying dangerous goods or hazardous substances.

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*Organization and performance of port facility security duties*

16.8 In addition to the guidance given under section 16.3, the port facility security plan should establish the following which relate to all security levels—

- (a) the role and structure of the port facility security organization;
- (b) the duties, responsibilities and training requirements of all port facility personnel with a security role and the performance measures needed to allow their individual effectiveness to be assessed;
- (c) the port facility security organization's links with other national or local authorities with security responsibilities;
- (d) the communication systems provided to allow effective and continuous communication between port facility security personnel, ships in port and, when appropriate, with national or local authorities with security responsibilities;
- (e) the procedures or safeguards necessary to allow such continuous communications to be maintained at all times;
- (f) the procedures and practices to protect security sensitive information held in paper or electronic format;
- (g) the procedures to assess the continuing effectiveness of security measures, procedures and equipment, including identification of, and response to, equipment failure or malfunction;
- (h) the procedures to allow the submission, and assessment, of reports relating to possible breaches of security or security concerns;
- (i) procedures relating to cargo handling;
- (j) procedures covering the delivery of ship's stores;
- (k) the procedures to maintain, and update, records of dangerous goods and hazardous substances and their location within the port facility;
- (l) the means of alerting and obtaining the services of waterside patrols and specialist search teams, including bomb searches and underwater searches;
- (m) the procedures for assisting ship security officers in confirming the identity of those seeking to board the ship when requested; and
- (n) the procedures for facilitating shore leave for ship's personnel or personnel changes, as well as access of visitors to the ship including representatives of seafarers' welfare and labour organizations.

16.9 The remainder of this section addresses specifically the security measures that could be taken at each security level covering—

- (a) access to the port facility;
- (b) restricted areas within the port facility;
- (c) handling of cargo;
- (d) delivery of ship's stores;
- (e) handling unaccompanied baggage; and
- (f) monitoring the security of the port facility.

*Access to the port facility*

16.10 The port facility security plan should establish the security measures covering all means of access to the port facility identified in the port facility security assessment.

16.11 For each of these the port facility security plan should identify the appropriate locations where access restrictions or prohibitions should be applied for each of the security

levels. For each security level the port facility security plan should specify the type of restriction or prohibition to be applied and the means of enforcing them.

16.12 The port facility security plan should establish for each security level the means of identification required to allow access to the port facility and for individuals to remain within the port facility without challenge, this may involve developing an appropriate identification system allowing for permanent and temporary identifications, for port facility personnel and for visitors respectively. Any port facility identification system should, when it is practicable to do so, be co-ordinated with that applying to ships that regularly use the port facility. Passengers should be able to prove their identity by boarding passes, tickets, etc., but should not be permitted access to restricted areas unless supervised. The port facility security plan should establish provisions to ensure that the identification systems are regularly updated, and that abuse of procedures should be subject to disciplinary action.

16.13 Those unwilling or unable to establish their identity and to confirm the purpose of their visit when requested to do so should be denied access to the port facility and their attempt to obtain access should be reported to the port facility security officer and to the national or local authorities with security responsibilities.

16.14 The port facility security plan should identify the locations where persons, personal effects, and vehicle searches are to be undertaken. Such locations should be covered to facilitate continuous operation regardless of prevailing weather conditions, in accordance with the frequency laid down in the port facility security plan. Once subjected to search persons, personal effects and vehicles should proceed directly to the restricted holding, embarkation or car loading areas.

16.15 The port facility security plan should establish separate locations for checked and unchecked persons and their effects and if possible separate areas for embarking and disembarking passengers, ship's personnel and their effects to ensure that unchecked persons are not able to come in contact with checked persons.

16.16 The port facility security plan should establish the frequency of application of any access controls particularly if they are to be applied on a random, or occasional, basis.

#### *Security Level 1*

16.17 At security level 1, the port facility security plan should establish the control points where the following security measures may be applied—

- (a) restricted areas which should be bound by fencing or other barriers to a standard which should be approved by the Contracting Government;
- (b) checking identity of all persons seeking entry to the port facility in connection with a ship, including passengers, ship's personnel and visitors and confirming their reasons for doing so by checking, for example, joining instructions, passenger tickets, boarding passes, work orders, etc;
- (c) checking vehicles used by those seeking entry to the port facility in connection with a ship;
- (d) verification of the identity of port facility personnel and those employed within the port facility and their vehicles;
- (e) restricting access to exclude those not employed by the port facility or working within it, if they are unable to establish their identity;
- (f) undertaking searches of persons, personal effects, vehicles and their contents; and
- (g) identification of any access points not in regular use which should be permanently closed and locked.

16.18 At security level 1, all those seeking access to the port facility should be liable to search. The frequency of such searches, including random searches, should be specified in the approved port facility security plan and should be specifically approved by the

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Contracting Government. Unless there are clear security grounds for doing so, members of the ship's personnel should not be required to search their colleagues or their personal effects. Any such search shall be undertaken in a manner which fully takes into account the human rights of the individual and preserves their basic human dignity.

*Security Level 2*

16.19 At security level 2, the port facility security plan should establish the additional security measures to be applied, which may include—

- (a) assigning additional personnel to guard access points and patrol perimeter barriers;
- (b) limiting the number of access points to the port facility, and identify those to be closed and the means of adequately securing them;
- (c) providing for means of impeding movement through the remaining access points, e.g. security barriers;
- (d) increasing the frequency of searches of persons, personal effects, and vehicle;
- (e) deny access to visitors who are unable to provide a verifiable justification for seeking access to the port facility; and
- (f) using of patrol vessels to enhance waterside security.

*Security Level 3*

16.20 At security level 3, the port facility should comply with instructions issued by those responding to the security incident or threat thereof. The port facility security plan should detail the security measures which could be taken by the port facility, in close co-operation with those responding and the ships at the port facility, which may include—

- (a) suspension of access to all, or part of, the port facility;
- (b) granting access only to those responding to the security incident or threat thereof;
- (c) suspension of pedestrian or vehicular movement within all, or part, of the port facility;
- (d) increased security patrols within the port facility, if appropriate;
- (e) suspension of port operations within all, or part, of the port facility;
- (f) direction of vessel movements relating to all, or part, of the port facility; and
- (g) evacuation of all, or part of, the port facility.

*Restricted areas within the port facility*

16.21 The port facility security plan should identify the restricted areas to be established within the port facility, specify their extent, times of application, the security measures to be taken to control access to them and those to be taken to control activities within them. This should also include, in appropriate circumstances, measures to ensure that temporary restricted areas are security swept both before and after that area is established. The purpose of restricted areas is to—

- (a) protect passengers, ship's personnel, port facility personnel and visitors, including those visiting in connection with a ship;
- (b) protect the port facility;
- (c) protect ships using, and serving, the port facility;
- (d) protect sensitive security locations and areas within the port facility;
- (e) to protect security and surveillance equipment and systems; and
- (f) protect cargo and ship's stores from tampering.

16.22 The port facility security plan should ensure that all restricted areas have clearly established security measures to control—

- (a) access by individuals;
- (b) the entry, parking, loading and unloading of vehicles;
- (c) movement and storage of cargo and ship's stores; and
- (d) unaccompanied baggage or personal effects.

16.23 The port facility security plan should provide that all restricted areas should be clearly marked indicating that access to the area is restricted and that unauthorized presence within the area constitutes a breach of security.

16.24 When automatic intrusion detection devices are installed they should alert a control centre which can respond to the triggering of an alarm.

16.25 Restricted areas may include—

- (a) shore and waterside areas immediately adjacent to the ship;
- (b) embarkation and disembarkation areas, passenger and ship's personnel holding and processing areas including search points;
- (c) areas where loading, unloading or storage of cargo and stores is undertaken;
- (d) locations where security sensitive information, including cargo documentation, is held;
- (e) areas where dangerous goods and hazardous substances are held;
- (f) vessel traffic management system control rooms, aids to navigation and port control buildings, including security and surveillance control rooms;
- (g) areas where security and surveillance equipment are stored or located;
- (h) essential electrical, radio and telecommunication, water and other utility installations; and
- (i) other locations in the port facility where access by vessels, vehicles and individuals should be restricted.

16.26 The security measures may extend, with the agreement of the relevant authorities, to restrictions on unauthorized access to structures from which the port facility can be observed.

#### *Security Level 1*

16.27 At security level 1, the port facility security plan should establish the security measures to be applied to restricted areas, which may include—

- (a) provision of permanent or temporary barriers to surround the restricted area whose standard should be accepted by the Contracting Government;
- (b) provision of access points where access can be controlled by security guards when in operation and which can be effectively locked or barred when not in use;
- (c) providing passes which must be displayed to identify individuals entitlement to be within the restricted area;
- (d) clearly marking vehicles allowed access to restricted areas;
- (e) providing guards and patrols;
- (f) providing automatic intrusion detection devices, or surveillance equipment or systems to detect unauthorized access into, or movement within restricted areas; and
- (g) control of the movement of vessels in the vicinity of ships using the port facility.

#### *Security Level 2*

16.28 At security level 2, the port facility security plan should establish the enhancement of the frequency and intensity of the monitoring of, and control of access to, restricted areas.

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The port facility security plan should establish the additional security measures, which may include—

- (a) enhancing the effectiveness of the barriers or fencing surrounding restricted areas, including the use of patrols or automatic intrusion detection devices;
- (b) reducing the number of access points to restricted areas and enhancing the controls applied at the remaining accesses;
- (c) restrictions on parking adjacent to berthed ships;
- (d) further restricting access to the restricted areas and movements and storage within them;
- (e) use of continuously monitored and recording surveillance equipment;
- (f) enhancing the number and frequency of patrols including waterside patrols undertaken on the boundaries of the restricted areas and within the areas;
- (g) establishing and restricting access to areas adjacent to the restricted areas; and
- (h) enforcing restrictions on access by unauthorized craft to the waters adjacent to ships using the port facility.

*Security Level 3*

16.29 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The port facility security plan should detail the security measures which could be taken by the port facility, in close cooperation with those responding and the ships at the port facility, which may include—

- (a) setting up of additional restricted areas within the port facility in proximity to the security incident, or the believed location of the security threat, to which access is denied; and
- (b) preparing for the searching of restricted areas as part of a search of all, or part, of the port facility.

*Handling of cargo*

16.30 The security measures relating to cargo handling should—

- (a) prevent tampering; and
- (b) prevent cargo that is not meant for carriage from being accepted and stored within the port facility.

16.31 The security measures should include inventory control procedures at access points to the port facility. Once within the port facility cargo should be capable of being identified as having been checked and accepted for loading onto a ship or for temporary storage in a restricted area while awaiting loading. It may be appropriate to restrict the entry of cargo to the port facility that does not have a confirmed date for loading.

*Security Level 1*

16.32 At security level 1, the port facility security plan should establish the security measures to be applied during cargo handling, which may include—

- (a) routine checking of cargo, cargo transport units and cargo storage areas within the port facility prior to, and during, cargo handling operations;
- (b) checks to ensure that cargo entering the port facility matches the delivery note or equivalent cargo documentation;
- (c) searches of vehicles; and
- (d) checking of seals and other methods used to prevent tampering upon entering the port facility and upon storage within the port facility.

16.33 Checking of cargo may be accomplished by some or all of the following means—



- (a) visual and physical examination; and
- (b) using scanning and detection equipment, mechanical devices, or dogs.

16.34 When there are regular, or repeated, cargo movement the company security officer or the hip ecurity fficer may, in consultation with the port facility, agree arrangements with shippers or others responsible for such cargo covering offsite checking, sealing, scheduling, supporting documentation, etc. Such arrangements should be communicated to and agreed with the port facility security officer concerned.

#### *Security Level 2*

16.35 At security level 2, the port facility security plan should establish the additional security measures to be applied during cargo handling to enhance control, which may include—

- (a) detailed checking of cargo, cargo transport units and cargo storage areas within the port facility;
- (b) intensified checks, as appropriate, to ensure that only the documented cargo enters the port facility, is temporarily stored there and then loaded onto the ship;
- (c) intensified searches of vehicles; and
- (d) increased frequency and detail in checking of seals and other methods used to prevent tampering.

16.36 Detailed checking of cargo may be accomplished by some or all of the following means—

- (a) increasing the frequency and detail of checking of cargo, cargo transport units and cargo storage areas within the port facility (visual and physical examination);
- (b) increasing the frequency of the use of scanning and detection equipment, mechanical devices, or dogs; and
- (c) co-ordinating enhanced security measures with the shipper or other responsible party in addition to an established agreement and procedures.

#### *Security Level 3*

16.37 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The port facility security plan should detail the security measures which could be taken by the port facility, in close cooperation with those responding and the ships at the port facility, which may include—

- (a) restriction or suspension of cargo movements or operations within all, or part, of the port facility or specific ships; and
- (b) verifying the inventory of dangerous goods and hazardous substances held within the port facility and their location.

#### *Delivery of ship's stores*

16.38 The security measures relating to the delivery of ship's stores should—

- (a) ensure checking of ship's stores and package integrity;
- (b) prevent ship's stores from being accepted without inspection;
- (c) prevent tampering;
- (d) prevent ship's stores from being accepted unless ordered;
- (e) ensure searching the delivery vehicle; and
- (f) ensure escorting delivery vehicles within the port facility.

*Merchant Shipping*

[Subsidiary]

16.39 For ships regularly using the port facility it may be appropriate to establish procedures involving the ship, its suppliers and the port facility covering notification and timing of deliveries and their documentation. There should always be some way of confirming that stores presented for delivery are accompanied by evidence that they have been ordered by the ship.

*Security Level 1*

16.40 At security level 1, the port facility security plan should establish the security measures to be applied to control the delivery of ship's stores, which may include—

- (a) checking of ship's stores;
- (b) advance notification as to composition of load, driver details and vehicle registration; and
- (c) searching the delivery vehicle.

16.41 Checking of ship's stores may be accomplished by some or all of the following means—

- (a) visual and physical examination; and
- (b) using scanning and detection equipment, mechanical devices or dogs.

*Security Level 2*

16.42 At security level 2, the port facility security plan should establish the additional security measures to be applied to enhance the control of the delivery of ship's stores, which may include—

- (a) detailed checking of ship's stores;
- (b) detailed searches of the delivery vehicles;
- (c) co-ordination with ship personnel to check the order against the delivery note prior to entry to the port facility; and
- (d) escorting the delivery vehicle within the port facility.

16.43 Detailed checking of ship's stores may be accomplished by some or all of the following means—

- (a) increasing the frequency and detail of searches of delivery vehicles;
- (b) increasing the use of scanning/detection equipment, mechanical devices, or dogs; and
- (c) restricting, or prohibiting, entry of stores that will not leave the port facility within a specified period.

*Security Level 3*

16.44 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The port facility security plan should detail the security measures which could be taken by the port facility, in close cooperation with those responding and the ships at the port facility which may include preparation for restriction, or suspension, of the delivery of ship's stores within all, or part, of the port facility.

*Handling unaccompanied baggage*

16.45 The port facility security plan should establish the security measures to be applied to ensure that unaccompanied baggage (i.e. any baggage, including personal effects, which is not with the passenger or member of ship's personnel at the point of inspection or search) is identified and subjected to appropriate screening, including searching, before is allowed in the port facility and, depending on the storage arrangements, before it is transferred between the port facility and the ship. It is not envisaged that such baggage will be subjected to screening by both the port facility and the ship, and in cases where both are suitably equipped, the responsibility for screening should rest with the port facility. Close cooperation

with the ship is essential and steps should be taken to ensure that unaccompanied baggage is handled securely after screening.

*Security Level 1*

16.46 At security level 1, the port facility security plan should establish the security measures to be applied when handling unaccompanied baggage to ensure that unaccompanied baggage is screened or searched up to and including 100 percent, which may include use of x-ray screening.

*Security Level 2*

16.47 At security level 2, the port facility security plan should establish the additional security measures to be applied when handling unaccompanied baggage which should include one hundred percent x-ray screening of all unaccompanied baggage.

*Security Level 3*

16.48 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The port facility security plan should detail the security measures which could be taken by the port facility, in close cooperation with those responding and the ships at the port facility, which may include—

- (a) subjecting such baggage to more extensive screening, for example x-raying it from at least two different angles;
- (b) preparations for restriction or suspension of handling or unaccompanied baggage; and
- (c) refusal to accept unaccompanied baggage into the port facility.

*Monitoring the security of the port facility*

16.49 The port facility security organization should have the capability to monitor the port facility and its nearby approaches, on land and water, at all times, including the night hours and periods of limited visibility, the restricted areas within the port facility, the ships at the port facility and areas surrounding ships. Such monitoring can include use of—

- (a) lighting;
- (b) security guards, including foot, vehicle and waterborne patrols; and
- (c) automatic intrusion detection devices and surveillance equipment.

16.50 When used, automatic intrusion detection devices should activate an audible and/or visual alarm at a location that is continuously attended or monitored.

16.51 The port facility security plan should establish the procedures and equipment needed at each security level and the means of ensuring that monitoring equipment will be able to perform continually, including consideration of the possible effects of weather or of power disruptions.

*Security Level 1*

16.52 At security level 1, the port facility security plan should establish the security measures to be applied which may be a combination of lighting, security guards or use of security and surveillance equipment to allow port facility security personnel to—

- (a) observe the general port facility area, including shore and water-side accesses to it;
- (b) observe access points, barriers and restricted areas; and
- (c) allow port facility security personnel to monitor areas and movements adjacent to ships using the port facility, including augmentation of lighting provided by the ship itself.

*Security Level 2*

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16.53 At security level 2, the port facility security plan should establish the additional security measures to be applied to enhance the monitoring and surveillance capability, which may include—

- (a) increasing the coverage and intensity of lighting and surveillance equipment, including the provision of additional lighting and surveillance coverage;
- (b) increasing the frequency of foot, vehicle or waterborne patrols; and
- (c) assigning additional security personnel to monitor and patrol.

*Security Level 3*

16.54 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The port facility security plan should detail the security measures which could be taken by the port facility, in close cooperation with those responding and the ships at the port facility, which may include:

- (a) switching on all lighting within, or illuminating the vicinity of, the port facility;
- (b) switching on all surveillance equipment capable of recording activities within, or adjacent to, the port facility; and
- (c) maximising the length of time such surveillance equipment can continue to record.

*Differing security levels*

16.55 The port facility security plan should establish details of the procedures and security measures the port facility could adopt if the port facility is at a lower security level than that applying to a ship.

*Activities not covered by the Code*

16.56 The port facility security plan should establish details of the procedures and security measures the port facility should apply when—

- (a) it is interfacing with a ship which has been at a port of a State which not a Contracting Government;
- (b) it is interfacing with a ship to which this Code does not apply; and
- (c) it is interfacing with fixed or floating platforms or mobile offshore drilling units on location.

*Declarations of security*

16.57 The port facility security plan should establish the procedures to be followed when on the instructions of the Contracting Government the port facility security officer requests a declaration of security or when a declaration of security is requested by a ship.

*Audit, review and amendment*

16.58 The port facility security plan should establish how the port facility security officer intends to audit the continued effectiveness of the port facility security plan and the procedure to be followed to review, update or amend the port facility security plan.

16.59 The port facility security plan should be reviewed at the discretion of the port facility security officer. In addition it should be reviewed—

- (a) if the port facility security assessment relating to the port facility is altered;
- (b) if an independent audit of the port facility security plan or the Contracting Government's testing of the port facility security organization identifies failings in the organization or questions the continuing relevance of significant element of the approved port facility security plan ;
- (c) following security incidents or threats thereof involving the port facility; and
- (d) following changes in ownership or operational control of the port facility.

16.60 The port facility security officer can recommend appropriate amendments to the approved plan following any review of the plan. Amendments to the port facility security plan relating to—

- (a) proposed changes which could fundamentally alter the approach adopted to maintaining the security of the port facility; and
- (b) the removal, alteration or replacement of permanent barriers, security and surveillance equipment and systems etc., previously considered essential in maintaining the security of the port facility;

should be submitted to the Contracting Government that approved the original port facility security plan for their consideration and approval. Such approval can be given by, or on behalf of, the Contracting Government with, or without, amendments to the proposed changes. On approval of the port facility security plan the Contracting Government should indicate which procedural or physical alterations have to be submitted to it for approval.

#### *Approval of port facility security plans*

16.61 PFSPs have to be approved by the relevant Contracting Government which should establish appropriate procedures to provide for—

- (a) the submission of port facility security plans to them;
- (b) the consideration of port facility security plans;
- (c) the approval of port facility security plans, with or without amendments;
- (d) consideration of amendments submitted after approval; and
- (e) procedures for inspecting or auditing the continuing relevance of the approved port facility security plan PFSP .

At all stages steps should be taken to ensure that the contents of the port facility security plan remains confidential.

#### *Statement of Compliance of a Port Facility*

16.62 The Contracting Government within whose territory a port facility is located may issue an appropriate statement of compliance of a port facility indicating—

- (a) the port facility;
- (b) that the port facility complies with the provisions of chapter XI-2 and part A of the Code;
- (c) the period of validity of the statement of compliance of a port facility which should be specified by the Contracting Governments but should not exceed five years; and
- (d) the subsequent verification arrangements established by the Contracting Government and a confirmation when these are carried out.

16.63 The statement of compliance of a port facility should be in the form set out in the appendix to this Part of the Code. If the language used is not Spanish, French or English, the Contracting Government, if it considers it appropriate, may also include a translation into one of these languages.

### **17. Port Facility Security Officer**

#### *General*

17.1 In those exceptional instances where the ship security officer has questions about the validity of identification documents of those seeking to board the ship for official purposes, the port facility security officer should assist.

17.2 The port facility security officer should not be responsible for routine confirmation of the identity of those seeking to board the ship.

In addition other relevant guidance is provided under regulations 16, 17 and 18.

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**18. Training, drills and exercises on port facility security***Training*

18.1 The port facility security officer should have knowledge and receive training, in some or all of the following, as appropriate—

- (a) security administration;
- (b) relevant international conventions, codes and recommendations;
- (c) relevant Government legislation and regulations;
- (d) responsibilities and functions of other security organizations;
- (e) methodology of port facility security assessment;
- (f) methods of ship and port facility security surveys and inspections;
- (g) ship and port operations and conditions;
- (h) ship and port facility security measures;
- (i) emergency preparedness and response and contingency planning;
- (j) instruction techniques for security training and education, including security measures and procedures;
- (k) handling sensitive security related information and security related communications;
- (l) knowledge of current security threats and patterns;
- (m) recognition and detection of weapons, dangerous substances and devices;
- (n) recognition, on a non discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten the security;
- (o) techniques used to circumvent security measures;
- (p) security equipment and systems, and their operational limitations;
- (q) methods of conducting audits, inspection, control and monitoring;
- (r) methods of physical searches and non-intrusive inspections;
- (s) security drills and exercises, including drills and exercises with ships; and
- (t) assessment of security drills and exercises.

18.2 Port facility personnel having specific security duties should have knowledge and receive training, in some or all of the following, as appropriate—

- (a) knowledge of current security threats and patterns;
- (b) recognition and detection of weapons, dangerous substances and devices;
- (c) recognition of characteristics and behavioural patterns of persons who are likely to threaten security;
- (d) techniques used to circumvent security measures;
- (e) crowd management and control techniques;
- (f) security related communications;
- (g) operations of security equipment and systems;
- (h) testing, calibration and maintenance of security equipment and systems;
- (i) inspection, control, and monitoring techniques; and .10 methods of physical searches of persons, personal effects, baggage, cargo, and ship's stores.

18.3 All other port facility personnel should have knowledge of and be familiar with relevant provisions of the port facility security plan, in some or all of the following, as appropriate—

- (a) the meaning and the consequential requirements of the different security levels;
- (b) recognition and detection of weapons, dangerous substances and devices;
- (c) recognition of characteristics and behavioral patterns of persons who are likely to threaten the security; and
- (d) techniques used to circumvent security measures.

*Drills and exercises*

18.4 The objective of drills and exercises is to ensure that port facility personnel are proficient in all assigned security duties, at all security levels, and to identify any security related deficiencies, which need to be addressed.

18.5 To ensure the effective implementation of the provisions of the port facility security plan, drills should be conducted at least every three months unless the specific circumstances dictate otherwise. These drills should test individual elements of the plan such as those security threats listed in paragraph 15.11.

18.6 Various types of exercises which may include participation of port facility security officers, in conjunction with relevant authorities of Contracting Governments, company security officers, or ship security officers, if available, should be carried out at least once each calendar year with no more than eighteen months between the exercises. Requests for the participation of company security officers or ships security officers in joint exercises should be made bearing in mind the security and work implications for the ship. These exercises should test communication, coordination, resource availability and response. These exercises may be—

- (a) full scale or live;
- (b) tabletop simulation or seminar; or
- (c) combined with other exercises held such as emergency response or other port State authority exercises.

**19. Verification and Certification of Ships**

*No additional guidance.*

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**THE MERCHANT SHIPPING (OCCUPATIONAL SAFETY) REGULATIONS**

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**THE MERCHANT SHIPPING (OCCUPATIONAL SAFETY) REGULATIONS**

[Legal Notice 151 of 2015]

## PART I – GENERAL

**1. Citation**

These Regulations may be cited as the Merchant Shipping (Occupational Safety) Regulations, 2015, and shall come into operation on such date as the Cabinet Secretary may, by notice in the *Gazette* appoint.

**2. Interpretation**

In these Regulations unless the context otherwise requires—

"access equipment" means any equipment which is used to gain access to or from a vessel, and includes any gangway, accommodation ladder, portable ladder or rope ladder;

"employer" means any employer of—

- (a) a master of a ship;
- (b) a member of ship's crew;
- (c) a shore contractor;
- (d) a stevedore;
- (e) a person who works in any capacity on or within 50 metres distance of an offshore installation; and
- (f) any incidental person on board a vessel in the course of their duties.

"lifting appliance" means any fixed or mobile appliance on a vessel which is used for suspending, raising or lowering a load or moving it from one position to another whilst suspended, but does not include—

- (a) any screw, belt, bucket or other conveyor used for transport of cargo or people;
- (b) any survival craft or rescue boat launching and recovery appliance or arrangement; or
- (c) any pilothoist;

"lifting gear" means any gear by means of which a load can be attached to a lifting appliance and which does not form an integral part of that load or appliance, but does not include any pallet, one trip sling, pre-slung cargo sling or freight container;

"offshore installation" means any offshore structure supported on the sea-bed or a vessel used at sea in connection with the prospecting for or the mining of natural oil and on which persons are normally present;

"lifting plant" includes lifting appliances and lifting gear;

"reasonably practicable" means practicable having regard to—

- (a) the severity and scope of the hazard or risk in question;
- (b) the state of knowledge reasonably available concerning the hazard or risk and on
- (c) any means of removing or mitigating the hazard or risk;
- (d) the availability and suitability of means to remove or mitigate the hazard or risk; and
- (e) the cost of removing or mitigating the hazard or risk in relation to the benefits deriving therefrom;

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"safety measures" means any reasonable steps taken by the responsible person to prevent an accident or serious injury or measures taken to eliminate any hazardous condition; chemicals or gas;

"tanker" means a cargo ship constructed or adapted for the carriage in bulk of oil;

"vessel" means a ship of any description and offshore installations, whether fixed or mobile.

### **3. General application**

These Regulations shall apply on board vessels and to the performance of all work on board vessels, whether or not the vessels are afloat.

### **4. Duties of employers**

(1) Every employer shall—

- (a) have a copy of these regulations readily available for perusal by his employees;
- (b) ensure that all his employees are so far as is practicable familiar with these regulations where applicable;
- (c) in so far as is practicable, ensure that the provisions of these regulations applicable to employees are observed by them and that, in the interest of safety, discipline is enforced on board a vessel;
- (d) ensure that on board a vessel work is performed or machinery is used under the general supervision of a person who is fully aware of the hazards connected therewith and who is conversant with the safety measures to be taken or observed to obviate such hazards;
- (e) ensure that safety measures contained in the applicable Code are complied with;
- (f) ensure that every employee is aware of the hazards connected with any work to be performed, or machinery to be used by him and that he is conversant with the safety measures to be taken or observed to obviate such hazards;
- (g) ensure that machinery and equipment which is brought on board a vessel and which does not form part of that vessel's machinery or equipment complies with the provisions of the Occupational Health and Safety Act (Cap 236A);
- (h) ensure that an employee who operates machinery or equipment on board a vessel is competent to do so.

(2) No employer shall, other than in writing and subject to the conditions stipulated by him, allow the raising, lowering, transporting or supporting of a person by means of a lifting appliance, except in an emergency.

(3) An employee shall—

- (a) take reasonable care for his own safety and that of other persons who may be affected by his acts or omissions;
- (b) as regards any duty or requirement imposed on his employer or any other person by the Act or regulations, co-operate with such employer or person to enable that duty or requirement to be performed or complied with;
- (c) carry out any lawful order given to him, and obey the rules and procedures laid down by his employer or by anyone authorized thereto by his employer, in the interest of safety;
- (d) if any situation which is unsafe comes to his attention, as soon as practicable report such situation to his employer or to the safety representative for his workplace or section thereof, as the case may be, who shall report it to the employer;
- (e) if he is involved in any incident which may affect his safety, or which has caused an injury to himself, report such incident to his employer or to anyone

authorized thereto by the employer, or to his safety representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case he shall report the incident as soon as practicable thereafter; and

- (f) not intentionally or recklessly interfere with or misuse anything which is provided in the interest of safety.

## 5. Safety equipment and facilities to be provided by employers

Taking into account the nature of the hazard that may be encountered, every employer shall, in order to render his employees safe, provide on a vessel adequate safety equipment and facilities, including—

- (a) suitable eye protection, welding shields, visors, hard hats, protective helmets, gloves, gauntlets, aprons, jackets, protective overalls or any similar equipment that will prevent bodily injury;
- (b) waterproof clothing, low temperature clothing, fire retardant or flameproof clothing or any similar equipment, protective ointment, ear muffs, earplugs, respirators, breathing apparatus, masks, airlines, hoods, helmets or any similar equipment that will effectively protect against harm;
- (c) belts, harnesses, nets, fall arresters, life lines, safety hooks, or any similar equipment that will provide protection in cases of falls; and Safety equipment and facilities to be provided by employers.
- (d) mats, barriers, safety signs or any similar facility that will effectively prevent slipping or entry to unsafe areas.

## 6. First-aid kit and first-aider

An employer shall ensure that—

- (a) where more than five employees work on board a vessel where the vessel's medicine and medical appliances are not readily accessible, a portable first-aid kit is made available at or near the workplace where the employees are engaged and there is readily available at that workplace a person qualified in practical first aid; and
- (b) the minimum contents of the portable first-aid kit are as follows—
- (i) Wound cleanser (Cetrimide 1% solution) 1 x 200 ml
  - (ii) Pain relief tablets (e.g. paracetamol-codeine combination) ..... 25
  - (iii) Antiseptic burn/wood cream (e.g. Provioidine)..... 25 g
  - (iv) Paraffin gauze dressings 400 mm x 100 mm 1 tin
  - (v) Paraffin gauze dressings 100 mm x 100 mm 1 tin
  - (vi) Eyedrops (Naphazoline) ..... 10 ml
  - (vii) Crepe bandage 75 mm x 6 mm ..... 1
  - (viii) Rollerbandages 75 mm x 6 mm ..... 2
  - (ix) Triangular bandages ..... 2 large
  - (x) Cottonwool ..... 1x50g
  - (xi) Wound dressings 150 mm x 100 mm.....2
  - (xii) Wound dressings 200 mm x 150 mm..... 1
  - (xiii) Elastic adhesive wound dressing 25 mm x 1 m ..... 1 roll
  - (xiv) Self-adhesive wound dressings, assorted..... 50
  - (xv) Gauze 90mm x 5mm ..... 1
  - (xvi) Eye shield ..... 1
  - (xvii) Tweezers..... 1 pair

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- (xviii) Scissors, stainless steel, 100 mm blunt/sharp ..... 1 pair
- (xix) Assorted safety pins, brass, large ..... 1 packet
- (xx) Splints, in net for neck, arms and leg ..... 1 set
- (xxi) Surgical gloves ..... 2 Pairs

**7. Report of accidents or serious injurious on board vessels**

Any accident or serious injury, contemplated in section 421(1)(b) of the Act, shall be reported on the prescribed casualty report, obtainable from the proper officer concerned.

PART II – SAFETY PROVISIONS FOR STAFF ON  
BOARD SHIP, APPLIANCES AND EQUIPMENT

**8. Definitions**

In this Chapter-

"Code" means the latest Code of Safe Working Practices for Merchants;

"container" means an article of transport equipment—

- (a) of a permanent character and accordingly strong enough to be suitable for repeated use;
- (b) specially designed to facilitate the transport of goods, by one or more modes of transport without intermediate reloading;
- (c) designed to be secured and/or readily handled, having corner fittings for those purposes;
- (d) of such a size that the area enclosed by the four outer bottom corners is either —
  - (i) at least 14 square metres, or
  - (ii) at least seven square metres, if it is fitted with top corner fittings; and

"container" includes a container when carried on a chassis, but does not include a vehicle or packaging;

"employer" for the purposes of this Chapter means master or owner;

"gas carrier" means any vessel constructed or adapted for the carriage in bulk of any liquefied gas;

"hatch covering" includes hatch covers, beams and fixtures and fittings;

"new vessel" means a vessel built on or after 1 January 1994 and includes a vessel whose construction and assembly commenced on or after 1 January 1994;

"one-strip sling" means a sling, which has not previously been used for lifting any load and which is fitted to a load at the commencement of the journey and is to be disposed of at the destination of that journey.

**9. Application**

This Part shall not apply to—

- (a) fishing vessels;
- (b) vessels used solely for sport and recreation; and
- (c) a vessel in which there is, for the time being, no workplace.

**10. Duties of an employer**

Every employer shall in addition to the general duties prescribed in Part I comply with the following—

- (a) ensure that no safety equipment or other facility on a vessel be removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;
- (b) train all his employees or cause them to be trained in the proper use and maintenance of safety equipment or other facilities on board a vessel;
- (c) ensure that all safety hazards or potential safety hazards that caused a safety officer to instruct that work to be stopped on a vessel, are removed before such work is resumed.

#### **11. Appointment, termination of appointment, and functions of safety officers**

(1) An employer shall in writing appoint an officer other than the master of a vessel as the safety officer for that vessel.

(2) The appointment of a safety officer shall terminate—

- (a) on the date that officer ceases to be employed on board that vessel; or
- (b) on the date that the employer terminates his appointment.

(3) The safety officer shall—

- (a) ensure that the crew of the vessel comply with the provisions of the Code;
- (b) ensure that the crew comply with any occupational safety policy determined by the employer concerned;
- (c) ensure that the crew maintain a high standard of occupational safety;
- (d) investigate the cause of an accident contemplated in section 421(1)(b) of the Act, all hazards or potential hazards to safety, including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints by the crew of the vessel concerning occupational safety;
- (e) make recommendations to the safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding—
  - (i) the requirements of the Act and these regulations that affect the crew;
  - (ii) any relevant Marine Notice; and
  - (iii) any provision of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety of the crew, at least once during this term of appointment or more frequently if there have been substantial changes in the conditions of work:

Provided that the interval between successive inspections shall not exceed three months;

- (g) keep a record book in which he shall enter full details—
  - (i) of any accident or hazardous occurrence (including the date, the names of persons involved and the nature of any injury); and
  - (ii) of any investigation, complaint or inspection referred to in this regulation;
- (h) on written request as soon as practicable make the record book referred to in paragraph (g) available to the Director-General or to the safety committee concerned, as the case may be;
- (i) immediately stop or cause to be stopped the performance of any work which in his opinion may cause an accident or serious injury, and inform the master thereof forthwith; and
- (j) carry out any other investigation relating to occupational safety which an employer or a safety committee may deem necessary, if so requested to in

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writing by the employer or the safety committee, as the case may be, and thereafter submit a report in respect of such investigation.

## **12. Appointment, termination of appointment, and functions of safety**

(1) An employer shall in writing establish a safety committee on board a vessel, designating the master to be chairman and appointing the safety officer and every safety representative as members.

(2) An employer may in writing dissolve a safety committee.

(3) A safety committee shall—

- (a) upon receipt of any recommendation referred to in regulation 11(3)(c), submit to the employer such recommendation together with their own recommendations; and
- (b) inquire into any occupational safety matter that affects a vessel and her crew and take the steps it may deem necessary to remove any hazard or potential hazard.

## **13. Election, termination of office, and functions of safety representatives**

(1) The crew may, if they so choose, elect—

- (a) in a ship carrying fewer than 16 crew members, one safety representative; or
- (b) in a ship carrying more than 15 crew members, one safety representative, to be elected by the officers, and one safety representative to be elected by the ratings, or in a ship carrying more than 30 ratings, one safety representative, to be elected by the ratings in each of the deck, engine and catering departments; and general purpose ratings shall for this purpose be included in the deck apartment.

(2) If a group of employees chooses to elect a safety representative, the manner in which the election is to be conducted shall be as follows—

- (a) at a meeting convened for the purpose of this election and presided over by the chairman of the safety committee or his nominee, a group of employees shall from within their group nominate a candidate.
- (b) each nominated candidate shall, in writing, confirm to the chairman of the safety committee his acceptance of such nomination.
- (c) the election of a safety representative shall be decided by ballot.
- (d) each member of the group of employees holding an election shall have only one vote.
- (e) the candidate obtaining the majority of votes shall be the safety representative for the specific group of employees for a period not exceeding six months.
- (f) in the event of an equality of votes, the chairman of the safety committee shall have the decisive vote.

(3) The office of the safety representative shall terminate—

- (a) on the date that the safety representative ceases to be employed on board that vessel;
- (b) on the date of his resignation from office; or
- (c) after he has completed his term of appointment.

(4) When he makes representations and submits requests to the employer or safety officer or safety committee on behalf of the crew he represents, the safety representative shall make such representations and submissions in writing.

## **14. Requirements and duties of employers regarding safety officers, safety committees and safety representatives to enable them to perform their functions**

Every employer of a crew shall—



- (1) Inform the safety officer and safety committee concerned of any hazardous cargo on board a vessel and the hazards, which may arise therefrom, and of any other hazards on board the vessel that are known to him and that may endanger the vessel or her crew;
- (2) Allow a safety officer and safety representative such reasonable absence from ship's duties without loss of pay as may be necessary to enable them to perform their duties or functions as safety officer or safety representative, as the case may be;
- (3) At any reasonable time, receive representations about occupational safety from the safety officer, the safety representatives or the safety committee, including recommendations by a safety representative that certain work should be suspended, and discuss their representations with them and implement any agreed measures as soon as may be reasonable and practicable;
- (4) Provide the safety officer, and safety committee concerned on request with any information relating to accidents and potential hazards to safety on board a vessel;
- (5) Provide the safety officer concerned on request with any information or plans necessary to enable him to undertake an inspection referred to in regulation 11(3)(d);
- (6) Set the election date of a safety representative to be within three working days of being requested to do so by any two persons entitled to vote in such an election and give publicity to any such election;
- (7) Subject to the provision of section 355A(5) of the Act, provide the safety officer and safety committee access to any necessary information, document and similar material, including any applicable legislation and Marine Notices;
- (8) Provide the safety officer and safety committee with the necessary accommodation, office equipment and similar materials;
- (9) Permit the safety officer and safety committee to inspect the whole or part of the vessel for the purpose of occupational safety; and
- (10) Display in a conspicuous place on board a notice containing the names of the safety officer and safety representative on board the vessel.

## **15. Access equipment**

- (1) The employer shall provide—
  - (a) on board a vessel of 30 meters or more in length, a gangway; and
  - (b) on board a vessel of 120 meters or more in length, in addition to the gangway, an accommodation ladder (including a rope or portable ladder), which is appropriate to the deck layout, size, shape and maximum free board of the vessel and which complies with the applicable requirements prescribed in the Code.
- (2) Any rope or portable ladder used as access equipment shall comply with the applicable requirements prescribed in the Code.

## **16. Use of access equipment**

The employer shall ensure that, except in an emergency, access equipment referred to in regulation 15 is always used between a secured vessel and any quay, pontoon or similar structure or another vessel alongside to which that vessel is secured, and that-

- (a) the access equipment is placed in position promptly after the vessel has been so secured and remains in position while the vessel is so secured;
- (b) the access equipment which is used—
  - (i) is properly constructed, of adequate strength, properly rigged, secured, deployed, and safe to use; and
  - (ii) is so adjusted from time to time as to maintain safety of access;
- (c) the access equipment and immediate approaches thereto are adequately illuminated;

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- (d) when access is necessary between a vessel and the shore and that vessel is not secured alongside, access equipment is provided to ensure safe access;
- (e) a portable ladder is used as access equipment only where no other safe means of access is practicable;
- (f) a rope ladder is used as access equipment only between a vessel with high freeboard and a vessel with low freeboard or between a vessel and a boat where no other safe means of access is practicable;
- (g) a life-buoy with a self-activating light and a separate safety line attached to a quoit or a similar device is provided ready for use at the point of access to a vessel; and
- (h) an adequate number of safety nets are rigged to safeguard the full length of a gangway or accommodation ladder in use.

**17. Hatch coverings**

(1) An employer shall ensure—

- (a) that any hatch covering used on a vessel is of sound construction and material, of adequate strength for the purpose for which it is used, free from patent defect and properly maintained;
- (b) that a hatch covering—
  - (i) is not used unless it can be removed and replaced, whether manually or with mechanical power, without endangering any person, and
  - (ii) is clearly marked, showing the correct replacement position, except in so far as hatch coverings are interchangeable or incapable of being incorrectly replaced;
- (c) that a hatch is not used unless the hatch covering has been completely removed or, if not completely removed, properly secured.

(2) Except in the event of an emergency, no person shall operate a hatch covering which is power-operated or a vessel's ramp or a retractable car-deck unless authorised to do so by the officer of the watch.

**18. Lifting plant**

An employer shall ensure that any vessel's lifting plant is—

- (a) (i) of adequate strength for the purpose for which it is used;
  - (ii) free from patent defect;
  - (iii) properly installed or assembled;
  - (iv) properly maintained; and
  - (v) used only in a safe and proper manner;
- (b) not loaded in excess of its certified safe working load, except for the purpose of carrying out a test referred to in paragraph (d);
- (c) operated only by a person properly trained in the operation thereof and duly authorized by the officer of the watch to do so;
- (d) tested by a competent person after the manufacturing or installation thereof, as the case may be, but before being put into operation, and thereafter after any repairs to or modification of the lifting plant which is likely to alter the safe working load or affect the strength or stability thereof, but at least once every four years:

Provided that a rope sling manufactured from a rope batch tested by a competent person and spliced in a safe manner need not be tested;

- (e) examined by a competent person after any of the tests referred to in paragraph (d) have been carried out, but at least once every 12 months, and that no lifting plant is used unless so examined and declared safe in writing;

- (f) supplied with a test certificate stating that the lifting plant was tested by a competent person after any of the tests prescribed in paragraph (d);
- (g) clearly and conspicuously marked with its safe working load;
- (h) where practicable, fitted with—
  - (i) a limiting device, which automatically arrests any driving effort when the load reaches its highest or lowest safe position;
  - (ii) a brake or other device suitable to holding a load and preventing the uncontrolled downward movement thereof when the raising effort of the lifting plant is interrupted; and
  - (iii) a hook or load-attaching device so designed or proportioned that the accidental disconnection of a load under working conditions is prevented; and
- (i) fitted with—
  - (i) a device indicating the operating radius of the lifting plant at all times while it is in operation; and
  - (ii) a diagram or indicator indicating to the operator the safe working load of the lifting plant corresponding to its operating radius, if it has a safe working load which varies according to its operating radius.

## **19. Safeguarding of machinery**

An employer shall—

- (1) specifically cause every exposed and hazardous part of machinery on board a vessel which is within the normal reach of a person to be effectively safeguarded by means of insulation, fencing, screening or guarding so that it does not constitute a further hazard or potential hazard;
- (2) ensure that the quality of material used for such insulation, fencing, screening or guarding is suitable for the purpose for which it is being utilised;
- (3) ensure that all insulation, fencing, screening or guarding is properly maintained and kept in position while the guarded part is in operation; and
- (4) supply suitable apparatus to stop immediately any machine on board a vessel in an emergency.

## **20. Electrical equipment**

An employer shall ensure that all the electrical equipment and installations on a vessel are operated and maintained in such a manner that any hazard or potential hazard is removed.

## **21. Safety measures when working under hazardous conditions**

An employer shall take all reasonable precautionary measures in order to ensure that employees who have to work on or near machinery which is in motion, under pressure, at high temperature or electrically alive (including the operation of such machinery for the purposes of the examination, adjustment, repair, lubrication or testing thereof) are not injured, and shall in particular ensure that—

- (a) the exposure of employees to dangerous parts of such machinery is limited to the minimum;
- (b) the said exposure is authorised by the officer of the watch or other competent person;
- (c) such machinery is examined only by a competent person;
- (d) any employee who is required to be close to such machinery has, so far as is practicable, a working area which is of adequate size, properly illuminated, and clear of obstructions and loose material;

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- (e) a notice specifying the hazards relating to such machinery is affixed in a legible form in a conspicuous place on, or in the vicinity of, that machinery or that the area around such machinery is demarcated with hazard tape.

## **22. Safe access of persons on board**

An employer shall ensure that a safe means of access is provided and maintained to any place on a vessel to which a person may be required to go.

## **23. Transit areas**

An employer shall ensure that all deck surfaces used for transit and all passageways, walkways and stairs on a vessel are properly maintained and, in so far as it is practicable, are kept free from all materials or substances likely to cause a person to slip or fall.

## **24. Lighting**

An employer shall ensure that those areas of a vessel being used for the loading or unloading of cargo or for any other work or transit are adequately and appropriately illuminated.

## **25. Safety signs**

An employer shall ensure that all permanent safety signs used on board a vessel for the purpose of giving safety information or instruction comply with the standards prescribed by the International Maritime Organization or the International Standards Organization.

## **26. Guardrails**

(1) An employer shall ensure that any opening, open hatchway or dangerous edge into, through, or over which a person may fall is fitted with secure guardrails or fencing of adequate design and construction to prevent such occurrence, except where the installation of such guardrails or fencing will interfere with the proper performance of work.

(2) Where a temporary opening is made in a ship for carrying out repair work, the opening may, in lieu of the guarding required by subregulation (1), be guarded by means of hazard tape displayed at a height of not less than 800 mm and not higher than 1 200 mm and at a distance of not less than 2 000 mm from the edge of the opening.

## **27. Fixed ladders**

An employer shall ensure that—

- (a) all ladders used on a vessel are of good construction and of adequate strength for the purpose for which they are used;
- (b) such ladders are properly maintained and free from defects; and
- (c) all the ladders on a new vessel comply with the requirements prescribed in the relevant sections of the Code.

## **28. Enclosed or confined spaces**

(1) An employer shall ensure that all entrances to unattended, enclosed or confined spaces on a vessel are kept either closed or otherwise secured against entry, except when work is to be done therein.

(2) An employer shall ensure that the provisions of the Code pertaining to the hazards for safe entry to and work in an enclosed or confined space on board a vessel are complied with.

(3) An employer of crew on board—

- (a) any tanker or gas carrier of 500 gross registered tons or more; and
- (b) any other vessel of 1 000 gross registered tons or more; shall ensure that drills simulating the rescue of a crew member from an enclosed or confined space are held at intervals not exceeding two months, and that such drills are recorded in the official log book.

- (4) (a) where entry into an enclosed or confined space may be necessary, every employer shall ensure that an oxygen meter and such other testing device as is appropriate to the hazard likely to be encountered in any such space is carried on board the vessel;
- (b) an employer shall ensure that such meter any such other testing device is maintained in good working order and, where applicable, is regularly serviced and calibrated according to the manufacturers' requirements.

PART III – STEVEDORES, SHORE CONTRACTORS AND INCIDENTAL PERSON  
ON BOARD VESSELS IN THE COURSE AND SCOPE OF THEIR DUTY

## 29. Definitions

In this Chapter—

"Code" means the latest edition of any Cargo Handling Code of Practice issued by or approved by the Kenya Ports Authority and incorporated in accordance with the Act;

"employee" means any person other than a crew member who is employed by or working for any employer and receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person who in any manner assists in the carrying on or the conducting of the business of an employer in so far as this person is performing stevedoring, or shore contracting or any other work whatsoever in the course and scope of his employment on board a vessel;

"employer" means any person other than an employer of the master or crew who employs any person and remunerates that person or expressly or tacitly undertakes to remunerate him, or who permits any person in any manner to assist him in performing stevedoring or shore contracting or any other work on board a vessel;

"incidental persons" means any person other than the master and crew, and stevedores and shore contractors on board a vessel in the course and scope of their duty;

"shore contractor" means a person temporarily employed on board a vessel to effect general or specific repairs, alterations, renovations, improvements, painting, maintenance of vessel or machinery, tank or hatch cleaning and related tasks;

"stevedore" means a person employed in the loading or unloading of a vessel or activities related thereto.

## 30. Application

This Chapter shall not apply to vessels used solely for sport and recreation.

## 31. Duties of owners, masters and employers

(1) An employer of stevedores, shore contractors or incidental persons shall—

- (a) in addition to the general duties prescribed by regulation 3, comply with the requirements of regulations 4, 5, 17 and 20, 21, 25 and 28(2);
- (b) ensure that each accessible part of the vessel is inspected in respect of occupational safety affecting employees at least once a day during the period the employees are employed;
- (c) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the employer, owner or master forthwith thereof.

(2) An employer of stevedores, shore contractors or incidental persons shall ensure that all deck surfaces, all passageways, walkways and stairs on a vessel used for transit by his employees are kept, as far as it practicable, free from all materials or substances likely to cause a person to slip or fall.

(3) In the event of a dispute arising in respect of—

- (a) whether a work place is safe; or

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- (b) what action has to be taken to make a workplace safe, the owner or master or employer shall refer the matter to the authorised officer who will determine the dispute by conducting an inspection of the vessel to determine compliance by the owner, master or employer with these Regulations and the Code.

(4) An employer of a stevedore shall ensure compliance with the provisions of the Code.

### **32. Appointment, termination of appointment, and functions of a safety officer**

(1) The employer of a stevedore or shore contractor shall in writing appoint an employee as safety officer for a group of his employees.

(2) The appointment of the safety officer shall cease on the date—

- (a) the employee ceases to be employed by the owner; or
- (b) that the employer terminates the appointment.

(3) The safety officer shall whilst the employees are working on a vessel—

- (a) ensure that the employees comply with the provisions of the regulations;
- (b) ensure that any occupation safety policy determined by the employer concerned is complied with by the employees;
- (c) ensure that the employees maintain a high standard of occupational safety;
- (d) investigate the cause of an accident mentioned in section 259(1)(c) of the Act, all hazards or potential hazards to safety, including fatigue, affecting or which may affect the employees in the execution of their work and all complaints about occupational safety by the employees onboard the vessel;
- (e) make recommendations to the employer regarding any investigation or inspection or the prevention of an accident, or the removal of a hazard, or potential hazard, and about any deficiency in occupational safety regarding the requirements of the Act and these regulations;
- (f) monitor the effectiveness of the safety measures and immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the employer, owner or master forthwith thereof;
- (g) carry out any other investigation relating to occupational safety, which an employer may deem necessary if requested thereto in writing by the employer and thereafter submit a report in respect of such investigation;
- (h) submit a brief report of the investigation contemplated in this regulation to the employer for the purposes of record keeping.

### **33. Record books**

(1) An employer of a stevedore or shore contractor shall maintain a record book, in which he shall enter the full details of-

- (a) any accident or dangerous occurrence mentioned in section 421(1)(b) of the Act (including the date of, names of persons concerned and the nature, if any, of any injuries suffered);
- (b) any investigation, complaint or inspection in terms of regulation 31.

(2) The employer shall keep the records specified in subregulation (1) above for a period of not less than three years, and shall make these records available on request to a Authorised officer.

## PART IV – FISHING VESSELS

### **34. Definition**

In this Part—

"Code" means the latest edition of the Code of Safe Working Practices for Fishing Vessels published by the Authority;

"employee" includes a share fisherman whose only remuneration is a share in the proceeds of the catch;

"in service" means the period extending from when a fishing vessel is handed over to her master until the vessel is handed back to the owner.

### **35. Application**

This Part shall apply only to fishing vessels of more than 25 gross tons on which a crew of six or more are employed.

### **36. Duties of employer**

- (1) In respect of a fishing vessel referred to in regulation 34—
  - (a) the owner thereof shall comply or ensure compliance with the provisions of regulation 3 whilst such vessel is not in service; and
  - (b) the master thereof shall comply or ensure compliance with the said provisions whilst such vessel is in service.
- (2) An employer of a crew shall in addition to the general duties prescribed in Chapter I comply with the following:
  - (a) ensure that no safety equipment or other facility on a vessel be removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;
  - (b) train all his employees or cause them to be trained in the proper use and maintenance of safety equipment or other facilities on board a vessel;
  - (c) ensure that all hazards or potential hazards to safety that caused a safety officer or safety appointee to stop work on a vessel, are removed before resumption of such work.

### **37. Appointment, termination of appointment, and functions of safety officers**

- (1) For the purpose of a fishing vessel in service, the employer of the crew of that vessel shall in writing appoint a crew member as the safety officer for that vessel.
- (2) The appointment of a safety officer shall terminate—
  - (a) on a date that he ceases to be employed on board the fishing vessel; or
  - (b) on the date that his employer, in writing, terminates his appointment.
- (3) A safety officer shall, whilst a fishing vessel is in service—
  - (a) ensure that the crew comply with the provisions of the Code;
  - (b) ensure that the crew comply with any occupational safety policy determined by the employer concerned;
  - (c) ensure that the crew maintain a high standard of occupational safety;
  - (d) investigate the cause of an accident contemplated in section 421(1)(b) of the Act; all hazards or potential hazards to safety including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints concerning occupational safety;
  - (e) make recommendations to the safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding-
    - (i) the requirements of the Act and these Regulations that affect the crew;
    - (ii) any relevant Marine Notice; and
    - (iii) any provisions of the Code;
  - (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety affecting the crew, at least once during a voyage;

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- (g) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury, and inform the master thereof forthwith;
- (h) carry out any other investigation or inspection relating to occupational safety which an employer or safety committee may deem necessary, if so requested in writing by the employer or safety committee, as the case may be, and thereafter submit a report in respect of such investigation; and
- (i) submit to the employer for the purposes of the record book a brief report of the investigation referred to in this regulation.

**38. Appointment, termination of appointment, and functions of safety appointees**

(1) The owner of a fishing vessel shall in writing appoint an employee as safety appointee for that fishing vessel whilst it is not in service.

(2) The appointment of the safety appointee shall terminate—

- (a) on the date that the employee ceases to be employed by the owner; or
- (b) on the date that the employer terminates his appointment.

(3) The safety appointee shall whilst a vessel is not in service—

- (a) ensure that the employees comply with the provisions of the Code;
- (b) ensure that the employees comply with any occupational safety policy determined by the employer concerned;
- (c) ensure that the employees maintain a high standard of occupational safety;
- (d) investigate the cause of an accident contemplated in section 421(1)(b) of the Act, all hazards or potential hazards to safety, including fatigue, that affect or may affect the employees in the execution of their work, and all complaints by the employees of the vessel concerning occupational safety;
- (e) make recommendations to the safety committee concerned, about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding—
  - (i) the requirements of the Act and these regulations that affect the employees;
  - (ii) any relevant Marine Notice; and
  - (iii) any provision of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety of the employees, at least once during the vessel's not-in-service period and should such period extend beyond one month, at least once a month;
- (g) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the owner thereof forthwith;
- (h) carry out any other investigation relating to occupational safety which an employer or safety committee may deem necessary, if so requested in writing by the employer or the safety committee, as the case may be, and thereafter submit a report in respect of such investigation;
- (i) submit to the employer for the purposes of the record book a brief report of the investigation referred to in this regulation.



**39. Appointment, termination of appointment, and functions of safety committees**

(1) An owner of two or more fishing vessels shall in writing establish a safety committee; and such safety committee shall consist of such number of members as the owner may from time to time determine.

(2) The chairman, in the person of the owner or his representative, shall co-opt, from among the employees such persons as are necessary to conduct the business of the committee.

(3) The chairman may also co-opt any other person who by the virtue of his special knowledge can contribute to the business of the committee.

(4) An owner may, in his discretion, in writing, dissolve a safety committee.

(5) A safety committee shall meet as often as may be necessary, but at least once every three months, provided that an authorised officer may by notice in writing direct that a meeting be held at any place and time determined by him.

(6) The procedure at meetings of a safety committee shall be determined by the committee.

(7) The committee shall consider all recommendations of the safety officer or safety appointee.

(8) After consideration of such recommendations a safety committee may recommend any appropriate action in respect of any incident on board a vessel and the recommendation shall be made available to an authorised officer upon request.

(9) The safety committee shall keep the minutes of meetings for a period of at least three years and make them available to an authorised officer upon request.

**40. Record books**

(1) An employer shall maintain a record book, in which he shall enter the full details of—

- (a) any accident or dangerous occurrence referred to in section 421(1)(b) of the Act (including the date, names of persons concerned and the nature, if any, of any injuries suffered);
- (b) any investigation, complaint or inspection referred to in these regulations.

(2) The employer shall keep the records specified in subregulation (1) above for a period of at least three years, and shall make these records available on request to the safety committee and to an authorized officer.

**PART V – MISCELLANEOUS PROVISIONS****41. Offences and penalties**

Any person who contravenes or fails to comply with any provision of the regulations commits an offence and liable on conviction to a fine or to imprisonment as follows—

- (1) Contravention of regulation 3, one year's imprisonment;
- (2) Contravention of regulation 4, six months' imprisonment;
- (3) Contravention of regulation 27(1), six months' imprisonment;
- (4) Contravention of regulation 27(2), one year's imprisonment.



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**THE MERCHANT SHIPPING (SHIP  
IDENTIFICATION NUMBER) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Short title
  2. Interpretation
  3. Purpose of Regulations
  4. Application
  5. Ship identification number
  6. Offences
-



## THE MERCHANT SHIPPING (SHIP IDENTIFICATION NUMBER) REGULATIONS

[Legal Notice 154 of 2015]

### 1. Short title

These Regulations may be cited as the Merchant Shipping (Ship Identification Number) Regulations.

### 2. Interpretation

In these Regulations, unless the context requires otherwise—

"Kenyan ship" includes an unregistered ship having Kenyan nationality.

"Safety Convention" means the International Convention for the Safety of Life at Sea, 1974.

### 3. Purpose of Regulations

The purpose of these regulations is to give effect to Regulation XI-1/3 (Ship Identification Number) of the Safety Convention.

### 4. Application

(1) These regulations shall apply to —

- (a) every foreign-going passenger ship of 100 or more gross tonnage; and
- (b) every foreign-going ship, other than a passenger ship, of 300 or more gross tonnage;
- (c) all Kenyan ships; and
- (d) all foreign ships when in Kenya or in its territorial waters.

(2) Notwithstanding subregulation (1), these regulations shall not apply to—

- (a) vessels used solely for sport or recreation;
- (b) fishing, sealing or whaling boats;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of traditional build.

### 5. Ship identification number

(1) The owner of a ship shall ensure that the ship is permanently marked with the appropriate ship identification number or equivalent in accordance with regulation XI-1/3 of the Safety Convention.

(2) For the purposes of this regulation an equivalent method of marking the ship identification number is a method of marking that —

- (a) ensures that the ship identification number cannot be expunged easily; and
- (b) is approved
  - (i) in the case of a Kenyan ship, by the Authority; or
  - (ii) in the case of a foreign ship, by or on behalf of the ship's flag state.

### 6. Offences

The provisions of section 266 of the Act shall apply with necessary modifications to an offence committed under these regulations.



**THE MERCHANT SHIPPING (MINIMUM SAFE MANNING) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
2. Interpretation
3. Application
4. Exemptions
5. Ship Manning
6. Application for safe manning document
7. Responsibilities of companies, masters and crew members
8. Company policies and procedures
9. Familiarization training
10. Working language
11. Fitness for duty
12. Preventing drug and alcohol abuse
13. Watch keeping arrangements and principles to be observed
14. Carriage of documents
15. Control of foreign ships
16. Control procedure
17. Power to detain
18. Offences, penalties and defences
19. Director General may impose penalty upon admission of guilt
20. Revocation of L.N. 91/2014

SCHEDULES

MINIMUM SAFE MANNING

SECOND SCHEDULE —

FORMS





**THE MERCHANT SHIPPING (MINIMUM SAFE MANNING) REGULATIONS**

[Legal Notice 40 of 2016]

**1. Citation**

These Regulations may be cited as the Merchant Shipping (Safe Manning) Regulations.

**2. Interpretation**

In these Regulations unless the context otherwise requires—

"administration" means the Government of the Party whose flag the ship is entitled to fly;

"Authority" means the Kenya Maritime Authority;

"Company" means the owner of a ship and includes the manager, or the bareboat charterer or any other person or organization, who has assumed the responsibility for operation of the ship from the shipowner and who, and agreed to take over all the duties and responsibilities imposed on the company by these regulations;

"Organisation" means the International Maritime Organization;

"STCW Code" means the Seafarers' Training, Certification and Watchkeeping (STCW) Code adopted by the 1995 Conference Resolution 2, as it may be amended from time to time by the International Maritime Organization;

"Training and Certification regulations" means the relevant regulations relating to seafarer training and certification currently in force.

**3. Application**

Unless expressly provided otherwise, these Regulations shall apply to—

- (a) Kenyan ships wherever they may be;
- (b) foreign ships within the territory of Kenya; except—
  - (i) warships, naval auxiliaries or other ships owned or operated by a State and engaged only on governmental non-commercial service;
  - (ii) fishing vessels;
  - (iii) pleasure yachts not engaged in trade.

**4. Exemptions**

The Director-General may grant, on such terms, if any, as he may specify, exemptions from all or any provisions of these Regulations for classes of cases or individual cases.

**5. Ship Manning**

(1) A ship shall be sufficiently and efficiently manned.

(2) The Authority shall issue the minimum safe manning document set out in the First Schedule to every ship of 500GT or more as evidence of compliance with subregulation (1).

(3) It shall be the duty of the company after the issue of a minimum safe manning document to inform the Authority as soon as any of the circumstances which are pertinent to that minimum safe manning document change, for the purpose of enabling the Authority to review the document's continuing validity or approve fresh proposals from the Company.

(4) The Company shall ensure that every ship of 500 GT or more—

- (a) has a safe manning document is in force in respect of the ship;
- (b) has the safe manning document is kept on board the ship at all times; and
- (c) the manning of the ship is maintained at all times to at least the levels specified in the minimum safe manning document.

(5) A master of a ship shall ensure that the ship does not go to sea unless—

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- (a) there is on board and in force in respect of the ship a valid minimum safe manning document; and
- (b) the manning of the ship complies with minimum safe manning document.

## 6. Application for safe manning document

(1) The Company shall prepare and submit to the Authority a proposal for the minimum safe manning based upon the assessment of the numbers and grades or capacities in the ship's complement required for its safe operation, for its security and for protection of the marine environment, justifying the proposal by explaining how the proposed ship's complement will deal with emergency situations, including the evacuation of passengers, where necessary.

(2) In preparing proposals under subregulation (1) the company shall take into account the Principle of Minimum Safe Manning as may be adopted by the Organisation.

(3) A proposal for the minimum safe manning of a ship submitted by a company to the Authority shall be evaluated by the Authority in accordance with Principle of Minimum Safe Manning as may be adopted by the Organisation.

## 7. Responsibilities of companies, masters and crew members

(1) Companies shall be held responsible for the assignment of seafarers for service on their ships.

(2) Companies, masters and crew members each have responsibility for ensuring that:

- (a) the obligations set out in these regulations are fully implemented; and
- (b) such other measures as may be necessary are taken to ensure that each crew member can make a knowledgeable and informed contribution to the safe operation of the ship.

(3) A Company shall ensure that—

- (a) each seafarer assigned to any of its ships holds an appropriate certificate in respect of any function he is to perform on that ship;
- (b) all masters, officers and radio operators holding certificates issued by foreign countries in accordance with Chapters II, III, IV or regulations V/1-1 or V/1-2 of the STCW Convention shall also have valid "recognition endorsement" issued by the Authority or proof that application for the recognition endorsement have been received by the Authority;
- (c) its ships are manned in compliance with these regulations;
- (d) seafarers assigned to any of its ships have received refresher and updating training as required by the relevant training and certification regulations;
- (e) 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 competency in assigned duties;
- (f) seafarers, on being assigned to any of its ships, are familiarized with their specific duties and with all ship arrangements, installations, equipment, procedures and ship characteristics that are relevant to their routine or emergency duties;
- (g) the ship's complement can effectively coordinate their activities in an emergency situation and in performing functions vital to safety, security and to the prevention or mitigation of pollution; and
- (h) at all times on board its ships there shall be effective oral communication in accordance with these Regulations.

(4) Nothing in subregulation (3) shall prohibit the allocation of tasks for training under supervision or in case of *force majeure*.

## 8. Company policies and procedures

(1) The Company shall provide written instructions to the master of each of its ships setting out the policies and the procedures to be followed to ensure that all seamen who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties.

(2) The policies and procedures referred to in subregulation 1 shall include—

- (a) allocation of a reasonable period of time during which each newly employed seaman will have an opportunity to become acquainted with;
- (b) the specific equipment the seaman will be using or operating;
- (c) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly; and
- (d) designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seaman to receive essential information in a language the seaman understands.

## 9. Familiarization training

(1) Companies shall ensure that masters, officers and other personnel assigned specific duties and responsibilities onboard their ro-ro passenger ships shall have completed familiarization training to attain the abilities that are appropriate to the capacity to be filled and duties and responsibilities to be taken up.

(2) Before being assigned to shipboard duties, all persons employed or engaged on a seagoing ship, other than passengers, shall receive approved familiarization training in personal survival techniques or receive sufficient information and instruction to be able to—

- (a) communicate with other persons on board on elementary safety matters and understand safety information symbols, signs and alarm signals;
- (b) know what to do if—
  - (i) a person falls overboard;
  - (ii) fire or smoke is detected; or
  - (iii) the fire or abandon ship alarm is sounded;
- (c) identify muster and embarkation stations and emergency escape routes;
- (d) locate and wear lifejackets;
- (e) raise the alarm and have basic knowledge of the use of portable fire extinguishers;
- (f) take immediate action upon encountering an accident or other medical emergency before seeking further medical assistance on board; and
- (g) close and open the fire, weathertight and watertight doors fitted in the particular ship other than those for hull openings.

(3) Before being assigned to shipboard duties, all persons employed or engaged on a seagoing ship which is required to comply with the provisions of the ISPS Code, other than passengers, shall receive approved security-related familiarization training to be able to—

- (a) report a security incident, including a piracy or armed robbery threat or attack;
- (b) know the procedures to follow when they recognize a security threat; and
- (c) take part in security-related emergency and contingency procedures

(4) Seafarers with designated security duties engaged or employed on a seagoing ship shall, before being assigned such duties, receive security-related familiarization training in their assigned duties and responsibilities.

(5) The security-related familiarization training shall be conducted by the ship security officer or an equally qualified person.

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[Subsidiary]

## 10. Working language

(1) A working language shall be established on all ships and recorded in the official log-book.

(2) The company or the master, as appropriate, shall determine the appropriate working language.

(3) Each seafarer shall be required to understand and, where appropriate, give orders and instructions and to report back in that language.

(4) For a Kenyan ship, if the working language is not English, all plans and lists required to be posted shall include a translation into the working language.

(5) On all ships, English shall be used on the bridge as the working language for bridge-to-bridge and bridge-to-shore safety communications as well as for communications on-board between the pilot and bridge watchkeeping personnel, unless those directly involved in the communication speak a common language other than English.

## 11. Fitness for duty

(1) Every Company, and every employer shall—

- (a) establish and enforce rest periods for watchkeeping personnel and those whose duties involve designated safety, security and prevention of pollution duties in accordance with subregulations (2) and (3); and
- (b) adopt watch systems so arranged that the efficiency of all watchkeeping personnel is not impaired by fatigue and that duties are so organized that the first watch at the commencement of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.

(2) All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch and those whose duties involve designated safety, prevention of pollution and security duties shall be provided with a rest period of not less than—

- (a) a minimum of ten hours of rest in any twenty-four-hour period; and
- (b) seventy-seven hours in any seven day period.

(3) The hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the intervals between consecutive periods of rest shall not exceed fourteen hours.

(4) The requirements for rest periods laid down in subregulations (2) and (3) need not be maintained in the case of an emergency or in other overriding operational conditions. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments, shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

(5) The Company shall post watch schedules where they are easily accessible and the schedules shall be set out in a standardized format prescribed in the Second Schedule, in the working language or languages of the ship and in English.

(6) When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

(7) Companies shall maintain records of daily hours of rest of seafarers in a standardized format prescribed in Second Schedule, in the working language or languages of the ship and in English, to allow monitoring and verification of compliance with the provisions of this section and the seafarers shall receive a copy of the records pertaining to them, which shall be endorsed by the master or by a person authorized by the master and by the seafarers.

(8) Nothing in this regulation shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea, and accordingly, the Master may suspend the schedule of hours of rest and require a seafarer to perform any hours of work necessary until the normal situation

has been restored, and as soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

(9) The Authority may allow exceptions from the required hours of rest in subregulations (2) and (3), provided that the rest period is not less than seventy hours in any seven-day period.

(10) Exceptions from the weekly rest period provided for in subregulation (9) shall not be allowed for more than two consecutive weeks. The intervals between two periods of exceptions on board shall not be less than twice the duration of the exception.

(11) The hours of rest provided for in subregulation (2) may be divided into not more than three periods, one of which shall be at least six hours in length and neither of the other two periods shall be less than one hour in length, with intervals between consecutive periods of rest not exceeding fourteen hours, and exceptions shall not extend beyond two twenty-four hour periods in any seven-day period.

## **12. Preventing drug and alcohol abuse**

(1) Companies shall implement on-board a clearly written policy of drug and alcohol abuse prevention.

(2) Consumption of alcohol within four hours prior to serving as a member of a watch shall be prohibited.

(3) Masters, officers and other seafarers shall not exceed a limit of 0.05% blood alcohol level (BAC) or 0.25 mg/l alcohol in the breath or a quantity of alcohol leading to such alcohol concentration while performing designated safety, security and marine environmental duties.

## **13. Watch keeping arrangements and principles to be observed**

(1) Companies, masters, chief engineer officers and all watch keeping personnel shall ensure requirements, principles and guidance set out in the STCW Code are observed during maintenance of watch or watches appropriate to the prevailing circumstances and conditions on all seagoing ships at all times.

(2) The master of every ship shall ensure that watch keeping arrangements are adequate for maintaining a safe watch or watches, taking into account the prevailing circumstances and conditions and that, under the master's general direction—

- (a) officers in charge of the navigational watch are responsible for navigating the ship safely during their periods of duty, when they shall be physically present on the navigating bridge or in a directly associated location such as the chartroom or bridge control room at all times;
- (b) radio operators are responsible for maintaining a continuous radio watch on appropriate frequencies during their periods of duty;
- (c) officers in charge of an engineering watch, as defined in the STCW Code, under the direction of the chief engineer officer, shall be immediately available and on call to attend the machinery spaces and, when required, shall be physically present in the machinery space during their periods of responsibility;
- (d) an appropriate and effective watch or watches are maintained for the purpose of safety at all times, while the ship is at anchor or moored and, if the ship is carrying hazardous cargo, the organization of such watch or watches takes full account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions prevailing on board, afloat or ashore; and
- (e) as applicable, an appropriate and effective watch or watches are maintained for the purposes of security.

## **14. Carriage of documents**

Without prejudice to regulation 5, the Company and the Master shall ensure that there are carried at all times on board ship all original certificates and other documents issued

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[Subsidiary]

pursuant to the STCW Convention indicating the qualification of any member of the crew to perform the functions which they are required to perform aboard ship in the course of their designated duties.

### **15. Control of foreign ships**

Foreign ships while in the ports or territory of Kenya shall be subject to control by the inspector in accordance with regulation 16.

### **16. Control procedure**

(1) Control exercised by the inspector shall be limited to—

- (a) verification that all seafarers serving on board a ship who are required to be certificated in accordance with the Convention hold an appropriate certificate or a valid dispensation, or provide documentary proof that an application for an endorsement has been submitted to the Administration and such a certificate shall be accepted unless there are clear grounds for believing that it has been fraudulently obtained or that the holder is not the person to whom it was originally issued;
- (b) verification that the numbers and certificates of the seafarers serving on board are in conformity with the applicable safe manning requirements of the Administration; and
- (c) assessment, in accordance with STCW Code, of the ability of the seafarers of the ship to maintain watch keeping and security standards, as appropriate, as required by the STCW Convention if there are clear grounds for believing that such standards are not being maintained because any of the following have occurred—
  - (i) the ship has been involved in a collision, grounding or stranding; or
  - (ii) there has been a discharge of substances from the ship when under way, at anchor or at berth which is illegal under any international convention, or
  - (iii) the ship has been maneuvered in an erratic or unsafe manner whereby routing measures adopted by the Organization or safe navigation practices and procedures have not been followed; or
  - (iv) the ship is otherwise being operated in such a manner as to pose a danger to persons, property, the environment, or a compromise to security.

(2) Deficiencies which are deemed to pose a danger to persons, property or the environment include the following—

- (a) failure of seafarers to hold a certificate, to have an appropriate certificate, to have a valid dispensation or to provide documentary proof that an application for an endorsement has been submitted to the Administration;
- (b) failure to comply with the applicable safe manning requirements of the Administration;
- (c) failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the Administration;
- (d) absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution; and
- (e) inability to provide, for the first watch at the commencement of a voyage and for subsequent relieving watches, persons who are sufficiently rested and otherwise fit for duty.

**17. Power to detain**

Failure to correct any of the deficiencies referred to in subregulation 16(2), insofar as it has been determined by the Authority that they pose a danger to persons, property or the environment, shall be the only grounds on which the Authority shall detain a ship.

**18. Offences, penalties and defences**

(1) Any Company in contravention of these regulations commits an offence and shall be liable upon conviction to a fine not exceeding one hundred, or in the case of an individual, to imprisonment not exceeding six months, or both;

(2) A person who commits an offence in terms of subregulation (4) is liable on conviction to a fine of fifty thousand shillings or to imprisonment for a period not exceeding six months, or both.

(3) In proceedings for an offence in terms of this regulation it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

(4) In proceedings for an offence in terms of this regulation 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 what was in fact done to satisfy the duty or requirement.

**19. Director General may impose penalty upon admission of guilt**

(1) If any person –

- (a) admits to the Director-General that he has contravened any provision of these regulations or Act, or that he has failed to comply with any such provision with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

the Director-General may, after such enquiry as deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(2) The imposition of a penalty under subregulation (1) shall be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or cargo.

**20. Revocation of L.N. 91/2014**

The Merchant Shipping (Safe Manning) Regulations, 2014 are revoked.

FIRST SCHEDULE

[r. 5(2)]

MINIMUM SAFE MANNING

Form 1

Number .....

...

[Subsidiary]

**MINIMUM SAFE MANNING DOCUMENT**



Issued under the provisions of regulation V/14 of the INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as amended under the authority of the Government of KENYA by KENYA MARITIME AUTHORITY

Particulars of the ship:

<i>Name of Ship</i>	<i>Port of Registry</i>	<i>IMO Number</i>	<i>Official Number</i>
Gross Tonnage	Main Propulsion Power – (KW)	Type of Ship	Call Sign

Operating Company  
Periodically unattended machinery space: Yes/No  
Trading Area:

The ship named in this document is to be considered to be safely manned, if, when it proceeds to sea, it carries not less than the number and grades/capacities of personnel specified in the table below, subject to any attached conditions.

<i>GRADE/CAPACITY</i>	<i>Certificate (STCW Regulation)</i>	<i>Number of Persons</i>
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Special requirements or conditions if any:

Issued at ..... on ..... Day of 20 .....

REGISTRAR OF KENYAN SHIPS AND SEAFARERS

SECOND SCHEDULE

FORMS

**Form 1** (r. 11(5))  
**FORMAT OF SHIPBOARD WATCH SCHEDULES**



THE REPUBLIC OF KENYA  
KENYA MARITIME AUTHORITY  
MERCHANT SHIPPING (MINIMUM SAFE MANNING) REGULATIONS, 2016  
TABLE OF SHIPBOARD WORKING ARRANGEMENTS



Merchant Shipping

[Subsidiary]

Name of Ship:----- Flag of Ship: ----- IMO Number:
..... Last updated: -----

The minimum hours of rest are applicable in accordance with the Merchant Shipping (Maritime Labour) Regulations, 2014 and with any applicable collective agreement registered or authorized in accordance with that convention and the STCW 1978, as amended.

Minimum Hours of Rest: Minimum Hours of Rest shall not be less than (i) 10 hours in any 24-hour period; and (ii) 77 hours in any 7-day period. ....

Other Requirements:

Table with 5 main columns: Position / Rank, Schedule Daily Work Hours at Sea, Schedule Daily Work Hours in Port, Comments, Total Daily Rest Hours. Sub-columns include Watch keeping, Non-Watching, At Sea, and In Port.

Signature of Master \_\_\_\_\_

Form 2 (r. 11(7))
FORMAT OF RECORD OF DAILY HOURS OF REST OF SEAFARERS



THE REPUBLIC OF KENYA
KENYA MARITIME AUTHORITY
MERCHANT SHIPPING (MINIMUM SAFE MANNING) REGULATIONS, 2016
RECORD OF DAILY HOURS OF REST OF SEAFARERS



**THE MERCHANT SHIPPING (SEAFARER MEDICAL EXAMINATION AND CERTIFICATION) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Short title
2. Interpretation
3. Application
4. Purpose of these Regulations
5. Evidence of medical fitness
6. Application and issue of a seafarer medical certificate
7. Standards of medical fitness for seafarers
8. Limitations or restrictions
9. Validity of a medical certificate
10. Cancellation or suspension of a medical certificate
11. Further examination
12. Conduct of medical fitness examination
13. Privacy and confidentiality of medical examinations and independence of medical practitioners
14. Appealing against the decision of recognized medical practitioner
15. Replacement certificates
16. Recognition and authorization of medical practitioners
17. Variation, suspension, cancellation or revocation of recognition
18. Medical certificates issued by other Parties
19. Quality standard system
20. Use of spectacles or contact lenses
21. Inspection and detention of foreign ships
22. Inspection and detention of Kenyan ships
23. Seafarers' Medical records
24. Offences, penalties and defences
25. *[Spent]*
26. *[Spent]*

SCHEDULES

FORM OF SEAFARER'S MEDICAL CERTIFICATE

MINIMUM IN-SERVICE EYESIGHT STANDARDS FOR SEAFARERS



**THE MERCHANT SHIPPING (SEAFARER MEDICAL EXAMINATION AND CERTIFICATION) REGULATIONS**

[Legal Notice 42 of 2016]

**1. Short title**

These regulations may be cited as the Merchant Shipping (Seafarer Medical Examination and Certification) Regulations.

**2. Interpretation**

In these regulations, unless the context indicates otherwise—

"applicant" means a person who applies for a seafarer's medical certificate under these regulations;

"approved" means approved by the Authority;

"Authority" means the Kenya Maritime Authority established under the Kenya Maritime Authority Act (Cap. 370);

"company" means the owner of the ship or his representative 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 ship owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by these regulations;

"examinee" means a person who presents himself/herself to a recognized medical practitioner to be examined for the purpose of obtaining a medical certificate;

"holder" in relation to a certificate or other document, means the person identified as holder by that certificate or document;

"marine guidance notice" means an information note issued by the Director-General to disseminate useful information and guidance in accordance with Section 170(5) of the Merchant Shipping Act (Cap. 389);

"seafarer medical certificate" means a certificate issued in accordance with regulation 6 of these regulations and "medical certificate" shall be construed accordingly;

"recognized medical practitioner" means a person recognized in accordance with regulation 16 of these regulation to assess the medical fitness of seafarers;

"Party" means a State identified and published by the Maritime Safety Committee of the Organization as having demonstrated that they give full and complete effect to the relevant provisions of the Convention;

"seafarer" means any person employed upon a vessel and includes the master, ships officers and ratings;

"the Board" means the Kenya Medical Practitioners and Dentists Board;

"Training and Certification Regulations" means the Merchant Shipping (Training and Certification) Regulations, 2015 made under the Act, relating to the qualifications and certification of seafarers as may from time to time be amended;

"the Guidelines" means the Guidelines on Medical Examinations of Seafarers set out in IMO circular STCW.7/Circ.19 of 9 January 2013 as may from time to time be amended;

"STCW Code" means the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by the 1995 Conference resolution 2, as it may be amended by the Organization;

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[Subsidiary]

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as affected by any amendment made under Article XII of that Convention and "Convention" shall be construed accordingly;

"valid" in relation to a certificate or other document, means a certificate or document that is current and that has not been cancelled, suspended, revoked or expired.

### **3. Application**

(1) These Regulations shall apply to seafarers serving on board seagoing Kenyan ships wherever they may be or on foreign ships when they are in a Kenyan port or in Kenyan waters;

(2) These Regulations shall not apply to—

- (a) warships, naval auxiliaries;
- (b) Ships owned or operated by a Party and engaged only on governmental non-commercial service;
- (c) Government ships as defined in the Act;
- (d) fishing vessels;
- (e) pleasure yachts not engaged in trade;
- (f) wooden ships of primitive build, including junks; or
- (g) any person whose work is not part of the routine business of the ship and whose principal place of work is ashore;
- (h) offshore installations whilst on their working stations; and

(3) The Authority may require seafarers serving on board ships referred to in paragraph (2)(b) to (e) to meet the requirements of these regulations so far as is reasonable and practicable so as not to impair the operations or operational capabilities of such ships.

### **4. Purpose of these Regulations**

The purpose of regulations is to give effect to the provisions of—

- (a) Regulation 1/9 of the STCW Convention and Section A- 1/9 of the STCW Code; and
- (b) Regulation 1.2 and Standard A 1.2 of the Maritime Labour Convention, 2006.

### **5. Evidence of medical fitness**

(1) Subject to subregulations 9(2) and (3), no person may work as a seafarer on a ship to which these Regulations apply unless that person holds a valid seafarer medical certificate.

(2) A seafarer who has been issued with a medical certificate shall carry that certificate on board during the term of employment on a ship to which these Regulations apply.

(3) A company shall—

- (a) ensure that every seafarer serving on board its ships holds a valid medical certificate;
- (b) in respect of a Kenyan ship, inform the Authority when the medical certificate of a seafarer expires in the course of a voyage; and
- (c) make an application to the Authority, on behalf of the concerned seafarer, for the permission required under subregulation 9(3).

### **6. Application and issue of a seafarer medical certificate**

(1) The Authority—

- (a) shall issue medical certificates on the recommendation of the examining recognized medical practitioner; or certificate.
- (b) may authorize a recognized medical practitioner to issue medical certificates on its behalf.

(2) Every applicant for certification shall—

- (a) be not less than 16 years of age;
- (b) provide satisfactory proof of his or her identity;
- (c) meet the applicable medical fitness standards established under regulation 7; and
- (d) surrender to the recognized medical practitioner his or her medical certificate, where one was issued previously.

(3) A recognized medical practitioner shall, while issuing or when recommending to the Authority the issuance a medical certificate, be guided by the procedures for the issue of medical certificates established in these Regulations.

(4) A seafarer's medical certificate shall be in the English language and in the format set out in the First Schedule.

## **7. Standards of medical fitness for seafarers**

(1) The examining medical practitioner shall recommend to the Authority the issuance of a medical certificate to a seafarer in accordance with the standards of medical fitness for seafarers established in the Guidelines.

(2) The established physical and medical standards are—

- (a) vision standards;
- (b) hearing standards;
- (c) eyesight standards;
- (d) physical capability requirements;
- (e) fitness criteria for medication use; and
- (f) fitness criteria for common medical conditions.

(3) Notwithstanding subregulation (2)(a), the minimum in-service eyesight standards for seafarers shall be as set out in the Second Schedule.

(4) Notwithstanding the Guidelines, a medical practitioner conducting seafarer medical examination may exercise professional discretion and judgement considering the special requirements of seafaring life and the different duties of seafarers:

Provided that in the case of paragraphs (2)(a) and (c)-

- (i) no discretion shall be exercised in relation to the minimum eyesight standards for distance vision aided, near/immediate vision and colour vision as specified in the Second Schedule for seafarers in the deck department required to undertake lookout duties;
- (ii) discretion shall only be exercised in respect of seafarers in the engine department where their combined vision fulfils the requirements specified in the Second Schedule.

## **8. Limitations or restrictions**

(1) The recognized medical practitioner shall specify any limitation or restriction on medical certificate issued under regulation 6.

(2) The limitations or restrictions may concern—

- (c) the job the seafarer is expected to perform;
- (d) the trade area;
- (e) the time limit; or
- (f) any other necessary considerations.

(3) No person may work as a seafarer on a ship to which these Regulations apply—

- (a) in a capacity of sea service or in a geographical area precluded by any restriction in that person's medical certificate; or
- (b) in breach of a condition of that person's medical certificate.

[Subsidiary]

(4) No person may employ a person as a seafarer in a ship to which these Regulations apply—

- (a) in a capacity of sea service or in a geographical area precluded by any restriction in that person's medical certificate; or
- (b) in such a way as to breach a condition of the person's medical certificate.

### **9. Validity of a medical certificate**

(1) A seafarer's medical certificate shall be valid for a maximum period of two years from the date of issue, unless the seafarer is under the age of eighteen, in which case the maximum period of validity shall be one year.

(2) If the period of validity of a seafarer's medical certificate expires in the course of a voyage, the medical certificate shall continue to be in force—

- (a) until the next port of call, where the seafarer shall obtain a medical certificate from a medical practitioner recognized by the Authority; or
- (b) until the expiry of three months from the date of the expiry of the certificate.

(3) In urgent cases, the Authority may, on application by a Company, permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer shall obtain a medical certificate from a recognised medical practitioner, provided that—

- (a) the seafarer concerned is in possession of medical certificate which has expired no earlier than one month before the date on which he joined the ship; and
- (b) the period of such permission shall not exceed three months.

### **10. Cancellation or suspension of a medical certificate**

(1) A medical certificate may be cancelled or suspended if a medical practitioner has reasonable grounds for believing that—

- (a) there has been a significant change in the medical fitness of a person during the period of validity of the medical certificate;
- (b) a person is not complying with the terms of a condition to which the medical certificate is subject;
- (c) when the medical certificate was issued to a person, had a medical practitioner been in possession of full details of that person's condition, the medical practitioner could not reasonably have considered that the person was fit, having regard to the medical standards specified in regulation 7; or
- (d) the medical certificate was issued to a person otherwise than in accordance with these Regulations.

(2) Where subregulation (1) applies, the medical practitioner shall—

- (a) suspend the validity of that medical certificate until the person to whom the certificate was issued has undergone further medical examination;
- (b) suspend the validity of the medical certificate for such period as the medical practitioner considers the person to whom the certificate was issued will remain unfit to perform the duties that person will carry out at sea; or
- (c) cancel the medical certificate if he considers that the person to whom the certificate was issued is likely to remain permanently unfit to perform the duties that person will carry out at sea and must notify the person concerned accordingly.

(3) The medical practitioner shall require that a person surrenders a medical certificate which has been suspended or cancelled pursuant to subregulation (2), in such manner as he may direct.

(4) In this regulation, a significant change in the medical fitness of a person means a condition which affects or would be reasonably likely to affect that person's ability to carry out their duties, including their ability to undertake emergency duties.



**11. Further examination**

A seafarer who is the holder of a valid medical certificate Further may at any time be required by the owner or master of a ship, or by the Authority, to obtain a new medical certificate where as a result of illness, injury or other cause it is believed the seafarer may no longer be medically fit.

**12. Conduct of medical fitness examination**

(1) A recognized medical practitioner carrying out seafarer Conduct of medical examination shall adhere to the standards of medical fitness for medical fitness seafarers established in regulation 7.

(2) A medical practitioner shall in accordance with the Guidelines conduct such examinations, tests and interviews and make such enquiries in relation to an applicant as may be necessary to determine whether the applicant is medically fit to perform the intended duties as a seafarer.

(3) An applicant shall disclose to the medical practitioner all pre-existing medical conditions that are known to the applicant and that are likely to affect the determination of the applicant's medical fitness.

(4) A recognized medical practitioner may at his own cost refer, the seafarer to undertake specialized medical examination at another facility.

(5) A recognized medical practitioner shall adhere to the Guidelines while conducting medical fitness examinations.

(6) The format for recording medical examinations of seafarers shall be that provided in the Guidelines.

(7) An examining medical practitioner may refer any medical problems found, when appropriate, for further investigation and treatment, whether or not a seafarer is issued with a medical certificate.

**13. Privacy and confidentiality of medical examinations and independence of medical practitioners**

(1) Medical practitioners shall in examining seafarers for the purpose of these Regulations, be deemed to be acting on behalf of the Authority, and shall avoid or resolve any conflict of interest.

(2) All persons involved in the conduct of medical examinations, including those who come into contact with medical examination forms, laboratory results and other medical information, shall ensure the right to privacy of the examinee.

(3) Medical examination reports shall be marked as confidential and shall be so treated, and all medical data collected from a seafarer shall be protected.

(4) Medical records shall only be used for determining the fitness of the seafarer for work and for enhancing health care and they shall not be disclosed to other persons without prior written informed consent from the seafarer.

(5) Personal medical information shall not be included on medical certificates or other documents made available to other persons following the medical examination.

(6) The seafarer shall have the right of access to and receipt of a copy of his or her personal medical data.

(7) A recognized medical practitioner shall enjoy professional independence from ship-owners, seafarers, and their representatives in exercising their medical judgement under of these Regulations.

**14. Appealing against the decision of recognized medical practitioner**

(1) A person who is aggrieved by—

- (a) the refusal a medical practitioner to issue or recommend to recognized the Authority the issuance of issue a medical certificate in medical accordance with regulation 6;

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[Subsidiary]

- (b) any restriction imposed on his or her medical certificate; or
- (c) the suspension or cancellation of his or her medical certificate by a medical practitioner pursuant to regulation 10;

may apply to the Authority for the matter to be reviewed, at his own cost, by another recognized medical practitioner.

(2) A matter which is the subject of an application under subregulation (1) shall be reviewed if the application—

- (a) Is lodged with the Authority within one month of the date on which the applicant was given notice of refusal, imposition of a restriction, suspension or cancellation;
- (b) includes a consent for the medical practitioner responsible for the refusal, imposition of a restriction, suspension or cancellation to provide a report to the medical referee; and
- (c) specifies the name and address of that practitioner.

(3) If an application is made after the time prescribed in subregulation (2)(a), the Authority may, upon consideration of any reasons for the lateness of the application, decide that the matter is nonetheless to be reviewed.

(4) If requested by the applicant, the medical practitioner shall provide to the applicant a copy of the report of the medical practitioner and any other evidence provided by the medical practitioner or the medical referee.

(5) In a case within subregulation (1)(a) or (c), if in light of the medical evidence, and having regard to the medical standards specified in regulation 7, the medical referee considers that the applicant is fit to perform the duties to be carried out at sea, the medical referee shall issue to or recommend to the Authority to issue the applicant a medical certificate in, or terminate the suspension of the applicant's medical certificate, as the case may be.

(6) In a case within subregulation (1)(a), (b) or (c), and having regard to the medical standards specified by regulation 7, if in the light of the medical evidence the medical referee considers that restrictions as to capacity of sea service or geographical areas should be imposed on a medical certificate issued to the applicant, or that any restriction so imposed by a medical practitioner should be deleted or varied, the medical referee shall issue or recommend to the Authority to issue the applicant a medical certificate which records any restrictions as so imposed or varied, and the former certificate shall cease to have effect.

(7) If in the light of the medical evidence, and having regard to the medical standards specified by regulation 7, the medical referee considers that the applicant is unfit to perform the duties that person will carry out at sea, the medical referee shall notify the applicant of the period during which the medical referee considers that the applicant remains unfit to go to sea.

(8) In this regulation "medical referee" means the recognized medical practitioner to whom a matter is referred by an applicant who is aggrieved by a medical report.

### **15. Replacement certificates**

(1) Unless a medical certificate has been surrendered under regulation 10(3), if a person who was issued with a medical certificate which is still valid is no longer in possession of that certificate, then upon—

- (a) application being made by that person or that person's employer to the medical practitioner or referee who issued the certificate; and
- (b) payment of the administrative costs of issuing the replacement,

the medical practitioner or referee who issued that certificate may issue to that person a replacement medical certificate.

(2) A replacement medical certificate issued under this regulation expires on the expiration date of the original medical certificate which it replaces.

(3) At no time shall a seafarer hold more than one valid medical certificate.

## **16. Recognition and authorization of medical practitioners**

(1) Examination of seafarers for medical fitness shall be conducted by medical practitioners recognized by the Authority in accordance with this regulation.

(2) A medical practitioner wishing to be recognized under subregulation (1) shall make a written application to the Authority and submit documentary evidence of-

- (a) appropriate academic qualification;
- (b) valid registration and licensing by the Board;
- (c) experience of not less than 4 years practising general medicine;
- (d) appropriate qualifications and at least two years' experience-
  - (i) in occupational health or maritime health;
  - (ii) working as a ship's doctor or a shipping company doctor; or
  - (iii) working under the supervision of someone with the aforementioned qualifications or experience; and
- (e) the registered premises where seafarer medical fitness examinations shall be conducted.

(3) The premises required under paragraph (2)(e) shall -

- (a) have the facilities and equipment required to carry out medical fitness examination of seafarers;
- (b) be conveniently situated for easy access by seafarers; and
- (c) be sufficient, adequate and readily available.

(4) The Authority shall verify the authenticity and validity of the documentary evidence submitted in support of the application under subregulation (2) and—

- (a) may require the medical practitioner to provide additional information; and
- (b) conduct inspection of the premises and facilities to verify their suitability in respect of the requirements of sub-regulation (3).

(5) The Authority shall, in addition to the requirements of subregulations (2), (3) and (4), take into consideration any other factors it may deem relevant to the application for recognition and shall not be bound to recognize a medical practitioner only on the basis of such a medical practitioner satisfying the requirements of those subregulations.

(6) The recognition of a medical practitioner by the Authority shall be issued in writing and—

- (a) be valid for a period of 36 months; and
- (b) specify any conditions applying to it.

(7) The recognition issued to a medical practitioner—

- (a) shall be deemed to constitute a recognition of the registered medical premises or facility where the seafarer medical fitness examinations will be conducted;
- (b) a recognized medical practitioner transferring or relocating his or her practise to a different premises or facility-
  - (i) shall inform the Authority, within five working days, of such change and comply with the requirements of paragraph (2)(e); and
  - (ii) the Authority shall conduct the verification described under subregulation (4) and where appropriate, re-issue a recognition to that medical practitioner.

(8) The Authority shall maintain and make available to other Parties, companies and seafarers, on request—

- (a) a register of medical practitioners recognized by it; and
- (b) a list of the Parties whose medical certificates are recognized by the Authority in accordance with regulation 18.

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[Subsidiary]

## **17. Variation, suspension, cancellation or revocation of recognition**

The recognition of a medical practitioner—

- (a) shall stand revoked, forthwith, when the recognized medical practitioner's registration or license is invalidated or revoked by the Board; and
- (b) may be varied, suspended, cancelled or revoked, in writing, by the Director-General—
  - (i) following a recommendation in an investigation report or audit report for such variation, suspension, cancellation or revocation; or
  - (ii) when a recognized medical practitioner transfers or relocates his/her medical practice to a different premise or facility; or
  - (iii) when, in the Director-General's opinion, the circumstances warrant such variation, suspension, cancellation or revocation.

## **18. Medical certificates issued by other Parties**

The Authority shall accept, in principle, medical certificates issued by or on behalf of the Parties identified and published by the Maritime Safety Committee of the Organization as Parties which have demonstrated that they give full and complete effect to the relevant provisions of the STCW Convention.

## **19. Quality standard system**

(1) Medical certification activity shall be continuously monitored through the Quality Standards System established by the Director-General.

(2) The quality standards system shall establish, at a minimum, procedures for—

- (a) issuance of medical certificates;
- (b) recognition of a medical practitioner; and
- (c) appealing the decision of a recognized medical practitioner;

## **20. Use of spectacles or contact lenses**

(1) Any need for a seafarer to wear visual aids to meet the required standards shall be recorded by the recognized medical practitioner on the medical certificate issued.

(2) A person whose medical certificate indicates that an aid to vision or hearing was used for the purpose of being found fit shall -

- (a) use the aid when performing duties as a seafarer; and
- (b) in the case of an aid to vision, keep at least two such aids while performing duties as a seafarer.

## **21. Inspection and detention of foreign ships**

(1) An inspector duly authorized by the Director-General may inspect and inspect any foreign ship to which these Regulations apply when the detention of ship is in a Kenyan port, and where he is satisfied that any seafarer is unable to produce a valid medical certificate he may—

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Secretary-General of the International Maritime Organization; and
- (b) subject to subregulation (2), where he is satisfied that conditions on board are hazardous to safety or health-
  - (i) take such measures as are necessary to rectify those conditions; and
  - (ii) detain the ship.

(2) Measures referred to in subregulation (1) (b) may be taken only when the ship has called at a Kenyan port in the normal course of business or for operational reasons.

(3) Where the inspector takes either of the measures specified in subregulation (1) (b) he shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag state of the ship.

(4) Sections 435 and 436 of the Act shall have effect in relation to a ship detained under these Regulations.

## **22. Inspection and detention of Kenyan ships**

(1) An inspector duly authorized by the Director-General may inspect any Kenyan ship to which these Regulations apply and may detain the ship where upon inspection the inspector is satisfied that—

- (a) any seafarer whose employer is required by regulation 5 to ensure that he is the holder of a valid medical certificate is unable to produce such a certificate; and
- (b) the state of his health is such that the ship could not sail without serious risk to the safety and health of those on board.

(2) The inspector shall not in the exercise of these powers detain or delay the ship unreasonably.

## **23. Seafarers' Medical records**

(1) A copy of the seafarers' medical certificates shall be kept in the files of the health institution in which it was issued.

(2) The medical examination records should be clearly marked as confidential and retained, according to national regulations, in the custody of the health institution where the medical certificate was issued. The file should be kept confidential and should not be used for any purpose other than facilitating the treatment of seafarers and should be made available only to persons duly authorized in accordance with national data protection laws.

(3) Medical records shall only be used for determining the fitness of the seafarer for work and for enhancing health care they shall not be disclosed to others without prior written informed consent from the seafarer.

## **24. Offences, penalties and defences**

(1) Any person who contravenes the requirements of Regulations 5, 8(3) and 8(4) and 16(1) commits an offence.

(2) A person who commits an offence in terms of subregulation (1) shall be liable on conviction to a fine not exceeding two hundred thousand Kenya shillings or to imprisonment for a period not exceeding six months or both such fine and imprisonment.

(3) If a person—

- (a) admits to the Director-General that he has failed to comply with the requirements of these Regulations, or that he has failed to comply with any such requirement with which it was his/her duty to comply; and
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Authority such sum as may be required of his, but not exceeding the maximum fine which may be imposed upon a conviction for failure to comply,

the Director General shall, after such enquiry as deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(4) No prosecution shall be instituted for an offence for which penalty is imposed under this Regulation.

(5) Nothing in these regulations shall affect liability to forfeiture of ships, shares therein or goods.

*Merchant Shipping*

[Subsidiary]

25.

[Spent]

26.

[Spent]

FIRST SCHEDULE

[r. 6(4)]

FORM OF SEAFARER'S MEDICAL CERTIFICATE

**(Regulation 6)**

<div style="border: 1px solid black; width: 100px; height: 30px; margin: 0 auto; display: flex; align-items: center; justify-content: center;">             COAT OF ARMS         </div> <p style="text-align: center; margin-top: 10px;">                 KENYA MARITIME AUTHORITY                  SEAFARER MEDICAL CERTIFICATE             </p> <p style="text-align: center; font-size: small; margin-top: 10px;"> <i>Issued under Regulation 6 of the Merchant Shipping (Seafarer Medical and Examinations) Regulations, 2016</i> </p>		
Certificate No: <input style="width: 150px; height: 20px;" type="text"/>		
Seafarer Information:		
Last name: <input style="width: 90%;" type="text"/>	First name: <input style="width: 90%;" type="text"/>	Middle name(s): <input style="width: 90%;" type="text"/>
Nationality: _____ Passport No: _____ Date of Birth: <u>  </u> <u>  </u> / <u>  </u> <u>  </u> / <u>  </u> <u>  </u> <u>  </u> <u>  </u> Discharge book No: ___		
Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	Rank/Job: _____	Department: _____

This is to certify that above named seafarer has been examined in accordance with the Seafarers' medical fitness standards and certification requirements established in dance with the provisions of the STCW Convention, 1978 accor, amended, regulation I/9 vention and Maritime Labour Con, 2006, regulation 1.2 found to be fit for service at and sea, subject to any limitations indicated

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DECLARATION OF THE RECOGNIZED MEDICAL PRACTITIONER		
	Yes	No
1. Confirmation that identification documents were checked at the point of examination	<input type="checkbox"/>	<input type="checkbox"/>
2. Hearing meets the standards in STCW Code Section A-I/9? Date of test (dd/mm/yyyy): ___ / ___ / ___	<input type="checkbox"/>	<input type="checkbox"/>
3. Unaided hearing satisfactory?	<input type="checkbox"/>	<input type="checkbox"/>
4. Visual acuity meets standards in section A-I/9? - Visual aids (if worn): <input type="checkbox"/> Spectacles <input type="checkbox"/> Contact lenses <input type="checkbox"/> None	<input type="checkbox"/>	<input type="checkbox"/>
5. Color vision meets standards in section A-I/9? - Date of last color vision test (dd/mm/yyyy): ___ / ___ / ___	<input type="checkbox"/>	<input type="checkbox"/>
6. Fit for look-out duties? (Deck and Engine Dept. only)	<input type="checkbox"/>	<input type="checkbox"/>
7. Limitations or restrictions on fitness?	<input type="checkbox"/>	<input type="checkbox"/>
If "Yes", specify limitations or restrictions:		Examination form No: _____
8. Is the seafarer free from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board?	<input type="checkbox"/>	<input type="checkbox"/>
Date of issue (dd/mm/yyyy): ___ / ___ / ___	*Expiry date of certificate (dd/mm/yyyy): ___ / ___ / ___	

RECOGNIZED MEDICAL PRACTITIONER	REGISTRAR OF KENYAN SEAFARERS
Sign: _____	Sign: _____
Name (print): _____	Name (print): _____
Place of Examination: _____	Place of issue: _____
Seal/Stamp: _____	Seal/Stamp: _____

Seafarer's Declaration

I hereby confirm that I have been informed about the content of this certificate and my right to appeal in accordance with the Merchant Shipping (Seafarer Medical and Eyesight) Regulations, 2016.

Signature of the seafarer: \_\_\_\_\_

*\*Valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year.*

SECOND SCHEDULE

[r. 7]

MINIMUM IN-SERVICE EYESIGHT STANDARDS FOR SEAFARERS

STCW Convention regulation	Category seafarer	Distance vision Aided <sup>1</sup>	Near/ immediate vision	Colour vision <sup>3</sup>	Visual fields <sup>4</sup>	Night blindness <sup>5</sup>	Diplopia (double vision) <sup>4</sup>
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[Subsidiary]

		One eye	Other eye	Both eyes together, aided or unaided			
I/II II/1 II/2 II/3 II/4 II/5 VII/2	Masters, deck officers and ratings required to undertake look-out duties	0.5 <sup>2</sup>	0.5	Vision required for ship's navigation (e.g., chart and nautical publication reference, use of bridge instrumentation and equipment, and identification of aids to navigation)	See Note 6	Normal Visual fields	Vision required to perform all necessary functions in darkness without compromise
I/11 III/1 III/2 III/3 III/4 III/5 III/6 III/7 VII/2	All engineer officers, electro-technical officers, electro-technical ratings and ratings or others forming part of an engine-	0.4 <sup>5</sup>	0.4 (see Note 5)	Vision required to read instruments in close proximity, to operate equipment, and to identify systems/ components as necessary	See Note 7	Sufficient visual fields	Vision required to perform all necessary functions in darkness without compromise
I/II IV/2	GMDSS Radio operators	0.4	0.4	Vision required to read instruments in close proximity, to operate equipment,	See Note 7	Sufficient visual fields	Vision required to perform all necessary functions in darkness



*Merchant Shipping*

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and to  
identify  
systems/  
components  
as  
necessary

without  
compromise

**Notes:**

1. Values given in Suellen decimal notation.
  2. A value of at least 0.7 in one eye is recommended to reduce the risk of undetected underlying eye disease.
  3. As defined in the *International Recommendations for Colour Vision Requirements for Transport* by the Commission Internationale de l'Eclairage (CIE-143-2001 including any subsequent versions).
  4. Subject to assessment by a clinical vision specialist where indicated by initial examination findings.
  5. Engine department personnel shall have a combined eyesight vision of at least 0.4.
  6. CIE colour vision standard 1 or 2. Other equivalent confirmatory test methods currently recognized by the Board may continue to be used.
  7. CIE colour vision standard 1, 2 or 3. Other equivalent confirmatory test methods currently recognized by the Board may Continue to be used.
-



**THE MERCHANT SHIPPING (TRAINING  
AND CERTIFICATION) REGULATIONS, 2016**

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## THE MERCHANT SHIPPING (TRAINING AND CERTIFICATION) REGULATIONS, 2016

[Legal Notice 41 of 2016, Legal Notice 1 of 2023]

### PART I – PRELIMINARY

#### 1. Short title

These Regulations may be cited as the Merchant Shipping (Training and Certification) Regulations.

#### 2. Interpretation

In these Regulations, unless the context otherwise requires—

**"able seafarer deck"** means a rating qualified in accordance with the provisions of regulation 34;

**"able seafarer engine"** means a rating qualified in accordance with the provisions of regulation 39;

**"Act"** means the Merchant Shipping Act (Cap. 389);

**"Administration"** means the Government of the Party whose flag the ship is entitled to fly and, in respect of certificates, the competent authority authorized to issue certificate on behalf of the Party;

**"approved course"** means a course or training programme that has been approved by the Director-General, relating to maritime education and training by an approved training institution;

**"approved"** means approved by the Director-General in accordance with these Regulations;

**"approved seagoing service"**, or "qualifying seagoing service" means the seagoing service contemplated under regulation 94;

**"assessor"** means a person conducting in-service assessment of competence of a seafarer, either on board or ashore, and includes an examiner;

**"audit"** means a systematic, independent and documented process for obtaining audit evidence and evaluating it objectively to determine the extent to which audit criteria are fulfilled;

**"Authority"** means the Kenya Maritime Authority;

**"Cabinet Secretary"** means the cabinet secretary for the time being in charge of shipping and maritime transport;

**"Certificate"** means a valid document, by whatever name called, issued by the Authority or an Administration recognised by the Authority or an Administration authorizing the holder to serve as stated in that document or as authorised by national regulations;

**"certificate of competency"** means a certificate issued and endorsed for masters, officers and GMDSS radio operators in accordance with the provisions of Parts II, III, IV or VII of these Regulations or those of the corresponding chapters of the annex to the STCW Convention and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein;

**"certificate of proficiency"** means a certificate, other than a certificate of competency issued to a seafarer, stating that the relevant requirements of training, competencies or seagoing service in the Regulations have been met;

**"certificated"** means properly holding a certificate;

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**"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;

**"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 ship;

**"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;

**"Code for Implementation"** means the IMO Instruments Implementation Code (III Code) adopted by the Organization by resolution A.1070(28);

**"Code of Seafarer Qualifications"** means the standing instruction or information, as it may be amended, issued by the Authority, specifying the standards and other requirements relevant to the training and certification of seafarers.

**"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 ship owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by these Regulations;

**"Convention"** means the STCW Convention;

**"corrective action"** means action to eliminate the cause of a finding;

**"deck officer"** means an officer qualified in accordance with the provisions of Part III of these Regulations;

**"Director-General"** means the Director-General of the Authority appointed under the Kenya Maritime Authority Act (Cap 370) of the Laws of Kenya;

**"documentary evidence"** means documentation, other than a certificate of competency or certificate of proficiency, used to establish that the relevant requirements of these Regulations have been met;

**"e-learning"** means learning through electronic media;

**"electro-technical officer"** means an officer qualified in accordance with the provisions of regulation 40;

**"electro-technical rating"** means a rating qualified in accordance with the provisions of regulation 41;

**"endorsement attesting recognition of a certificate"** means endorsement in accordance with regulation 10(4);

**"engineer officer"** means an officer qualified in accordance with the provisions of Part III of these Regulations;

**"evaluation criteria"** means the criteria specified in Part A of the Convention for the assessment of candidates by an assessor or examiner;

**"examiner"** means a person appointed under regulation 110 to conduct an oral examination;

**"finding"** means a situation where objective evidence indicates the non-compliance with a mandatory requirement contained in an IMO instrument or in the audit standard;

**"fishing vessel"** means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

**"function"** means a group of tasks, duties and responsibilities, as specified in the STCW Code, necessary for ship operation, safety of life at sea or protection of the marine environment specified in regulation 8;



"*gazette* notice" means a notice published in the Kenya Gazette by the Cabinet Secretary pursuant to the provisions of the Act;

"**GMDSS**" means the Global Maritime Distress and Safety System;

"**GMDSS radio operator**" means a person who is qualified in accordance with the provisions of Part V of these Regulations;

"**GT**" in relation to a ship means its gross tonnage calculated in accordance with the International Tonnage Convention, 1969, as amended;

"**IGF Code**" means the International Code of safety for ships using gases or other low-flashpoint fuels, as defined in regulation II-1/2.299 of the Safety Convention;

"**ILO**" means the International Labour Organization;

"**independent evaluation**" means an evaluation by a suitably qualified person, independent of, or external to, the Authority or activity being evaluated, to verify that the administrative and operational procedures at all levels are managed, organized, undertaken and monitored internally in order to ensure their fitness for purpose and achievement of stated objectives;

"**inland water operations**" means voyages restricted within the inland waters of Kenya; and "inland water service" shall be construed accordingly;

"**ISPS Code**" means the International Ship and Port Facility Security (ISPS) Code adopted on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, as may be amended by the Organization;

"**liquefied gas tanker**" means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the International Gas Carrier Code;

"**management level**" means the level of responsibility associated with—

serving as master, chief mate, chief engineer officer or second engineer officer on board a seagoing ship; and

ensuring that all functions within the designated area of responsibility are properly performed;

"**marine guidance notice**" means an information note issued by the Authority to disseminate useful information and guidance in accordance with Section 170(5) of the Act;

"**master**" means the person having command of a ship;

"**month**" means a calendar month or 30 days made up of periods of less than one month;

"**near-coastal voyage**" means-

- (a) a voyage made exclusively within waters under Kenyan jurisdiction; and
- (b) the ship is for the entire voyage within fifty miles from a safe haven in Kenya; or
- (c) a voyage which by agreement between Kenya and another State is considered or treated as a near coastal voyage purposes of affording ships of either party to the agreement the benefits of near-coastal voyages provisions;

"**officer**" means a member of the crew, other than the master, qualified in accordance with the provisions of Part III or IV of these Regulations or designated as such by any other provision of these Regulations;

"**oil tanker**" means a ship constructed and used for the carriage of petroleum and petroleum products in bulk;

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**"operational level"** means the level of responsibility associated with-

- (a) serving as officer in charge of a navigational or engineering watch or as designated duty engineer for periodically unmanned machinery spaces, electro-technical officer or as GMDSS radio operator on board a seagoing ship; and
- (b) maintaining direct control over the performance of all functions within the designated area of responsibility in accordance with proper procedures and under the direction of an individual serving in the management level for that area of responsibility;

**"Organization"** means the International Maritime Organization;

**"Party"** means a State for which the STCW Convention has entered into force;

**"Polar Code"** means the International Code for Ships Operating in Polar Waters, as defined in regulation XIV/1.1 of the Safety Convention;

**"polar waters"** mean Arctic waters or the Antarctic area, as defined in regulations XIV/1.2 to XIV/1.4 of the Safety Convention;

**"port operations"** means voyages restricted to a port operations area; and "port operations service" shall be construed accordingly;

**"port operations area"** means the sea area within a radius of 15 nautical miles measured outwards of the fairway buoy of a Kenyan port;

**"port operations vessel"** means a harbour tug, dredger, hopper, pilot boat, workboat, bunker barge, ferry, buoy tender, self-propelled floating crane or any other type ship restricted to operating within a port operations area;

**"passenger ship"** means a ship as defined in the International Convention for the Safety of Life at Sea, 1974;

**"port state control regulations"** means the Merchant Shipping (Port State Control) Regulations, 2011;

**"propulsion power"** means the total maximum continuous rated output power, in kilowatts, of all the ship's main propulsion machinery which appears on the ship's certificate of registry or other official document;

**"radio duties"** includes watchkeeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the Safety Convention and, at the discretion of the Authority, the relevant recommendations of the Organization;

**"radio operator"** means a person holding an appropriate certificate issued or recognized by the Director-General or an Administration under the provisions of the Radio Regulations;

**"radio Regulations"** means the radio regulations for the time being in force, and includes the regulations made pursuant to the International Telecommunications Convention;

**"rating"** means a member of the ship's crew other than the master or an officer;

**"registration required"** means as part of register or registers in accordance with regulation 12(2);

**"responsible person"** in relation to a training institution, means the owner or director, the principal or in the case of a university, the Vice-Chancellor or a senior member of the academic or management staff of the training institution;

**"revalidation of a certificate"** means establishing continued professional competence in accordance with regulation 15;

**"ro-ro passenger ship"** means a passenger ship with ro-ro spaces or special category spaces as defined in the Safety Convention,

**"Safe Manning Regulations"** means the relevant safe manning regulations made under the Act;

**"safe haven"** means a harbour or shelter of any kind which affords safe entry and protection from the force of weather;

**"Safety Convention"** means the International Convention for the Safety of Life at Sea, 1974, as amended;

**"seafarer"** means any person employed upon a vessel and includes the master, ships officers and ratings;

**"seagoing"** in relation to a vessel, means a vessel proceeding to sea beyond the internal waters of Kenya;

**"seagoing service"** means the time spent on board a seagoing ship, relevant to the issue or revalidation of a certificate or other qualification, and shall count from the time of engagement to the time of disengagement;

**"seagoing ship"** means a ship other than those which navigate exclusively in inland waters or in internal waters, or closely adjacent to, sheltered waters or areas where port regulations apply;

**"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 will fall in the event of the incapacity of the chief engineer officer;

**"security duties"** means all security tasks and duties on board ships as defined by chapter XI-2 of the Safety Convention and the International Ship and Port Facility Security (ISPS) Code;

**"Secretary-General"** means the Secretary-General of the International Maritime Organization;

**"ship security officer"** means the person on board the ship, accountable to the master, designated by the Company as responsible for the security of the ship including implementation and maintenance of the ship security plan and liaison with the company security officer and port facility security officers;

**"standard of competence"** means the level of proficiency to be achieved for the proper performance of functions on board ship in accordance with the internationally agreed criteria as set forth in these regulations and incorporating prescribed standards or levels of knowledge, understanding and demonstrated skill;

**"STCW Code"** means the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by the 1995 Conference resolution 2, as it may be amended by the Organization;

**"STCW Convention"** means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as affected by any amendment made under Article XII of that Convention and "Convention" shall be construed accordingly;

**"special types of ships"** includes Floating Production Storage and Offloading (FPSO) vessels; Floating Storage Units (FSU); moored construction and support vessels; and Mobile Offshore Units on station in Dynamic Positioning (DP) mode or anchored; semi submersibles; jack ups with propulsion device; cable ships; mobile drilling ships; self-propelled MOUs; jack-ups, dredgers; submersibles on passage, salvage vessels; navigation aid tenders; cruising pilot vessels; custom launches and other specialised craft;

**"support level"** means the level of responsibility associated with performing assigned tasks, duties or responsibilities on board a seagoing ship under the direction of an individual serving in the operational or management, level;

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**"syllabus"** means an outline of the subjects in a training course developed or approved by the Authority and includes the IMO Model courses;

**"tanker"** means a chemical tanker, a liquefied gas tanker or an oil tanker;

**"trainee"** means a person under training, in a training institution or on board a ship, to become a deck officer or an engineer officer and designated as such by these Regulations;

**"training course"** means a series of lessons contained in an approved syllabus used to teach, whether theoretically or practically, the standards of competence required for certification, and "training programme" shall be construed accordingly;

**"training institution"** means a technical training institute, tertiary institution, a college, a university or any other organization duly accredited and licensed under the relevant law to conduct academic or vocational training and approved under these regulations to conduct a training course;

**"trial"** means an experiment or series of experiments, conducted over a limited period, which may involve the use of automated or integrated systems in order to evaluate alternative methods of performing specific duties or satisfying particular arrangements prescribed by these Regulations, which would provide at least the same degree of safety, security and pollution prevention as provided by these regulations;

**"unlimited voyage"** means a voyage other than a near-coastal voyage;

**"Valid"** in relation to a certificate or other document, means a certificate or document that-

- (a) is current; and
- (b) has not been suspended, revoked or cancelled; and
- (c) for a certificate, bears the signature of the holder.

**"Verification"** means confirmation, through the provision of objective evidence, that specified requirements have been fulfilled; and

**"watchkeeping service"** means the time spent as the duty officer in full charge of a navigational watch for no less than 4 out of every 24 hours while the vessel is engaged on a voyage.

[L.N. 1/2023, r. 2.]

## PART II – APPLICATION OF REGULATIONS, ETC.

**3. Application**

(1) Unless expressly provided otherwise, these regulations shall apply to seafarers serving on board Kenyan seagoing ships or on foreign ships in Kenyan ports except those serving on board—

- (a) warships, naval auxiliaries or other ships owned or operated by a Party and engaged only on governmental non-commercial service;
- (b) Government ships as defined in the Act;
- (c) fishing vessels, engaged in the catching of fish;
- (d) pleasure yachts not engaged in trade; or
- (e) wooden ships of primitive build, including junks.

(2) The Authority may require seafarers serving on board ships referred to in subparagraphs (1)(b) to (e) to meet the requirements of these Regulations so far as is reasonable and practicable so as not to impair the operations or operational capabilities of such ships.

(3) In complying with these Regulations, ship-owners, seafarers and training institutions shall take into account, to the greatest degree possible, the guidance and explanatory

material contained in part B of the STCW Code and the guidance issued by the Authority in a Marine Guidance Notice.

#### **4. Purpose of these regulations**

These Regulations, for the purpose of Section 170 of the Act and Article I (1) of the STCW Convention—

- (a) give effect to the provisions of the STCW Convention and STCW Code;
- (b) prescribe the standards of competence to be attained and other conditions to be satisfied, subject to such exemptions as may be allowed by or under the Convention, for certification as master, officer, rating and other seafarer of any description employed on a Kenyan vessel;
- (c) prescribe the manner in which the attainment of any standard or the satisfaction of any other condition shall be evidenced;
- (d) prescribe the conduct of any examinations, the conditions for admission to such examinations and the appointment and remuneration of examiners; and
- (e) prescribe the issue, form and recording of certificates and other documents,

and different provisions may be made or enabled to be made for different circumstances.

#### **5. Issuance of masters, officers or ratings certificates**

The Authority may, in accordance with these regulations—

- (a) issue a certificate; or
- (b) authorize the issuance of a certificate under its authority; or
- (c) issue an endorsement attesting to the recognition of a certificate issued by another Administration.

(2) Notwithstanding paragraph (1)(b), certificates of competency shall be issued only by the Authority following verification of the authenticity and validity of any necessary documentary evidence.

(3) Certificates for masters, officers or ratings shall be issued to those candidates who; to the satisfaction of the Authority, meet the requirements for service, age, medical fitness, training, qualification and examinations in accordance with the appropriate provisions of these regulations.

(4) Certificates issued in accordance with the provisions of regulations 45 to 49 to masters and officers on oil tankers, chemical tankers and on liquefied gas tankers shall only be issued by the Authority.

(5) Kenyan certificates shall be in the English language.

(6) Pursuant to paragraph (1) (b) and subject to subregulation (3), the Director-General may authorize a training institution to issue a certificate of proficiency on behalf of the Authority.

(7) Candidates for certification shall provide satisfactory proof—

- (a) of their identity;
- (b) that their age is not less than that prescribed in the regulation relevant to the certificate applied for;
- (c) that they meet the standards of medical fitness specified in the relevant medical examination and certification regulations;
- (d) of having completed approved education and training meeting the vocational and academic standard;
- (e) of having completed the seagoing service and any related compulsory training required by these regulations for the certificate applied for; and
- (f) that they meet the standards of competence prescribed by these regulations for the capacities, functions and levels that are to be identified in the

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endorsement to the certificate. If applicable, pass an oral examination conducted by an examiner appointed by the Director-General.

(8) Certificates shall be issued only to candidates who comply with the requirements of this regulation.

(9) All certificates or documentary evidence described in the Convention which authorize the holder to serve in certain functions on board ships, including references to the relevant regulations and the requirements for endorsement, registration and revalidation is as set out in the Code of Seafarer Qualification.

(10) The formats of certificates issued under these regulations are set forth in the First, Second and Third Schedules.

## **6. Certificates issued by other Parties**

The Authority shall, subject to the provisions of regulation 9, accept, in principle, certificates issued by or on behalf of the Parties identified and published by the Maritime Safety Committee of the Organization as Parties which have demonstrated that they give full and complete effect to the relevant provisions of the STCW Convention.

## **7. Certificates for radio operators**

The Authority shall issue appropriate certificates, as prescribed by the Radio Regulations, to radio operators serving on board ships described under regulation 42, and a separate certificate indicating that the holder has the additional knowledge required under regulations 43.

## **8. Functions specifying the standards of competence and the levels of responsibility**

A certificate of competency or a certificate of proficiency issued to a seafarer by the Authority shall state—

- (a) the abilities specified in the standards of competence of the STCW Code, grouped as appropriate, under the following functions-
  - (i) function 1: navigation;
  - (ii) function 2: cargo handling and stowage;
  - (iii) function 3: controlling the operation of the ship and care for persons on board;
  - (iv) function 4: marine engineering;
  - (v) function 5: electrical, electronic and control engineering;
  - (vi) function 6: maintenance and repair; and
  - (vii) function 7: Radiocommunications.
- (b) the levels of responsibility as follows-
  - (i) management level, identified as "M";
  - (ii) operational level, identified as "O"; and
  - (iii) support level, identified as "S".

## **9. Recognition of certificates**

In order to recognize, by endorsement in accordance with regulation 10(4), a certificate issued by or under the authority of an Administration to a master, officer or radio operator, the Authority shall—

- (a) confirm, through an evaluation of that Administration, which may include inspection of facilities and procedures, that the requirements of the Convention regarding standards of competence, training and certification and quality standards are fully complied with; and

- (b) agree with the Administration concerned that prompt notification will be given of any significant change in the arrangements for training and certification provided in compliance with the Convention.

(2) Seafarers who present to the Authority, for recognition, certificates issued under the provisions of regulations II/2, III/2 or III/3 or issued under regulation VII/1 of the STCW Convention at the management level shall be required to pass a written or oral examination intended to test their knowledge of Kenya's maritime legislation relevant to the functions they are permitted to perform. The written examination shall be administered in either paper or electronic format.

(3) Information provided and measures agreed upon under this regulation shall be communicated to the Secretary-General in conformity with the requirements of regulation 22(2).

(4) The Authority shall not recognize certificates issued by or under the authority of a non-Party, but the Authority may, when issuing its own certificate, accept seagoing service, education and training acquired under the authority of a non-Party, provided the Authority complies with regulation 1/2 of the STCW Convention in issuing each such certificate and ensures that the requirements of the Convention relating to seagoing service, education, training and competence are complied with.

(5) Notwithstanding the requirement of regulation 10(4), the Authority may, if circumstances require, subject to the provisions of subregulation (1), allow a seafarer to serve for a period not exceeding three months on board a Kenyan ship, while holding an appropriate and valid certificate issued and endorsed as required by an Administration for use on board ships entitled to fly the flag of that Administration but which has not yet been endorsed so as to render it appropriate for service on board Kenyan ships, in which case, the owner or master shall make readily available documentary proof that an application for an endorsement has been submitted to the Authority.

(6) The Authority shall not use certificates or endorsements issued by an Administration under the provisions of regulation 1/10 of the STCW Convention in recognition of, or attesting the recognition of, a certificate issued by another Party as the basis for further recognition.

(7) Where the Authority, having recognized a certificate, withdraws its endorsement of recognition for disciplinary reasons, the Authority shall inform the Administration that issued the certificate of the circumstances.

## **10. Endorsements**

(1) Certificates for masters and officers issued in compliance with these Regulations shall be endorsed by the Authority, in the English language, in the form referred to in subregulation (3).

(2) The endorsement required by subregulation (1) to attest the issuance of a certificate shall only be issued by the Authority if all the requirements of the Regulations have been complied with.

(3) The form of endorsements used to attest the issue of a certificate shall be that set out in the Second Schedule.

(4) The Authority, following recognition under regulation 9 of—

- (a) a certificate of competency; or
- (b) a certificate of proficiency issued to masters and officers in accordance with the provisions of regulations V/1-1 and V/1-2 of the annex to the STCW Convention,

shall endorse such certificate to attest its recognition only after ensuring the authenticity and validity of the certificate in accordance with regulation 12(6).

(5) The endorsement under subregulation (4) shall only be issued if the provisions of these Regulations have been complied with and shall be in the format set out in the Third Schedule.

(6) The endorsements referred to in subregulations (4) shall—

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- (a) only be issued by the Authority;
- (b) 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, provided that number is unique; and
- (c) expire as soon as, the certificate endorsed expires or is withdrawn, suspended or cancelled by the Authority or Administration which issued it and, in any case, not more than five years after their date of issue.

(7) The capacity in which the holder of a certificate is authorized to serve shall be identified in the form of endorsement in terms identical to those used in the Minimum Safe Manning Document issued under the relevant regulations.

**11. Certificates to be kept on board the ship**

Subject to the provisions of regulation 9(5), any certificate required by these Regulations or the STCW Convention shall be kept available in its original form on board the ship, on which the holder is serving.

**12. Information on the status of certificates, endorsements and dispensations**

(1) The Authority shall make available, in English, the information on the status of such certificates, endorsements and dispensations to other Administration 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.

(2) Pursuant to sub-regulation (1), the Authority shall maintain a register or registers of all certificates and endorsements for masters, officers, and ratings which are issued, have expired or have been revalidated, suspended, cancelled or reported lost or destroyed and of dispensations issued.

(3) The Authority shall develop and maintain a database for certificate registration from which the register or registers contemplated under subregulation (2) shall be established, and which shall set out the details of each certificate in accordance with section A-1/2 of the STCW Code through printed or electronics means.

(4) The Authority shall allow controlled electronic access to such register or registers to allow Administrations and companies to confirm-

- (a) the name of the seafarer to whom such certificate, endorsement or other qualification was issued, its relevant number, date of issue and date of expiry;
- (b) the capacity in which the holder may serve and any limitations attaching thereto; and
- (c) the functions the holder may perform, the levels authorized and any limitations attached thereto.

(5) Masters, officers and ratings holding Kenyan certificates shall be required to ensure the correct details of their certificates are held in the register described under subregulation (1).

(6) The Authority shall request from other Administrations verification of the authenticity and validity of certificates produced to it by seafarers seeking recognition of their certificates or employment on board Kenyan ships.

**13. Dispensation**

In circumstances of exceptional necessity, the Director-General may, if in his opinion this does not cause danger to persons, property or the environment, issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in a capacity, other than that of a radio officer or radiotelephone operator, except as provided by the Radio Regulations, for which he does not hold the appropriate certificate, provided that the person to whom the dispensation is issued shall be adequately qualified to fill the vacant post in a safe manner, to the satisfaction of the Director-General.



(2) Dispensations shall not be granted to a master or chief engineer officer except in circumstances of *force majeure* and then only for the shortest possible period.

(3) Any dispensation granted under subregulation (1) shall be granted only to a person properly certificated to fill the post immediately below in respect of which the dispensation is given.

(4) Where the certification referred in subregulation (2) is not required by the STCW Convention, a dispensation may be issued to a person whose qualification and experience are, in the opinion of the Director-General, of clear equivalence to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, he shall be required to pass a written test or an oral examination conducted by the Administration, as demonstrating that such a dispensation may safely be issued.

(5) The company shall ensure that the post for which a dispensation has been granted under subregulation (1) is filled by the holder of an appropriate certificate as soon as possible in accordance with the requirements of the Safe Manning regulations.

(6) The Authority shall, as soon as possible after the 1st January of each year, send a report to the Secretary-General giving information of the total number of dispensations in respect of each capacity for which a certificate is required and has been issued during the year to seagoing ships, together with information as to the numbers of those ships above and below 1600 gross tonnage respectively.

#### 14. Equivalents and equivalency of certificates

(1) The Authority may adopt other educational and training arrangements, including those involving seagoing service and shipboard organization especially adapted to technical developments and to special types of ships and trades, provided that the level of seagoing service, knowledge and efficiency as regards navigational and technical handling of the ship and cargo ensures a degree of safety at sea and has a preventive effect against pollution equivalent as a minimum to the requirement of these regulations.

(2) Details of such arrangements shall be reported as early as practicable to the Secretary-General who shall circulate such particulars to all Parties.

#### 15. Revalidation of certificates

(1) Every master, officer and radio operator holding a certificate issued under any Part of these regulations other than Part VI, Division D and Part VII, who is serving at sea or intends to return to sea after a period ashore, shall be required to revalidate the certificate at intervals not exceeding five years.

(2) For revalidation of a certificate the holder shall be required to—

- (a) meet the standards of medical fitness prescribed under the relevant regulations; and
- (b) complete approved seagoing service performing functions appropriate to the certificate held, for a period of at least-
  - (i) twelve months in total during the preceding five years; or
  - (ii) three months in total during the preceding six months immediately prior to revalidating; or
- (c) have performed functions considered by the Authority to be equivalent to the seagoing service required in paragraph (b); or
- (d) pass an approved test which may be in the form of written or oral examination, simulator assessment or other appropriate means; or
- (e) successfully complete an approved training course or courses relevant to the certificate; or
- (f) have completed approved seagoing service, performing functions appropriate to the certificate held, for a period of not less than three months in a supernumerary capacity.

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(3) Every master and officer shall, for continuing seagoing service on board tankers, be required to meet the requirements in sub-regulation (2) and, at intervals not exceeding five years, to-

- (a) have approved seagoing service, performing duties appropriate to the tanker certificate or endorsement held, for a period of at least three months in total during the preceding five years; or
- (b) successfully complete an approved relevant tanker training course.

(4) If an application for revalidation of a certificate of competency is made within six months before the expiry of the certificate, the certificate may be revalidated until the fifth anniversary of the date of validity, or extension of the validity as the case may be.

(5) For revalidation of recognition endorsements issued in accordance with the provisions of regulation 10(4), the seafarer shall—

- (a) meet the standards of medical fitness prescribed under the relevant medical examination and certification regulations; and
- (b) hold a valid certificate of competency or a certificate of proficiency issued in accordance with the provisions of regulations V/1-1 or V/1-2 of the STCW Convention.

(6) If an application for revalidation of a recognition endorsement is made within six months before the expiry of endorsement, the endorsement may be revalidated until—

- (a) the fifth anniversary of the date of validity, or extension of the validity, of the endorsement; or
- (b) the date the certificate endorsed expires; whichever is earlier.

(7) Every master, officer and radio operator shall, for continuing seagoing service on board ships for which special training requirements have been internationally agreed upon, be required to successfully complete approved relevant training.

(8) Seafarers holding certificates issued before the coming into force of these Regulations shall be required to undergo appropriate refresher and updating training programme or assessment described in Code of Seafarer Qualifications.

(9) The refresher and updating training programmes shall—

- (a) be formulated in consultation with the Syllabus Committee established under regulation 78;
- (b) approved by the Authority;
- (c) include changes in relevant national and international regulations concerning safety of life at sea, security, and protection of the marine environment; and
- (d) take account of any updating of the standard of competence concerned.

(10) The Authority shall make available on Kenyan ships texts of recent changes in national and international regulations concerning the safety of life at sea, security and the protection of the marine environment for the purpose of updating the knowledge of masters, officers and radio operators employed on such ships.

(11) Every master and officer shall, for continuing seagoing service on board ships operating in polar waters, meet the requirements in subregulation (2) and, at intervals not exceeding five years—

- (a) have approved seagoing service on ships operating in polar waters, performing functions appropriate to the certificate held, for a period of at least two months in total during the preceding five years; or
- (b) have performed functions considered to be equivalent to the seagoing service required in paragraph (a);
- (c) pass an approved test; or
- (d) successfully complete an approved training course or courses.

[L.N. 1/2023, r. 3.]

**16. Near-coastal voyages**

(1) The Authority shall not impose training, experience or certification requirements on the seafarers serving on board the ships entitled to fly the flag of another Party and engaged on near-coastal voyages in a manner resulting in more stringent requirements for such seafarers than for seafarers serving on board Kenyan ships.

(2) For the purposes of specifying the details of trading areas and other relevant conditions in respect of near coastal voyages described in sub-regulation (1), the Authority may enter into an undertaking in the form of a bilateral or multilateral agreement with a Party or Parties considering the provisions of regulation 17, in order to afford the ships of either Party or Parties the benefits of the near-coastal provisions of the STCW Convention.

(3) With respect to Kenyan ships regularly engaged on near-coastal voyages off the coast of another Party, the Authority shall prescribe training, experience and certification requirements for seafarers serving on such ships at least equal to those of the Party off whose coast the ship is engaged, provided that they do not exceed the requirements of the STCW Convention in respect of ships not engaged on near-coastal voyages.

(4) Seafarers serving on a ship which extends its voyage beyond what is defined as a near coastal voyage by the Authority, or by the undertaking provided in subregulation (2), and enters waters not covered by that definition shall fulfil the appropriate competency requirements of these Regulations.

(5) The Authority may—

- (a) afford a Kenyan ship the benefits of the near-coastal voyage provisions of these Regulations when it is regularly engaged off the coast of a non-Party on near-coastal voyages as defined by the Authority; and
- (b) accept the certificates of seafarers issued by a Party for the Party's defined near-coastal voyages limits for service in near-coastal voyages as defined by the Authority, provided the Authority and that Party enter into an undertaking provided in sub-regulation (2), specifying the details of involved trading areas and other relevant conditions thereof.

(6) Subject to the meaning assigned to near-coastal voyage under the Act—

- (a) the safe havens from where the limits of a near-coastal voyage shall be determined are the ports of Lamu, Malindi, Kilifi, Mombasa and Shimoni; and
- (b) the limits of near-coastal voyage shall be prescribed in the relevant certificate of competency.

(7) Nothing in this regulation shall, in any way, limit the jurisdiction of the Republic of Kenya as a coastal state.

**17. Defining near-coastal voyages**

(1) Subject to subregulation 16(2), in defining near-coastal voyages, the Authority shall—

- (a) take into account the effect on the safety and security of all ships and on the marine environment, in light of the-
  - (i) type of ship and the trade in which it is engaged;
  - (ii) gross tonnage of the ship and the propulsion power in kilowatts of the main machinery;
  - (iii) nature and length of the voyages;
  - (iv) maximum distance from a port of refuge;
  - (v) adequacy of the coverage and accuracy of navigational position-fixing devices;
  - (vi) weather conditions normally prevailing in the near- coastal voyages area;
  - (vii) provision of shipboard and coastal communication facilities for search and rescue; and

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(viii) the availability of shore-based support, regarding especially technical maintenance on board.

(b) incorporate the near-coastal voyages limits in the endorsements issued pursuant to regulation 10.

(2) Kenyan ships engaged on near-coastal voyages shall not extend their voyages worldwide, on the ground that they are navigating constantly within the limits of designated near-coastal voyages of neighbouring Parties.

### **18. Control procedures**

(1) Kenyan ships wherever they may be and foreign ships while in Kenyan ports, except those excluded by regulation 3, are subject to control by officers duly authorised by the Authority to verify that all seafarers serving on board who are required to be certificated by these Regulations or by the STCW Convention are so certificated or hold an appropriate dispensation, and such certificates shall be accepted unless there are clear grounds for believing that a certificate has been fraudulently obtained or that the holder of a certificate is not the person to whom that certificate was originally issued.

(2) In the event that any deficiencies are found under subregulation (1) or under the procedures specified in regulation 19 or in the Port State Control Regulations, the officer carrying out the control shall forthwith inform, in writing, the master of the ship and the Consul or, in his absence, the nearest diplomatic representative of the maritime authority of the State whose flag the ship is entitled to fly, so that appropriate action may be taken, which notification shall specify the details of the deficiencies found and the grounds on which the Authority determines that these deficiencies pose a danger to persons, property or the environment.

(3) In exercising the control under subregulation (1), if, taking into account the size and type of the ship and the length and nature of the voyage, the deficiencies referred to in subregulation 19(2) are not corrected and it is determined that this fact poses a danger to persons, property or the environment, the Authority shall take steps to ensure that the ship will not sail unless and until these requirements are met to the extent that the danger has been removed.

(4) When exercising control under this regulation, the Authority shall make all possible efforts to avoid the undue detention or delay of a ship.

(5) This regulation shall be applied as may be necessary to ensure that no more favourable treatment is given to ships entitled to fly, the flag of a non-Party than is given to Kenyan ships or ships entitled to fly the flag of a Party.

### **19. Limitation of control procedures, deficiencies and detention of a ship**

The control procedures exercised by a duly authorized control officer under regulation 18 shall be limited to the following-

(a) verification that all seafarers serving on board who are detention of a required to be certificated in accordance with these Regulations or the STCW Convention hold an appropriate certificate or a valid dispensation, or provide documentary proof that an application for an endorsement has been submitted to the Authority or an Administration in accordance with subregulation 9(5);

(b) verification that the numbers and certificates of the seafarers serving on board are in conformity with the requirements of the Safe Manning Regulations; and

(c) assessment, in accordance with subregulation 21(1), of the ability of the seafarers of the ship to maintain watchkeeping and security standards, as appropriate, as required by these Regulations or by the STCW Convention if there are clear grounds for believing that such standards are not being maintained because any of the following have occurred-

(i) the ship has been involved in a collision, grounding or stranding, or

- (ii) there has been a discharge of substances from the ship when under way, at anchor or at berth which is illegal under any international convention, or
- (iii) the ship has been manoeuvred in an erratic or unsafe manner whereby routing measures adopted by the Organization or safe navigation practices and procedures have not been followed, or
- (iv) the ship is otherwise being operated in such a manner as to pose a danger to persons, property, the environment, or a compromise to security.

(2) Deficiencies which may be deemed to pose a danger to persons, property or the environment include the following-

- (a) failure of seafarers to hold a certificate, to have an appropriate certificate, to have a valid dispensation or to provide documentary proof that an application for an endorsement has been submitted to the Authority in accordance with regulation 9(5);
- (b) failure to comply with the requirements of the Safe Manning Regulations;
- (c) failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the Authority;
- (d) absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radiocommunications or the prevention of marine pollution; and
- (e) inability to provide, for the first watch at the commencement of a voyage and for subsequent relieving watches, persons who are sufficiently rested and otherwise fit for duty.

(3) Failure to correct any of the deficiencies referred to in subregulation (2), in so far as it has been determined by the Authority that they pose a danger to persons, property or the environment, shall be the only grounds under this regulation on which the Authority may detain a ship.

## **20. Assessment of the ability of the seafarers of the ship to maintain watchkeeping and security standards**

(1) The assessment procedure provided for in subregulation 19 (1)(c), resulting from any of the occurrences mentioned therein shall take the form of a verification that members of the crew who are required to be competent do in fact possess the necessary skills related to the occurrence.

(2) It shall be borne in mind when making this assessment that on-board procedures are relevant to the International Safety Management Code and that the provisions of these Regulations or the STCW Convention are confined to the competence to safely execute those procedures.

(3) Control procedures under these Regulations or the STCW Convention shall be confined to the standards of competence of the individual seafarers on board and their skills related to watchkeeping as defined in Part A of the STCW Code, and on-board assessment of competency shall commence with verification of the certificates of the seafarers.

(4) Notwithstanding verification of the certificate, the assessment under subregulation 19(1)(c) can require the seafarer to demonstrate the related competency at the place of duty which may include verification that operational requirements in respect of watchkeeping standards have been met and that there is a proper response to emergency situations within the seafarer's level of competence.

(5) In the assessment, only the methods for demonstrating competence together with the criteria for its evaluation and the scope of the standards given in part A of the STCW Code shall be used.

(6) Assessment of competency related to security shall be conducted for those seafarers with specific security duties only in case of clear grounds, as provided for in chapter XI/2 of

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the International Convention for the Safety of Life at Sea (SOLAS), and in all other cases, it shall be confined to the verification of the certificates or endorsements of the seafarers.

### **21. Impartial investigation, withdrawal, suspension and cancellation**

(1) The Authority shall conduct impartial investigation of any reported incompetency, act, omission or compromise to security that may pose a direct threat to safety of life or property at sea or to the marine environment by the holders of certificates or endorsements issued by the Authority in connection with their performance of duties related to their certificates.

(2) The report of the investigation conducted under subregulation (1) may make a recommendation to the Director-General for the withdrawal, suspension or cancellation of such certificates for such cause and for the prevention of fraud.

(3) The Authority may take and enforce any measures it deems necessary to prevent fraud and other unlawful practices involving certificates and endorsements issued.

### **22. Communication of information**

(1) The Director-General may communicate guidance in respect of these Regulations in a marine guidance notice.

(2) Subject to the Treaty and Ratification Act 2012, the Authority shall communicate to the Secretary-General—

- (a) the information required under Article IV of the Convention within the time periods prescribed and in the format specified in section A-I/7 of the STCW Code; and
- (b) such other information as may be required by the Code on other steps taken by the Authority to give the Convention full and complete effect.

### **23. Medical standards**

Every candidate for certification under these Regulations shall hold a valid Medical Certificate issued under the relevant medical examination and certification regulations.

### **24. Conduct of trials**

(1) Notwithstanding the provisions of these Regulations, the Authority may authorize a Kenyan ship to participate in trials.

(2) The authorization under subregulation (1) shall be granted only when the Authority is satisfied that such trials are conducted in a manner that provides at least the same degree of safety, security and pollution prevention as provided by these regulations. In any case, such trials shall be conducted in accordance with guidelines provided by the Authority.

### **24A. Periodic audits by the Organization**

The Authority shall coordinate the relevant entities in the conduct of periodic audits carried out by the Organization in line with Code for Implementation.

[L.N. 1/2023, r. 4.]

## **PART III – REQUIREMENTS FOR CERTIFICATION OF MASTER AND DECK DEPARTMENT PERSONNEL**

### **25. Officer in charge of a navigational watch on ships of 500 gross tonnage or more (STCW Convention Regulation II/I)**

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

(2) Every candidate for certification under subregulation (1) shall be required to-

- (a) be not less than eighteen years of age;
- (b) have approved seagoing service of not less than twelve months as part of an approved training programme which includes on-board training which meets the requirements of section A-II/1 of the STCW Code and is documented in an

approved training record book, or otherwise have approved seagoing service of not less than thirty-six months;

- (c) have 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) meet the applicable requirements of Part V, as appropriate, for performing designated radio duties in accordance with the Radio Regulations;
- (e) have completed approved education and training and meet the standard of competence specified in section A-II/1 of the STCW Code; and
- (f) meet the standard competence specified in section A-VI/1, paragraph 2, section A-VI/2, paragraphs 1 to 4, section A VI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.

## **26. Master and chief mate on ships of 500 gross tonnage or more (STCW Convention Regulation II/2)**

(1) Every master and chief mate on a seagoing ship of 3,000 gross tonnage or more shall hold a certificate of competency.

(2) Every candidate for certification under subregulation (1) shall—

- (a) meet the requirements for certification as an officer in charge of a navigational watch on ships of 500 gross tonnage or more and have approved seagoing service in that capacity for—
  - (i) not less than twelve months for certification as chief mate; and
  - (ii) not less than thirty-six-months for certification as master;

Provided that the period may be reduced to not less than twenty-four months where twelve or more months of such seagoing service has been served as chief mate; and

- (b) have completed approved education and training;
- (c) meet the standard of competence specified in section A-II/2 of the STCW Code for masters and chief mates on ships of 3,000 gross tonnage or more.

## **27. Master and chief mate on ships of between 500 and 3,000 gross tonnage (STCW Convention Regulation II/2).**

(1) Every master and chief mate on a seagoing ship of between 500 and 3,000 gross tonnage shall be required to be the holder of a certificate of competency.

(2) Every candidate for certification under subregulation (1) shall—

- (a) for certification as chief mate, be required to meet the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more;
- (b) for certification as master, be required to meet the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more and have approved seagoing service of not less than 36 months in that capacity; and
- (c) be required to have completed approved training and meet 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 3,000 gross tonnage.

## **28. Restriction of certificate to near-coastal voyages**

(1) The Authority may issue a restricted certificate of competency to master, chief mate and officer in charge of a navigational watch serving on board ships of more than 500 gross tonnage engaged exclusively on near-coastal voyages bearing in mind the effect on the safety of all ships which may be operating in the same waters.

(2) Candidates for certification under subregulation (1) shall meet the requirements set out in the Section A-II/1 and A-II/2 of the STCW Code.

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**29. Officer in charge of a navigational watch and of master on ships of less than 500 gross tonnage not engaged on near-coastal voyages (STCW Convention Regulation II/3)**

(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 be required to be the holder of a certificate of competency 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 be required to be the holder of a certificate of competency for service as master on ships of between 500 and 3,000 gross tonnage.

**30. Officer in charge of a navigational watch on ships of less than 500 gross tonnage engaged on near-coastal voyages (STCW Convention Regulation II/3)**

(1) Every officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall be required to be the holder of a certificate of competency.

(2) Every candidate for certification as officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall be required to-

- (a) be not less than eighteen years of age;
- (b) have completed—
  - (i) special training contemplated in section A-II/3 of the STCW Code, including an approved seagoing service of not less than twelve months on board a ship of not less than 100 gross tonnage; or
  - (ii) approved seagoing service as a rating in the deck department of not less than thirty-six months;
- (c) meet the applicable requirements of Part V, as appropriate, for performing designated radio duties in accordance with the Radio Regulations;
- (d) have completed approved education and training and meet 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; and
- (e) meet the standard of competence specified in section A-VI/1, paragraph 2, section A-VI/2, paragraphs 1 to 4, section A-VI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.

**31. Master on ships of less than 500 gross tonnage engaged on near-coastal voyages (STCW Convention Regulation II/3)**

(1) Every master serving on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall be required to be the holder of a certificate of competency.

(2) Every candidate for certification as master on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall be required to-

- (a) be not less than twenty years of age;
- (b) have approved seagoing service of not less than 12 months as officer in charge of a navigational watch;
- (c) have completed approved education and training and meet 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; and
- (d) meet the standard of competence specified in section A-VI/1, paragraph 2, section A-VI/2, paragraphs 1 to 4, section A-VI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.



**32. Exemptions due size of ship and conditions of voyage**

The Authority, if it considers that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of regulations 30, 31 and 32 and section A-II/3 of the STCW Code unreasonable or impracticable, 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.

**33. Rating forming part of a navigational watch (STCW Convention Regulation II/4)**

(1) Every rating forming 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, shall be required to be duly certificated to perform such duties.

(2) Every candidate for certification under subregulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) have completed-
  - (i) approved seagoing service, including not less than six (6) months of 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 (2) months; and
- (c) meet the standard of competence specified in section A-II/4 of the STCW Code.

(3) The seagoing service, training and experience required by paragraph (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.

(4) The requirements of this regulation are not those for certification of Able Seamen as contained in the ILO Certification of Able Seamen Convention, 1946, or any subsequent convention.

**34. Able seafarer deck (STCW Convention Regulation II/5)**

(1) Every able seafarer deck serving on a seagoing ship of 500 gross tonnage or more shall be duly certificated.

(2) Every candidate for certification under subregulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) meet the requirements for certification as a rating forming part of a navigational watch;
- (c) while qualified to serve as a rating forming part of a navigational watch, have approved seagoing service in the deck department of—
  - (i) not less than eighteen months, or
  - (ii) not less than twelve months, and
  - (iii) have completed approved training; and
- (d) meet the standard of competence specified in section A-II/5 of the STCW Code.

(3) Seafarers shall be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity in the deck department for a period of not less than twelve months within 1st January 2007 to 1st January 2012.

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PART IV – REQUIREMENTS FOR CERTIFICATION  
OF ENGINE DEPARTMENT PERSONNEL**35. Officer in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room (STCW Convention Regulation III/1)**

(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 a certificate of competency.

(2) Every candidate for certification under subregulation (1) shall-

- (a) be required to be not less than eighteen years of age;
- (b) have completed combined workshop skills training and an approved seagoing service of not less than twelve months as part of an approved training programme which includes on board training that meets the requirements of section A-III/1 of the STCW Code and is documented in an approved training record book, or otherwise have completed combined workshop skills training and an approved seagoing service of not less than thirty-six months of which not less than thirty months shall be seagoing service in the engine department;
- (c) have performed, during the required seagoing service, engine-room watchkeeping duties under the supervision of the chief engineer officer or a qualified engineer officer for a period of not less than six months;
- (d) have completed approved education and training and meet the standard of competence specified in section A-III/1 of the STCW Code; and
- (e) meet the standard of competence specified in section A-VI/1, paragraph 2, section A-VI/2, paragraphs 1 to 4, section A-VI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.

**36. Chief engineer officer and second engineer officer on ships powered by main propulsion machinery of 3,000 kW propulsion power or more (STCW Convention Regulation III/2)**

(1) Every chief engineer officer and second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more shall be required to be a holder of a certificate of competency.

(2) Every candidate for certification under subregulation (1) shall—

- (a) meet the requirements for certification as an officer in charge of an engineering watch on seagoing ships powered by main propulsion machinery of 750 kW propulsion power or more and have approved seagoing service in that capacity—
  - (i) for certification as second engineer officer, have not less than twelve months as qualified officer in charge of an engineering watch; and
  - (ii) for certification as chief engineer officer, have not less than thirty-six months; however, this period may be reduced to not less than twenty-four months if twelve or more months of such seagoing service have been served as second engineer officer; and
- (b) have completed approved education and training and meet the standard of competence specified in section A-III/2 of the STCW Code.

**37. Chief engineer officer and second engineer officer on ships powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power (STCW Convention Regulation III/3)**

(1) Every chief engineer officer and second engineer officer on a seagoing ship powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power shall hold a certificate of competency.

(2) Every candidate for certification shall be required to-

- (a) meet the requirements for certification as an officer in charge of an engineering watch and-
  - (i) for certification as second engineer officer, have not less than twelve months of approved seagoing service as cadet officer or engineer officer, and
  - (ii) for certification as chief engineer officer, have not less than twenty-four months of approved seagoing service of which not less than twelve months shall be served while qualified to serve as second engineer officer; and
- (b) have completed approved education and training and meet the standard of competence specified in section A-III/3 of the STCW Code (STCW Convention Regulation III/3).

(3) Every engineer officer who is qualified to serve as second engineer officer on ships powered by main propulsion machinery of 3,000 kW propulsion power or more, may serve as chief engineer officer on ships powered by main propulsion machinery of less than 3,000 kW propulsion power, provided the certificate is so endorsed.

**38. Rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine room (STCW Convention Regulation III/4)**

(1) Every rating forming part of an engine-room watch or 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 required to be duly certificated to perform such duties.

(2) Every candidate for certification under subregulation (1) shall be required to-

- (a) be not less than eighteen years of age;
- (b) have completed-
  - (i) approved seagoing service including not less than six months of training and experience, or
  - (ii) special training, either pre-sea or on board ship, including an approved period of seagoing service of not less than two (2) months; and
- (c) meet the standard of competence specified in section A-III/4 of the STCW Code.

(3) The seagoing service, training and experience required by paragraph 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.

**39. Able seafarer engine in a manned engine room or designated to perform duties in a periodically unmanned engine-room (STCW Convention Regulation III/5)**

(1) Every able seafarer engine serving on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall be required to be duly certificated.

(2) Every candidate for certification under subregulation (1) shall be required to-

- (a) be not less than eighteen years of age;

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- (b) meet the requirements for certification as a rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room;
- (c) while qualified to serve as a rating forming part of an engineering watch, have approved seagoing service in the engine department of:
  - (i) not less than twelve months, or
  - (ii) not less than six months and have completed approved training; and
- (d) meet the standard of competence specified in section A-III/5 of the STCW Code.

(3) Seafarers shall be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity in the engine department for a period of not less than twelve months within 1st January 2007 to 1st January 2012.

**40. Electro-technical officer (STCW Convention Regulation III/6).**

(1) Every electro-technical officer serving on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold a certificate of competency.

(2) Every candidate for certification shall be required to-

- (a) be not less than eighteen years of age;
- (b) have completed not less than twelve months of combined workshop skills training and approved seagoing service of which not less than six months shall be seagoing service as part of an approved training programme which meets the requirements of section A-III/6 of the STCW Code and is documented in an approved training record book, or otherwise not less than thirty six months of combined workshop skills training and approved seagoing service of which not less than thirty months shall be seagoing service in the engine department;
- (c) have completed approved education and training and meet the standard of competence specified in section A-III/6 of the STCW Code; and
- (d) meet the standard of competence specified in section A-VI/1, paragraph 2, section A-VI/2, paragraphs 1 to 4, section A-VI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.

(3) Seafarers may be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity on-board ship for a period of not less than twelve months within 1st January 2007 to 1st January 2012 and meet the standard of competence specified in section A-III/6 of the STCW Code.

(4) Notwithstanding the requirements of subregulations (1), (2) and (3), a suitably qualified person may be considered by the Authority to be able to perform certain functions of section A-III/6.

**41. Electro technical rating (STCW Convention Regulation III/7)**

(1) Every electro-technical rating serving on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall be required to be duly certificated.

(2) Every candidate for certification under subregulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) have—
  - (i) completed approved seagoing service including not less than twelve months training and experience, or
  - (ii) (completed approved training, including an approved period of seagoing service which shall not be less than six months, or

- (iii) qualifications that meet the technical competences in table A-III/7 and an approved period of seagoing service, which shall not be less than three months; and
- (c) meet the standard of competence specified in section A-III/7 of the STCW Code.

(3) Seafarers may be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity on-board ship for a period of not less than twelve months within 1st January 2007 to 1st January 2012 and meet the standard of competence specified in section A-III/7 of the STCW Code.

(4) Notwithstanding the above requirements of subregulation (2), a suitably qualified person may be considered by a Party to be able to perform certain functions of section A-III/7.

#### PART V – CERTIFICATION REQUIREMENTS FOR RADIOCOMMUNICATION AND RADIO OPERATORS

#### 42. Application of this Part

(1) This Part shall not apply to radio operators on ships not required to comply with the provisions of GMDSS in Chapter IV of the Safety Convention, who shall, nevertheless, be required to comply with the Radio Regulations.

(2) The Authority shall issue appropriate certificates as prescribed by the Radio Regulations in respect of such radio operators or recognize such certificates.

#### 43. GMDSS radio operators certificate (STCW Convention Regulation IV/2).

(1) Every person in charge of or performing radio duties on a ship to which this Part applies shall be required to be the holder of an appropriate certificate related to the GMDSS issued or recognized by the Authority subject to the provisions of the Radio Regulations.

(2) In addition to the requirements of subregulation (1) every candidate for certification of competency under this regulation for service on a ship, which is required by the Safety Convention to have a radio installation, shall be required to—

- (a) be not less than 18 years of age; and
- (b) have completed approved education and training and meet the standard of competence specified in section A-IV/2 of the STCW Code.

#### PART VI – CERTIFICATION REQUIREMENTS FOR PERSONNEL ON CERTAIN TYPES OF SHIPS

#### 44. Certificates and endorsements issued to masters, officers and ratings on certain types of ship.

The Authority shall—

- (a) issue certificates of proficiency to seafarers who are qualified in accordance with the provisions of regulations 51 to 55, or duly endorse an existing certificate of competency or certificates of proficiency.
- (b) ensure that certificate is issued to every person found qualified under the provisions of regulations 51 to 54.

[L.N. 1/2023, r. 5.]

*A - Masters, officers and ratings on oil and chemical tankers*

#### 45. Basic training for oil or chemical tanker cargo operations for masters, officers and ratings on oil and chemical tankers

(1) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on oil or chemical tankers shall hold a certificate in basic training for oil and chemical tanker cargo operations.

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(2) Every candidate for a certificate in basic training for oil and chemical tanker cargo operations shall have completed basic training in accordance with provisions of section A-VI/1 of the STCW Code and shall be required to have completed-

- (a) at least three months of approved seagoing service on oil or chemical tankers and meet the standard of competence specified in section A-V/I-1, paragraph 1 of the STCW Code; or
- (b) an approved basic training for oil and chemical tanker cargo operations and meet the standard of competence specified in section A-V/I-1, paragraph 1 of the STCW Code.

**46. Advanced training for oil tanker cargo operations**

(1) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on oil tankers shall hold a certificate in advanced training for oil tanker cargo operations.

(2) Every candidate for a certificate in advanced training for oil tanker cargo operations shall-

- (a) meet the requirements for certification in basic training for oil and chemical tanker cargo operations; and
- (b) while qualified for certification in basic training for oil and chemical tanker cargo operations, have:
  - (i) at least three months of approved seagoing service on oil tankers, or
  - (ii) at least one month of approved on board training on oil tankers, in a supernumerary capacity, which includes at least three loading and three unloading operations and is documented in an approved training record book; and
- (c) have completed approved advanced training for oil tanker cargo operations and meet the standard of competence specified in section A-V/I-1, paragraph 2 of the STCW Code.

**47. Advanced training for chemical tanker cargo operations**

(1) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on chemical tankers shall be required to be holders of a certificate in advanced training for chemical tanker cargo operations.

(2) Every candidate for a certificate in advanced training for chemical tanker cargo operations shall be required to-

- (a) meet the requirements for certification in basic training for oil and chemical tanker cargo operations; and
- (b) while qualified for certification in basic training for oil and chemical tanker cargo operations, have:
  - (i) at least three months of approved seagoing service on chemical tankers, or
  - (ii) at least one month of approved on board training on chemical tankers, in a supernumerary capacity, which includes at least three loading and three unloading operations and is documented in an approved training record book; and
  - (iii) completed approved advanced training for chemical tanker cargo operations and meet the standard of competence specified in section A-V/1-1, paragraph 3 of the STCW Code.

*B - Masters, officers and ratings on liquefied gas tankers*

**48. Basic training for liquefied gas tanker cargo operations for masters, officers and ratings on liquefied gas tankers**

(1) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on oil or chemical tankers shall hold a certificate in basic training for oil and chemical tanker cargo operations.

(2) Every candidate for a certificate in basic training for oil and chemical tanker cargo operations shall have completed basic training in accordance with provisions of section A-VI/1 of the STCW Code and shall be required to have completed—

- (a) at least three months of approved seagoing service on oil or chemical tankers and meet the standard of competence specified in section A-V/1-1, paragraph I of the STCW Code; or
- (b) an approved basic training for oil and chemical tanker cargo operations and meet the standard of competence specified in section A-V/1-1, paragraph 1 of the STCW Code.

**49. Advanced training for liquefied gas tanker cargo operations**

(1) Masters, chief engineer officers, chief mates second engineer officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on oil tankers shall hold a certificate in advanced training for oil tanker cargo operations.

(2) Every candidate for a certificate in advanced training for oil tanker cargo operations shall—

- (a) meet the requirements for certification in basic training for oil and chemical tanker cargo operations; and
- (b) while qualified for certification in basic training for oil and chemical tanker cargo operations, have:
  - (i) at least three months of approved seagoing service on oil tankers, or
  - (ii) at least one month of approved on board training on oil tankers, in a supernumerary capacity, which includes at least three loading and three unloading operations and is documented in an approved training record book; and
- (c) have completed approved advanced training for oil tanker cargo operations and meet the standard of competence specified in section A-V/1-1, paragraph 2 of the STCW Code.

*Masters, officers, ratings and other personnel on passenger ships*

**50. Application of this division**

(1) This division shall apply to masters, officers, ratings and other personnel serving on board passenger ships engaged on international voyages.

(2) The Authority shall determine the applicability of the requirements specified in this division to personnel serving on passenger ships engaged on domestic voyages.

[L.N. 1/2023, r. 6.]

**51. Trainings for personnel on a passenger ship**

(1) A master, officer, rating or other personnel serving on board a passenger ship shall have completed the training and familiarization required by subregulations (3) to (7), in accordance with their capacity, duties and responsibilities.

(2) A master, officer, rating or other personnel required to be trained in accordance with subregulations (5) to (7) shall, at intervals not exceeding five years, undertake the appropriate refresher training specified in the Code of Seafarers Qualifications, or provide evidence to the Authority of having achieved the required standard of competence within the five years preceding the training in question.

(3) A person serving on board a passenger ship shall have completed—

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- (a) the safety familiarization training specified in section A-VI/1, paragraph 1 of the STCW Code; and
- (b) the passenger ship emergency familiarization appropriate to their capacity, duties and responsibilities as specified in section A-V/2, paragraph 1 of the STCW Code.

(4) Any person providing direct service to passengers in passenger spaces on board a passenger ship shall have completed the safety training specified in section A-V/2, paragraph 2 of the STCW Code.

(5) A master, officer, rating qualified in accordance with Parts III, IV and VIII of the these Regulations or any other personnel designated on the muster list to assist passengers in emergency situations on board a passenger ship shall have completed the passenger ship crowd management training as specified in section A-V/2, paragraph 3 of the STCW Code.

(6) A master, chief engineer officer, chief mate, second engineer officer or any person designated on muster list of having responsibility for the safety of passengers in emergency situations on board passenger ships shall have completed the approved training in crisis management and human behaviour as specified in section A-V/2, paragraph 4 of the STCW Code.

(7) A master, chief engineer officer, chief mate, second engineer officer or any other 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 the approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 5 of the STCW Code.

[L.N. 1/2023, r. 7.]

*D - Masters, officers, ratings and other personnel on ships subject to the IGF Code*

**52. Safety training**

(1) This division shall apply to master, officer, rating, and other personnel serving on board a ship subject to the IGF Code.

(2) The Authority may exempt a seafarer to whom this Part applies from any of the requirements under regulation 53—

- (a) in respect of ships of less than five hundred gross tonnage, except for passenger ship;
- (b) if it considers that the size of the ship and the length or character of its voyage is such as to render the application of the requirements of regulation 53 unreasonable or impracticable,

taking into consideration the safety of people on board, the ship, property and protection of the marine environment.

[L.N. 1/2023, r. 9.]

**53. Personnel working onboard ships subject to IGF Code**

(1) Prior to being assigned any duty onboard a ship, a master or seafarer referred to under regulation 52 shall, in accordance with their capacity, duties and responsibilities—

- (a) complete the mandatory minimum training required under subregulations (2) to (7); and
- (b) receive appropriate familiarization as specified in regulation I/14, paragraph 1.5 of the STCW Convention.

(2) A seafarer, on board a ship, responsible for designated safety duties in relation to care, use or in emergency response to the fuel on board ship shall possess a certificate of proficiency in basic training for service on ships subject to the IGF Code in accordance with provisions of section A-V/3, paragraph 1.1 of the STCW Code.

(3) A seafarer who is qualified and certified under regulations 48(2) or 49(2) of these Regulations shall be deemed to have met the requirements specified in subregulation (2).



(4) A master, engineer officer and any personnel with immediate responsibility for the care and use of fuels and fuel systems on ship shall hold a certificate of proficiency in advanced training for service on ships subject to the IGF Code.

(5) Every candidate for the certificate specified in subregulation (4) shall, while holding the certificate of proficiency provided under subregulation (2), have completed—

- (a) the approved advanced training for service onboard a ship subject to the IGF Code and meet the standard of competence specified in section A-V/3, paragraph 2.1 of the STCW Code; and
- (b) at least one month of approved seagoing service that includes a minimum of three bunkering operations onboard a ship:

(6) Notwithstanding the provisions of subregulation (5)(b), two of the three bunkering operations may be replaced by approved simulator training on bunkering operations as part of the training under subregulation (5) paragraph (a).

(7) A seafarers who is qualified and certified under regulation 48(2) of these Regulations shall be deemed to have met the requirements specified in subregulation (5):

Provided that the seafarer—

- (a) meets the bunkering requirements of subregulation (5)(b) or has participated in conducting three cargo operations on board the liquefied gas tanker; and
- (b) has completed sea going service of three months in the previous five years on board—
  - (i) a ship subject to the IGF Code;
  - (ii) tanker carrying as cargo, fuels covered by the IGF Code; or
  - (iii) a ship using gases or low flashpoint fuel as fuel.

[L.N. 1/2023, r. 10.]

*E - Masters and deck officers on ships operating in polar water*

#### **54. Application of division**

This division shall apply to masters, chief mates and officers in charge of navigational watch on ships operating in polar waters.

[L.N. 1/2023, r. 12.]

#### **55. Personnel working on board ships subject to Polar Code**

(1) A master, chief mate and officer in charge of a navigational watch on ships operating in polar waters shall hold a certificate of proficiency in basic training for ships operating in polar waters, as required by the Polar Code.

(2) Every candidate for the certificate specified in subregulation (1) shall have completed an approved basic training for ships operating in polar waters and meet the standard of competence specified in section A-V/4, paragraph 1, of the STCW Code.

(3) A master and chief mate on a ship operating in polar waters shall hold a certificate of proficiency in advanced training for ships operating in polar waters, as required by the Polar Code.

(4) Every candidate for the certificate specified in subregulation (3) shall —

- (a) meet the requirements for certification in basic training for ships operating in polar waters;
- (b) have at least two months of approved seagoing service in the deck department, at management level or while performing watchkeeping duties at the operational level, within polar waters or other equivalent approved seagoing service; and

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- (c) have completed approved advanced training for ships operating in polar waters and meet the standard of competence specified in section A-V/4, paragraph 2 of the STCW Code.

[L.N. 1/2023, r. 13.]

PART VII – CERTIFICATION REQUIREMENTS REGARDING EMERGENCY,  
OCCUPATIONAL SAFETY, SECURITY, MEDICAL CARE AND SURVIVAL FUNCTIONS

**56. Basic safety training and instruction for all seafarers**

(1) Seafarers shall receive basic training or instruction in accordance with section A-VI/1 of the STCW Code (STCW Regulation VI/1) and shall meet the appropriate standard of competence specified therein.

(2) Where basic training is not included in the qualification for the certificate to be issued, the Authority shall issue a certificate of proficiency, indicating that the holder has attended the course in basic training.

(3) Seafarers qualified in basic training in accordance with subregulation (1) shall be required, every five years, to undertake appropriate refresher training described in Code of Seafarer Qualifications.

**57. Proficiency in survival craft, rescue boats and fast rescue boats**

(1) Every candidate for a certificate of proficiency in survival craft and rescue boats other than fast rescue boats shall be required to—

- (a) be not less than eighteen years of age;
- (b) have approved seagoing service of not less than twelve months or have attended an approved training course and have approved seagoing service of not less than six months; and
- (c) meet 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.

(2) Seafarers qualified in accordance with subregulation (1) in survival craft and rescue boats other than fast rescue boats shall be required, every five years, to undertake appropriate refresher training as described in the Code of Seafarer Qualifications.

(3) Every candidate for a certificate of proficiency in fast rescue boats shall be required to—

- (a) be the holder of a certificate rescue boats;
- (b) have attended an approved training course; and
- (c) meet the standard of competence for certificates of proficiency in fast rescue boats, as set out in section A-VI/2, paragraphs 7 to 10 of the STCW Code.

(4) Seafarers qualified in accordance with subregulation (3) in fast rescue boats shall be required, every five years, to undertake appropriate refresher training described in Code of Seafarer Qualifications.

**58. Advanced fire fighting (STCW Convention Regulation VI/3)**

(1) Seafarers designated to control fire-fighting operations shall be required to have successfully completed advanced training in techniques for fighting fire, with particular emphasis on organization, tactics and command, in accordance with the provisions of section A-VI/3, paragraphs 1 to 4 of the STCW Code, and shall meet the standard of competence specified therein.

(2) Where training in advanced fire-fighting is not included in the qualifications for the certificate to be issued, the Authority shall issue a certificate of proficiency indicating that the holder has attended a course of training in advanced fire fighting.

(3) Seafarers qualified in accordance with subregulation (1) in advanced fire fighting shall be required, every five years, to undertake appropriate refresher training described in Code of Seafarer Qualifications.

**59. Medical First Aid and Medical Care**

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

(2) Seafarers designated to take charge of medical care on board ship shall meet the standard of competence in medical care on board ships specified in section A-VI/4, paragraphs 4 to 6 of the STCW Code.

(3) Where training in medical first aid or medical care is not included in the qualifications for the certificate to be issued, the Authority shall issue a certificate of proficiency indicating that the holder has attended a course of training in medical first aid or in medical care.

**60. Ship Security Officers**

(1) The Authority shall issue a certificate of proficiency to every person found qualified under the provisions of this regulation.

(2) Every candidate for a certificate of proficiency as ship security officer shall—

- (a) have approved seagoing service of not less than twelve months or appropriate seagoing service and knowledge of ship operations; and
- (b) meet the standard of competence for certification of proficiency as ship security officer, set out in section A-VI/5, paragraphs 1 to 4 of the STCW Code.

**61. Security related familiarisation training**

Before being assigned to shipboard duties, all persons employed or engaged on a seagoing ship which is required to comply with the provisions of the ISPS Code, other than passengers, shall receive approved security-related familiarization training to be able to—

- (a) report a security incident, including a piracy or armed robbery threat or attack;
- (b) know the procedures to follow when they recognize a security threat; and
- (c) take part in security-related emergency and contingency procedures.

**62. Security awareness training (STCW Convention Regulation VI/6)**

(1) Seafarers shall receive security awareness training or instruction in accordance with section A-VI/6, paragraphs 1 to 4 of the STCW Code and shall meet the appropriate standard of competence specified therein.

(2) Where security awareness is not included in the qualification for the certificate to be issued, the Authority shall issue a certificate of proficiency indicating that the holder has attended a course in security awareness training.

**63. Seafarers with designated security duties (STCW Convention Regulation VI/6).**

(1) Seafarers with designated security duties shall meet the standard of competence specified in section A-VI/6, paragraphs 6 to 8 of the STCW Code.

(2) Where training in designated security duties is not included in the qualifications for the certificate to be issued, a certificate of proficiency shall be issued indicating that the holder has attended a course of training for designated security duties.

## PART VIII – ALTERNATIVE CERTIFICATION

**64. Issue of alternative certificates**

(1) Notwithstanding the requirements for certification laid down in Parts III and IV of these regulations, the Authority may issue or authorize the issue of certificates other than those mentioned in the regulations of those parts, provided that—

- (a) the associated functions and levels of responsibility to be stated on the certificates and in the endorsements shall be selected from and identical to those appearing in sections A-II/1, A-II/2, A-II/3, A-II/4, A-II/5 A-III/1, A-III/2, III/3, A-III/4, A-III/5 and A-IV/2 of the STCW Code;

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- (b) the candidates shall be required to 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 the said Code, for the functions and levels that are to be stated in the certificates and in the endorsements;
- (c) the candidates shall be required to have completed approved seagoing service appropriate to the performance of the functions and levels that are to be stated on the certificate, for a minimum period equivalent to the duration of seagoing service prescribed in Parts III and IV but not less than the period prescribed in section A-VII/2 of the STCW Code;
- (d) the candidates for certification who are to perform the function of navigation at the operational level shall be required to meet the applicable requirements of Part V, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
- (e) the certificates shall be issued in accordance with the requirements of regulation 5 and the provisions of chapter VII of the STCW Code.

(2) The Authority shall communicate information in respect of certificates issued under this Part in accordance with subregulation 22(2).

**65. Certification of Seafarers**

(1) Every seafarer who performs any function or group of functions specified in tables A-II/1, A-II/2, A-II/3, A-II/4 or A-II/5 of chapter II or in tables A-III/1, A-III/2, III/3, A-III/4 or A-III/5 of chapter III or A-IV/2 of chapter IV of the STCW Code shall be required to be a holder of a certificate of competency or certificate of proficiency, as applicable.

(2) The abilities specified in the standards of competence which are grouped, as appropriate, and stated under regulation 8, shall clarify the linkage between the alternative certification provisions of this part and the certification provisions of parts III, IV and V.

**66. Principles governing the issue of alternative certificates**

In issuing or authorizing the issue of alternative certificates, the Authority shall observe the following principles—

- (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 under the STCW Code; and
- (b) any arrangement for alternative certification issued under this part shall provide for the interchangeability of certificates with those issued under the other chapters.

(2) The principles of interchangeability in subregulation (1) shall ensure that—

- (a) seafarers certificated under the arrangements of Parts III or IV of these Regulations and those certificated under this Part are able to serve on ships which have either traditional or other forms of shipboard organization; and
- (b) seafarers are not trained for specific shipboard arrangements in such a way as would impair their ability to take their skills elsewhere.

(3) In issuing any certificate under the provisions of this Part, the Authority shall take into account the following principles—

- (a) the issue of alternative certificates shall not be used so as to—
  - (i) reduce the number of crew on board,
  - (ii) lower the integrity of the profession or downgrade the skills seafarers, or
  - (iii) justify the assignment of the combined duties of the engine and deck watchkeeping officers to a single certificate holder during any particular watch; and
- (b) the person in command shall be designated as the master;

- (c) the legal position and authority of the master and others shall not be adversely affected by the implementation of any arrangement for alternative certification.

The principles contained in subregulations (1) and (2) shall ensure that the competency of both deck and engineer officers is maintained.

#### PART IX – CERTIFICATION REQUIREMENTS FOR NON-STCW CERTIFICATES

### 67. Application of this Part

This Part shall apply to seafarers working on board ships of less than 100 gross tonnage licensed under Section 57 of the Act engaged on port operations service or inland water service.

### 68. Boat operator

A candidate for certification as a boat operator shall be required to—

- (a) be eighteen years of age;
- (b) have successfully completed approved education and training and passed a theory examination;
- (c) passed a practical examination;
- (d) been assessed at level 3.

### 69. Coxswain (grade) 3

A candidate for certification as a coxswain grade 3 shall be required to be at least eighteen years of age and to have—

- (a) successfully completed approved education and training and passed a theory examination;
- (b) passed a practical examination; and
- (c) been assessed at level 3.

### 70. Coxswain (grade) 2

A candidate for certification as a coxswain grade 2 shall be required to be at least eighteen years of age and shall have—

- (a) completed at least twelve months' sea or port operations service, as the case may be, in a deck capacity on any of the following ships of 25 GT or more—
  - (i) merchant ships;
  - (ii) fishing vessels;
  - (iii) small ships and yachts;
  - (iv) port operations vessels; or
  - (v) naval ships; or
- (b) be a holder of a Coxswain grade 3 certificate of proficiency for a period of at least five years;
- (c) successfully completed approved education and training at a training institution and passed a theory and practical examination; and
- (d) been assessed at level 3.

### 71. Coxswain (grade) 1

A candidate for certification as a coxswain grade 1 shall be required to be at least 18 years of age and to have-

- (a) completed at least twenty-four months' sea or port operations service on vessels of more than 25 gross tonnage while holding Coxswain grade 2 or 3 certificate of proficiency;

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- (b) successfully completed approved education and training at a training institution and have passed a theoretical and practical examination; and
- (c) been assessed at level 3.

## **72. Master (port operations)**

(1) A candidate for the certificate of competency as master (port operations) shall be required to be at least eighteen years of age and to have-

- (a) completed—
  - (i) at least twelve months' port operations service as officer in charge of a navigational watch on port operations vessels of 100 GT or more while holding, as a minimum, a certificate of proficiency as Coxswain 1 (Port Operations);
  - (ii) at least twelve months' approved sea service as an officer in charge of a navigational watch on ships of 100 GT or more on unlimited or near-coastal voyages while holding, as a minimum, a certificate of competency as Mate (Coastal);
- (b) successfully completed approved education and training at a training institution and have passed a theory examination; and
- (c) been assessed at level 3.

(2) Where the port operations service contemplated in subparagraph (1) (a) (i) has been gained on ships restricted to operating within the confines of the breakwaters of a port, the certificate shall be limited accordingly on the basis of documentary evidence of service.

## **73. Second class engine officer (Port Operations)**

(1) A candidate for the certificate of competency shall be required to be at least eighteen years of age and to have-

- (a) completed at least six months' approved sea service or port operations service as assistant engineer officer on ships of 750 kW propulsion power or more under the supervision of an engineer officer;
- (b) successfully completed approved education and training at a training institution and have completed an approved training programme consisting either of—
  - (i) of at least thirty months, consisting of practical workshop training; and at least six months' approved sea service or port operations service;
  - (ii) an approved trade as an artisan in an engineering discipline; and
- (c) been assessed at levels 1, 2 and 3.

(2) Where the port operations service contemplated in paragraph (1)(a) has been gained on ships restricted to operating within the confines of the breakwaters of a port, the certificate shall be limited accordingly.

## **74. First class engine officer (port operations)**

(1) A candidate for the certificate of competency as First class engine officer (Port Operations) shall—

- (a) meet the requirements for the certificate of competency as Second Engineer Officer (Port Operations);
- (b) be required to have completed, while holding, as a minimum a certificate of competency as Second Engineer Officer (Port Operations)-
  - (i) at least twelve months' approved sea service as officer in charge of an engineering watch on ships of 750 kW propulsion power or more; or
  - (ii) at least twelve months' port operations service as officer in charge of an engineering watch on ships of 1500 kW propulsion power or more.
- (c) have successfully completed approved education and training at a training institution and passed a theoretical examination; and

(d) have been assessed at level 3.

(2) Where the port operations service contemplated in subparagraph (1)(b)(ii) has been gained on ships restricted to operating within the confines of the breakwaters of a port, the certificate shall be limited accordingly.

### **75. Engine Rating (Port Operations)**

(1) Every Engine Rating (Port Operations) shall be required to be a holder of a certificate of Proficiency.

(2) Every candidate for certification under subregulation (1) shall be required to—

- (a) be not less than sixteen years of age;
- (b) have completed—
  - (i) approved seagoing service, including not less than six months of training and experience, or
  - (ii) special training, either pre-sea or on board ship, including an approved period of port operations service which shall not be less than two (2) months; and
- (c) meet the standard of competence specified in Code of Seafarer Qualifications.

(3) The seagoing service, training and experience required by subparagraphs (2) (a) (i) and (ii) shall be associated with engine-room watch keeping functions and involve the performance of duties carried out under the direct supervision of a qualified engineer officer or a qualified rating.

### **76. Able seafarer engine (Port operations)**

(1) Every Able Seafarer Engine (Port Operations) serving on a ship powered by main propulsion machinery of less than 750 kW propulsion power but more than 100 kW shall be required to be holder of a Certificate of Proficiency.

(2) Every candidate for certification subregulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) meet the requirements for certification as Engine Rating (Port Operations);
- (c) while qualified to serve as a as Engine Rating (Port Operations), have approved port operations service in the engine department of—
  - (i) not less than eighteen months, or
  - (ii) not less than twelve months, and have completed approved training; and
- (d) meet the standard of competence specified in the Code of Seafarer Qualifications.

(3) Seafarers may be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity in the engine department for a period of not less than twelve months within the sixty months immediately preceding the entry into force of this Regulation.

## **PART X – QUALITY STANDARDS, TRAINING AND ASSESSMENT OF COMPETENCE**

### ***A-General***

### **77. Head of seafarer training, examination and certification**

(1) The functions of the head of seafarer training, examination and certification shall be to—

- (a) initiate review of the Act and these regulations;
- (b) prepare the information required to be communicated to the Secretary-General and the information to be issued in a marine notice or marine guidance note;

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- (c) promote technical cooperation;
  - (d) as the chief examiner, administer examinations and assessments;
  - (e) issue certificates and endorsements;
  - (f) revalidate certificates;
  - (g) conduct the evaluation required for recognition of certificates issued by other Administrations;
  - (h) issue dispensations;
  - (i) approve equivalent educational and training arrangements;
  - (j) undertake control procedures;
  - (k) authorize ships to participate in trials;
  - (l) maintain a register or registers of all certificates and endorsements;
  - (m) prepare and make available information on the status of certificates of competency and proficiency, including the matters affecting them;
  - (n) initiate and implement agreements on near-coastal voyages;
  - (o) implement recommendations on the impartial investigation of any reported incompetency, act, omission or compromise to security that may pose a direct threat to safety of life or property at sea or to the marine environment by the holders of certificates or endorsements issued by the Authority in connection with their performance of duties related to their certificates;
  - (p) undertake any enforcement measures including penalties or disciplinary measures and cooperation;
  - (q) undertake administration, supervision and monitoring of training and assessment;
  - (r) verify the qualification and authorize those responsible for training and assessment;
  - (s) implement the Quality Standards System including undertaking regular inspections and periodical evaluation/audit of training and assessment conducted by training institutions;
  - (t) approve medical practitioners;
  - (u) chair the Syllabus Committee;
  - (v) formulate or promote the formulation of refresher and updating training or assessment;
  - (w) authorize the issue of alternative certificates; and
  - (x) to perform any other functions incidental to those the foregoing.
- (2) The head of seafarer training, examination and certification—
- (a) shall perform his functions in accordance with the quality standards system established pursuant to regulation 79; and
  - (b) may delegate to any other officer the performance of any of functions described under subregulation (1).

**78. Syllabus committee**

(1) The Director-General shall establish a syllabus committee composed of fifteen members as follows—

- (a) the head of seafarer training, examination and certification, who shall be the chairperson;
- (b) a senior examiner;
- (c) a representative each from—
  - (i) the Ministry responsible for shipping and maritime transport;
  - (ii) the Kenya National Examination Council;



- (iii) the Kenya Institute of Curriculum Development;
- (iv) the Kenya National Qualifications Authority;
- (v) the Technical and Vocational Education and Training Authority;
- (vi) approved training institutions;
- (vii) seafarer recruitment and placement agencies;
- (viii) the shipping industry; and
- (ix) organized workers' union in the shipping industry;

(2) The Committee shall appoint a Secretary.

(3) The quorum for the conduct of the business of the Committee shall be seven members.

(4) The functions of the Committee shall be to—

- (a) review these regulations and other instruments relating to maritime education and training and recommend relevant changes;
- (b) adopt strategies for the full and timely implementation of these regulations;
- (c) propose modes of delivery, monitoring and evaluation of the impact and effectiveness of the training courses;
- (d) formulate a standard for refresher and updating courses;
- (e) undertake any other functions as may be assigned to it by the Director-General.

(5) Minutes of the Committee's meetings and any report made thereof shall be submitted to the Director-General not more than five working days following a meeting.

## **79. Quality Standards System**

(1) All training, assessment of competence, certification, including medical certification, endorsement and revalidation activities shall be continuously monitored through a Quality Standards System to ensure achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors.

(2) The Director-General shall establish and review, as appropriate, the quality standards system referred to in subregulation (1).

(3) With regards to national objectives and quality standards—

- (a) the education and training objectives and related standards of competence to be achieved shall be clearly defined;
- (b) the levels of knowledge, understanding and skills appropriate to the examinations and assessments required under the Convention shall be identified.
- (c) the objectives and related quality standards may be specified separately for different courses and training programmes and shall cover the administration of the certification system.

(4) The field of application of the quality standards shall cover—

- (a) the administration of the certification system;
- (b) approval and monitoring of training institutions and all training courses and programmes;
- (c) examinations and assessments carried out by the Authority or by persons authorized for that purpose; and
- (d) 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.

(5) The quality standards system required under subregulation (2) shall establish among others, procedures for—

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- (a) approval of training institutions to conduct a course leading to certification under these regulations;
- (b) approval of training course and programmes;
- (c) monitoring approved training courses and programmes;
- (d) conducting competency assessment and issuance of certificates;
- (e) issuance of certificates of proficiency;
- (f) defining limits of near coastal voyages;
- (g) recognition of certificates issued by another Administration;
- (h) issuance of recognition endorsement;
- (i) issuance of dispensations;
- (j) revalidation of certificates and endorsements;
- (k) renewal of certificates and endorsements;
- (l) implementing international instruments covering seafarers' training and certification;
- (m) conducting independent evaluation and reporting; and
- (n) issuance of seafarers' continuous discharge certificate and record book.

(6) A training institution shall have a quality standards system which shall, at a minimum, provide for—

- (a) the mission statement of the institution;
- (b) details of academic and training strategies in use;
- (c) the quality-management functions that determine and implement the quality policy and include the academic and administrative organizational structure and responsibilities;
- (d) staff and student information;
- (e) a description of the training facilities and equipment;
- (f) internal quality-assurance processes and reviews and arrangements for periodic external quality evaluations;
- (g) an outline of the policies and procedures on—
  - (i) student admission;
  - (ii) the development of new courses and review of existing ones;
  - (iii) the examination system including appeals and resits;
  - (iv) staff recruitment, training, development, appraisal and promotion;
  - (v) feedback from students and industry; and
  - (vi) staff involvement in research and development.

**80. Independent evaluation**

(1) The Director-General shall initiate a periodic independent evaluation by qualified persons who are not themselves involved in the activities concerned in accordance with the provisions of section A-I/8 of the STCW Code;

(2) The evaluation under subregulation (1) shall include all changes to national regulations and procedures in compliance with the amendments to the STCW Convention and Code;

(3) The independent evaluation of the knowledge, understanding, skills and competence acquisition and assessment activities, and of the administration of the certification system, required under subregulation (1) shall be conducted at intervals of not more than five years in order to verify that—

- (a) all applicable provisions of the Convention and STCW Code, including their amendments, are covered by the quality standards system;

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

(4) The Director-General shall communicate to the Secretary-General the report containing the results of the evaluation in accordance with regulation 22.

### **81. Inspection and audit of training institutions**

(1) The Authority shall conduct inspection of a training institution for the purposes of—

- (a) the initial verification of the suitability of the training facilities and resources proposed by a training institution which applies for approval to conduct a course; or
- (b) quality assurance, whenever deemed necessary by the Director-General and as the case may require, to verify that an approved course is being conducted in accordance with the quality standards system of the training institution; or
- (c) renewal of the certificate of approval issued under regulation 87(1).

(2) The Authority shall conduct annual verification audits of approved training institutions and the conduct of an approved course in accordance with the following criteria—

- (a) course title;
- (b) lesson plan;
- (c) course duration;
- (d) facilities, teaching aids and equipment;
- (e) staff qualifications and experience;
- (f) examination and assessment procedures;
- (g) monitoring of entry requirements;
- (h) issue, control, authentication and recording of certification; and
- (i) quality management systems and procedures.

(3) The Director-General or a person authorized by the Director-General may visit the training institution, at a reasonable time, for the purposes of conducting any of the inspections or audit described under subregulations (1) and (2).

(4) The Director-General may authorize a person with appropriate qualifications and experience to conduct the audits referred to in subregulation (2).

(5) A report of the inspection or audit, including any recommendations, shall be submitted to the Director-General not more than five working days from the date of completion and shall-

- (a) include brief background information about the institution or training programme;
- (b) be full, fair and accurate;
- (c) highlight the strengths and weaknesses of the institution;
- (d) describe the evaluation procedure followed;
- (e) cover the various elements identified in audit criteria;
- (f) indicate the extent of compliance or non-compliance with the conditions for approval and the effectiveness, of the quality standards in ensuring the achievement of defined aims and objectives;
- (g) spell out areas found to be deficient; and
- (h) make recommendations to the Director-General as necessary.

(6) The Responsible Person of a training institution shall undertake, within thirty working days, any corrective action that may be required.

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(7) The audit report may recommend to the Director-General to refuse approval of a training institution or vary, suspend or revoke approval issued to a training institution.

(8) An approved training institution shall undertake periodic internal and external quality evaluations of its training activities.

*B-Requirements for training and assessment*

## **82. Supervision and monitoring of training**

(1) Any training course or programme leading to certification under these regulations shall be taught using an approved syllabus.

(2) Training institutions shall ensure that training and assessment is administered, supervised and monitored in accordance with the quality standards system required under regulation 79(6).

(3) An approved training institution shall—

- (a) furnish the Authority the particulars of students or course participants;
- (b) require experienced seafarers to obtain a letter of eligibility from the Authority before they are enrolled into a course;
- (c) make available to the Director-General the course commencement and completion dates, and the examination dates;
- (d) inform the Director-General, within five working days, of any change of instructor, supervisor or assessor in respect of a training course being conducted;
- (e) when required to do so—
  - (i) make available proposed examination question papers and their marking schemes and marked scripts of an examination;
  - (ii) furnish the Authority with the verified results of examination conducted by the training institution in respect of every course;
- (f) inform the Authority, without delay, of any situation or circumstance with the potential to cause delay or disruption of the training; and
- (g) submit to the Authority any changes to the course structure or syllabus.

(4) The Authority shall require a training institution to ensure classroom attendance rate of at least—

- (a) eighty percent for approved training courses leading to issuance of certificates of competency or certificates of proficiency under Parts III, IV, V and VIII; and
- (b) one hundred percent for courses leading to issuance of certificates of proficiency under Parts VI and VII.

## **83. Training assessment**

(1) All training and assessment of seafarers for certification and under these regulations shall be—

- (a) structured in accordance with the approved syllabus, including such methods and media of delivery, procedures, and course material as are necessary to achieve the prescribed standard of competence; and
- (b) structured in accordance with the Code of Seafarer Qualifications; and
- (c) conducted, monitored, evaluated and supported by persons qualified in accordance with regulation 85.

(2) Persons conducting in-service training or assessment to on board ship shall only do so when such training or assessment is not likely to adversely affect the normal operation of the ship and they can dedicate their time and attention to training or assessment.

(3) The training institution shall provide a certificate of course completion signed by an authorized person and indicating the written examination and—

- (a) the candidate's full name and student number;

- (b) the course or courses successfully completed;
- (c) for each subject, the subject mark, marks obtained in the final examination (if applicable), final marks and result; and
- (d) the duration of the course or courses.

#### **84. Approval of instructors, supervisors and assessors**

(1) No person shall be employed by a training institution as an instructor, supervisor or assessor unless that person possesses a valid letter of approval issued by the Authority.

(2) It shall be the responsibility of the Responsible Person of a training institution to ensure any person employed as an instructor, supervisor or assessor is duly approved by the Authority.

#### **85. Qualifications of instructors, supervisors and assessors**

(1) Persons responsible for the training and assessment of competence of seafarers, as required under these Regulations, shall be required to be appropriately qualified in accordance with subregulations (3), (4) and (5) for the type and level of training or assessment involved.

(2) Instructors, supervisors and assessors shall be required to be suitably qualified and experienced for the particular types and levels of training or assessment of competence of seafarers either on board or ashore in accordance with the provisions of this regulation.

(3) Subject to sub-regulations (4), (5) and (6), the appropriate qualification and experience required under subregulation (2) shall be specified in a *gazette* notice.

(4) 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 shall be required to—

- (a) have an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted;
- (b) be qualified in the task for which training is being conducted; and
- (c) if conducting training using a simulator to—
  - (i) have received appropriate guidance in instructional techniques involving the use of simulators; and
  - (ii) have gained practical operational experience on the particular type of simulator being used.

(5) Any person responsible for the supervision of in-service training of a seafarer intended to be used in qualifying for certification under these Regulations shall have a full understanding of the training programme and the specific objectives for each type of training being conducted.

(6) Any person conducting in-service assessment of competence of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under these Regulations shall—

- (a) have an appropriate level of knowledge and understanding of the competence to be assessed;
- (b) have appropriate training in instructional techniques, and training and assessment methods and practice;
- (c) be qualified in the task for which the assessment is being made;
- (d) have received appropriate guidance in assessment methods and practice;
- (e) have gained practical assessment experience; and
- (f) if conducting assessment involving the use of simulators, have gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor.

#### *C- Approval of courses and training institutions*

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[Subsidiary]

### **86. Approval of training course or syllabus**

(1) Education and training courses or programmes, including all refresher or updating courses, leading to the issuance of Certificates of Competency or Certificates of Proficiency under these regulations shall be required to be approved by the Authority.

(2) Only the course syllabus approved by the Authority shall be used for teaching and instruction of a particular course.

(3) Where an approved training institution develops a particular course, refresher course or updating course leading to certification under these regulations, the institution shall seek approval of the course from the Authority, and the syllabus for such a course or programme shall meet the specific competence requirements set out by these regulations.

(4) The Authority shall inform an approved training institution of any changes to the STCW Convention or Code that is likely to affect the syllabus, and the respective training institution shall provide details in writing of how it intends to incorporate such changes into the approved course.

(5) The Authority, may if satisfied through verification that the changes proposed under subregulation (4) are appropriately incorporated, will re-issue an approval letter.

### **87. Approval of training institutions**

(1) All training institutions conducting or intending to conduct a training course leading to certification under these Regulations shall hold a certificate of approval to conduct a specified course issued by the Authority.

(2) The certificate issued under subregulation (1) shall be—

- (a) valid for a period of four years; and
- (b) renewed by the Authority subject to the inspection specified in regulation 81 (1)(c).

(3) The format of the certificate of approval issued under subregulation (1) shall be as set out in the Fourth Schedule.

(4) The Director-General may, on application by a training institution, grant approval to the institution to—

- (a) conduct the course or courses specified in the application;
- (b) act as an approved examination centre for examination of the course or courses so specified; and
- (c) issue certificates to candidates of proficiency who successfully complete the courses so specified.

(5) Where an application is made for the approval of more than one course or training Programme, each shall be considered separately.

(6) An application contemplated in subregulation (4) shall be made in writing and shall be accompanied by the following particulars—

- (a) name and physical address of the training institution;
- (b) any relevant statutory accreditation or licensing;
- (c) relevant approvals, where applicable, for training facilities and equipment;
- (d) description of the course, and of its content, referenced to the relevant approved syllabus together with lecturers' study plans;
- (e) name of course instructor(s), assessor(s), supervisor(s) with a brief description of their qualifications and experience;
- (f) examination and assessment procedure with respect to each course;
- (g) training and assessment equipment and facilities with respect to each course;
- (h) a certified copy of an approved quality standards system prescribed under regulation 79 applicable to the training activities of the institution; and
- (i) any other requirement that may be specified by the Authority.

(7) For the purposes of the inspections and audit required under regulation 81(1), the Responsible Person of a training institution shall, on receipt of reasonable notice, make available—

- (a) for inspection, the equipment and training facilities in respect of each course; and
- (b) for interview and as may be required, course instructor(s), assessor(s) or supervisor(s).

(8) The Director-General may refuse approval or renewal, or vary, suspend or revoke the certificate of approval issued under sub-regulation (1) to a training institution if—

- (a) the training institution fails to take corrective action following an inspection or audit; or
- (b) the Director-General otherwise has reasonable grounds to refuse approval or vary, suspend or revoke such approval.

(9) Where the Director-General intends to vary, suspend or revoke approval under subregulation (8), he shall inform the training institution concerned accordingly.

### **88. Distance learning and e-learning.**

(1) Any distance learning and e-learning programme shall—

- (a) be provided by a training institution that is approved by the Authority;
- (b) be suitable for the selected objectives and training tasks to meet the competence level for the subject covered;
- (c) have clear and unambiguous instructions for the trainees to understand how the programme operates;
- (d) provide learning outcomes that meet all the requirements to provide the underpinning knowledge and proficiency of the subject;
- (e) be structured in a way that enables the trainee to systematically reflect on what has been learnt through both self-assessment and tutor-marked assignments; and
- (f) provide professional tutorial support through telephone, facsimile or e-mail communications.

(2) Companies shall ensure that a safe learning environment is provided and that there has been sufficient time provided to enable the trainee to study.

(3) Where e-learning is provided, common information formats such as XML (Extensible Markup Language), which is a flexible way to share both the format and the data on the World Wide Web, intranets, and elsewhere, may be used.

(4) The e-learning system shall be secured from tampering and attempts to hack into the system.

(5) The training institution shall ensure that approved assessment procedures are provided for any distance learning and e-learning programme, including-

- (a) clear information to the trainees on the way that tests and examinations are conducted and how the results are communicated;
- (b) have test questions that are comprehensive and will adequately assess a trainee's competence and are appropriate to the level being examined;
- (c) procedures in place to ensure questions are kept up to date;
- (d) the conditions where the examinations can take place and the procedures for invigilation to be conducted;
- (e) secure procedures for the examination system so that it will prevent cheating; and
- (f) secure validation procedures to record results for the benefit of the Authority.

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[Subsidiary]

## 89. Register of approved training institutions, courses and programmes

The Authority shall—

- (a) maintain a register of approved training institutions, courses or programmes; and
- (b) make available such a register to public, companies and other Administrations.

*D-Training and assessment within an institution*

## 90. Written examinations

(1) Written examinations shall be conducted by approved training institutions or where required, by the Authority, and shall cover the subjects required for each certificate or endorsement as specified in the course syllabus and the STCW Code so as to ensure that candidates have attained the standard of theoretical knowledge, understanding and proficiency.

(2) The Authority shall designate examiners who shall—

- (a) moderate examination question papers and their marking schemes and memoranda not less than ninety days before the appointed examination date;
- (b) mark any written examinations conducted by the Authority; and
- (c) re-mark examination scripts at the request of an approved training institution.

(3) Candidates for a certificate of competency shall be required to obtain a final aggregate pass-mark in written examinations as follows—

- (a) for master and deck officer certificates of competency, not less than sixty percent in—
  - (i) navigation; and
  - (ii) ship stability and construction;
- (b) for engineer officer certificate of competency, not less than sixty percent in—
  - (i) marine engineering;
  - (ii) electrical, electronic and control engineering, and
  - (iii) ship stability and construction.

(4) Where a candidate requests review of examination results in respect of examinations conducted by the Authority, the Chief Examiner's decision shall be final.

## 91. Levels of assessment

(1) Candidates for the issue of a certificate or an endorsement shall be assessed to verify that they meet the standards of competence set out in the STCW Code.

(2) The assessment required by subregulation (1) shall be at one or more of the following levels—

- (a) level 1 assessment carried out—
  - (i) during qualifying seagoing service on board a ship and recorded in a training record book;
  - (ii) during training at an approved training institution in a workshop and recorded in a workshop skills training record book;
- (b) level 2 assessment, carried out ashore which may take the form of written examination, the use of simulator or other appropriate means.
- (c) level 3 assessment, being oral examination conducted by an examiner.

(3) Only the master, designated shipboard training officer or relevant officer may sign off a unit of competency in a candidate's shipboard training record book when the candidate is considered to be ready for the next level of assessment and has successfully demonstrated competency in the unit as specified in the STCW Code.



(4) A candidate who is required to complete more than one level of assessment shall not be assessed at a higher level until he or she has demonstrated competency at the lower level, nor shall such a candidate be assessed at level 3 until all the relevant units of competency have been signed off at the lower levels of assessment by an assessor.

*E-Shipboard training and qualifying seagoing service*

**92. Shipboard training record book and workshop skills training record book**

(1) Cadet officers performing qualifying seagoing service on board a ship or undertaking approved workshop skills training ashore shall have an approved training record book or an approved workshop skills training record book.

(2) Ratings performing qualifying sea service required for issuance of a certificate of competency shall have—

- (i) a shipboard training record book; and
- (ii) for engine room ratings, a workshop skills training record book.

(3) Deck and engine trainee ratings, including ratings seeking to qualify as able seafarer deck or engine, shall have a shipboard training record book to provide evidence of shipboard training and experience.

(4) A shipboard training record book shall be—

- (a) used to document training tasks performed during approved qualifying seagoing service;
- (b) signed off and initialized by the designated Shipboard Training Officer and Master;
- (c) completed in full all relevant training tasks successfully completed and duly signed off upon assessment at Level 1;
- (d) submitted to the Authority when applying for a notice of eligibility; and
- (e) laid out in such a way that it provides detailed information about the tasks and duties that should be undertaken, and about the progress towards their completion;

(5) A workshop skills training book shall be—

- (a) used to document training tasks performed during approved workshop training;
- (b) signed off and initialized by an assessor;
- (c) completed in full all relevant training tasks successfully completed and duly signed off upon assessment at Level 1;
- (d) submitted to the Authority when applying for a notice of eligibility; and
- (e) laid out in such a way that it provides detailed information about the tasks and duties that should be undertaken, and about the progress towards their completion;

(6) Any shipboard training record book or workshop skills training book found to have been completed fraudulently shall result in its holder having to complete an additional twelve months' qualifying seagoing service;

(7) Only a shipboard training record book or a workshop training record book approved by the Director-General shall be used.

**93. Shipboard training**

(1) The company shall designate a Training Shipboard Officer who may be—

- (a) the Master or Chief Mate in the case of deck department; or
- (b) the Chief Engineer or Second Engineer in the case of engine department.

(2) The Shipboard Training Officer shall be required to be qualified in accordance with regulation 85(6).

(3) Every designated Shipboard Training Officer shall ensure that—

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- (a) appropriate periods are set aside for completion of the programme of on-board training within the normal operational requirements of the ship;
  - (b) at the beginning of the programme and at the start of each voyage on a different ship, trainees are given comprehensive information and guidance as to what is expected of them and how the training programme is to be conducted;
  - (c) ship's officers who are responsible for training and assessment know and understand their duties and responsibilities regarding training;
  - (d) during the required period of qualifying seagoing service, a trainee receives systematic practical training and experience in the tasks, duties and responsibilities relevant to the certificate desired, with due regard to the competencies specified in the STCW Code;
  - (e) assessments of a trainee are conducted, without undue delay, when the trainee is considered ready for assessment;
  - (f) the on-board training forms an integral part of the overall training plan;
  - (g) a comprehensive record is kept of all training conducted;
  - (h) guidance is given, when necessary, and ensure that the overall shipboard training programme is properly administered and conducted;
  - (i) the trainee's progress throughout such programme is monitored;
  - (j) the programme of practical training at sea is properly organized;
  - (k) the training record books are properly maintained and that all other requirements are met; and
  - (l) ensure so far as practicable, that the time the candidate spends on board is as useful as possible in terms of training and experience, and is consistent with the objectives of the training programme and the progress of training.
- (4) A master's responsibilities shall be to-
- (a) provide the link between the ship's officers responsible for training and the training officer ashore;
  - (b) designate, in writing, the ship's officers who are to be responsible for organizing and supervising on-board training for each voyage;
  - (c) ensure continuity in the case of any change of ship's officers during voyages; and
  - (d) ensure that all personnel concerned carry out effectively the on-board training programme.
- (5) Every trainee shall—
- (a) follow the programme of training;
  - (b) utilize fully the opportunities presented, both during and outside working hours; and
  - (c) keep his or her shipboard training record book up-to-date and available for inspection at all reasonable times.

**94. Approved seagoing service**

(1) The qualifying seagoing service required by these Regulations shall be required to be relevant to the qualification being applied for, bearing in mind that, apart from the initial familiarization with service in seagoing ships, the purpose of such service is to allow the seafarer to be instructed in and to practice, under appropriate supervision, those safe and proper seagoing practices, procedures and routines which are relevant to the qualification applied for.

(2) Subject to the functions specified in regulation 8, the qualifying seagoing service required shall—

- (a) for Master or deck officer certification, be relevant to the functions carried out by a Master or a deck officer;
- (b) for an engineer officer certification, be relevant to the functions carried out by officers associated with the engine department;
- (c) for a deck or engine rating certification, be relevant to the functions carried out by deck or engine room ratings; and
- (d) for the purpose of alternative certification, be relevant to:
  - (i) the functions contemplated in paragraphs (a) and (b); or
  - (ii) the combined functions contemplated in paragraph (c).

(3) At least six months of the qualifying seagoing service shall be required to be have been performed within the five years preceding the date of application for certification, and shall include service performed on a ship not registered in Kenya.

(4) Seagoing service performed on special types of ships shall be as specified in Code of Seafarer Qualifications.

### **95. Calculating qualifying service**

(1) Qualifying seagoing service shall—

- (a) be calculated from the date of engagement on a ship to the date of discharge from the ship; and
- (b) be calculated by taking the actual days between the days of engagement and discharge, both inclusive, excepting any days spent on leave of absence during engagement, and reckoning 30 days to a month, twelve months to a year.

(2) Service on board ships laid up in port, dock or under construction or an anchorage may be counted in part towards qualifying seagoing service, and claims in this respect shall be supported by statements signed by the master of the vessels served on, certifying that the duties carried out were appropriate to be counted towards seagoing service.

(3) Qualifying seagoing service claimed under subregulation (2) may not exceed three months.

### **96. Sea service testimonials and proof of watchkeeping service**

(1) Candidates applying for a first or subsequent certificate of competency shall be required to-

- (a) make a declaration of qualifying seagoing service;
- (b) produce duly completed Seafarer's Continuous Discharge Certificate and Record Book; and
- (c) produce a testimonial of the qualifying sea service being claimed

(2) Candidates for certificates other than first certificates of competency issued under regulations 25, 30 and 35 shall produce documentary evidence of watchkeeping service signed by the Master or Chief Engineer of the ships in which the service has been performed, and in the case of service as Master or Chief Engineer, the documentary evidence shall be signed by a responsible official of the company concerned.

(3) The testimonial required under paragraph (1)(c) and the documentary evidence of watchkeeping required under subregulation (2) shall-

- (a) for deck officers, contain at least—
  - (i) a statement from the Master, stating that the applicant performed bridge watchkeeping duties under his supervision or that of a qualified officer for at least 8 hours in every 24 hours' service;
  - (ii) period of service;
  - (iii) nature of voyage;
  - (iv) Ship particulars;

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- (v) nature of duties performed;
  - (vi) leave of absence while still on articles; and
  - (vii) number of days ship is laid up in port, dock, under construction or in anchorage;
- (b) for engine officers, contain at least—
- (i) a statement from the Chief Engineer, stating that the applicant performed engine watchkeeping duties under his supervision or that of a qualified officer for eight hours in every 24 hours' service claimed on ships having a continuously manned engine room; or 24 hours in every 72 hours' service claimed on ships having a periodically unmanned engine room;
  - (ii) period of service;
  - (iii) type of propulsion machinery and propulsion power (kilowatts) of the ship;
  - (iv) nature of duties performed;
  - (v) leave of absence while still on articles; and
  - (vi) number of days ship is laid up in port, dock or under construction or an anchorage.

**97. Removal of "coastal" limitation**

(1) The holder of a certificate limited to near-coastal voyages may apply for the removal of that limitation—

- (a) after completing—
    - (i) the qualifying seagoing service required for the certificate desired;
    - (ii) the units of competency required for the certificate desired;
    - (iii) any training courses not required for the certificate held but required for the certificate desired;
  - (b) at the conclusion of the required qualifying seagoing service, and having been assessed at Level 3; and
- (2) An applicant under subregulation (1) shall submit to the assessor—
- (a) satisfactory proof of having gained the qualifying seagoing service contemplated in subparagraph (1)(a)(i);
  - (b) a certificate of pass from an approved institution for the additional units of competency contemplated in subparagraph (1)(a)(ii);
  - (c) a duly completed shipboard training record book covering the period of service and the training contemplated in subparagraphs (1)(a)(i) and (ii) respectively; and
  - (d) a valid seafarer's medical certificate.

**98. Removal of tonnage limitation**

The holder of a certificate limited to a certain tonnage may apply for the removal of that limitation after completing—

- (a) the qualifying seagoing service required for each certificate leading up to the certificate desired; and
- (b) an assessment at level 3.

**99. Removal of propulsion power limitation**

The holder of a certificate limited to a certain propulsion power may apply for the removal of that limitation shall have propulsion power completed—

- (a) the qualifying seagoing service required for each certificate leading up to the certificate desired; and

- (b) an assessment at Level 3.

### **100. Recognition of seagoing service performed on board Kenya Navy ships**

(1) Subject to subregulation (4), the Authority may, for the purpose of certification under these regulations, recognize seagoing service performed on board Kenya Navy ships by—

- (a) officers of the deck department performing navigational duties; or
- (b) officers of the engine department; or
- (c) ratings performing either deck or engine duties

(2) The seagoing service recognized under sub-regulation (1) shall, subject to regulation 94(3)—

- (a) Be reckoned as half of the seagoing service required for certification; and
- (b) be not less than 36 months;

(3) A candidate for certification claiming seagoing service recognized under subregulation (1) shall—

- (a) perform the remainder of the required seagoing service on an appropriate merchant ship; and
- (b) meet the other requirements for certification specified for the relevant certificate.

(4) The Authority shall only recognize seagoing service performed on Kenya Navy ships subject to an agreement with the Kenya Navy.

### **101. Novel craft**

Documentary evidence of service on dynamically supported craft or other novel craft shall be submitted to a senior examiner for consideration.

#### ***F- Use of simulators***

### **102. Compliance with performance standards**

This division shall apply in respect of-

- (a) all mandatory simulator-based training;
- (b) any assessment of competency 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.

### **103. Performance standards for simulators used in training and simulators used in assessment of competence**

(1) Any simulator used for mandatory simulator-based training shall be required to—

- (a) be suitable for the selected objectives and training tasks;
- (b) be capable of simulating the operating capabilities of shipboard equipment concerned, to a level of physical realism appropriate to training objectives, and include the capabilities, limitations and possible errors of such equipment;
- (c) have sufficient behavioural realism to allow a trainee to acquire the skills appropriate to the training objectives;
- (d) provide a controlled operating environment, capable of producing a variety of conditions, which may include emergency, hazardous or unusual situations relevant to the training objectives;
- (e) provide an interface through which a trainee can interact with the equipment, the simulated environment and, as appropriate, the instructor; and
- (f) permit an instructor to control, monitor and record exercises for the effective debriefing of trainees.

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(2) Any simulator used for the assessment of competence required under these Regulations or for any demonstration of continued proficiency so required shall be required to-

- (a) be capable of satisfying the specified assessment objectives;
- (b) be capable of simulating the operational capabilities of the shipboard equipment concerned to a level of physical realism appropriate to the assessment objectives, and include the capabilities, limitations and possible errors of such equipment;
- (c) have sufficient behavioural realism to allow a candidate to exhibit the skills appropriate to the assessment objectives;
- (d) provide an interface through which a candidate can interact with the equipment and simulated environment;
- (e) provide a controlled operating environment, capable of producing a variety of conditions, which may include emergency, hazardous or unusual situations relevant to assessment objectives; and
- (f) permit an assessor to control, monitor and record exercises for the effective assessment of the performance of candidates.

(3) In addition to meeting the basic requirements set out in this regulation, simulation equipment to which these Regulations apply shall meet additional performance standards given in regulations 104 and 105 in accordance with their specific type.

#### **104. Radar simulation**

Radar simulation equipment shall be capable of simulating the operational capabilities of navigational radar equipment which meets all applicable performance standards adopted by the Organization and incorporate facilities to—

- (a) operate in the stabilized relative motion mode and sea- and ground stabilized true motion modes;
- (b) model weather, tidal streams, current, shadow sectors, spurious echoes and other propagation effects, and generate coastlines, navigational buoys and search and rescue transponders; and
- (c) create a real-time operating environment incorporating at least two own-ship stations with ability to change own ship's course and speed, and include parameters for at least twenty target ships and appropriate communication facilities.

#### **105. Automatic Radar Plotting Aid (ARPA) simulation**

ARPA simulation equipment shall be capable of simulating the operational capabilities of ARPAs which meet all applicable performance standards adopted by the Organization, and shall incorporate the facilities for—

- (a) manual and automatic target acquisition;
- (b) past track information;
- (c) use of exclusion areas;
- (d) vector/graphic time-scale and data display; and
- (e) trial manoeuvres.

#### **106. Simulator training objectives**

Training institutions conducting simulator-based training shall ensure that the aims and objectives of such training are defined training within an overall training programme and that specific objectives and tasks are selected so as to relate as closely as possible to shipboard tasks and practices.

#### **107. Training procedures**

In conducting mandatory simulator-based training, instructors shall ensure that—

- (a) trainees are adequately briefed beforehand on the exercise objectives and tasks and are given sufficient planning time before the exercise starts;
- (b) trainees have adequate familiarization time on the simulator and with its equipment before any training or assessment exercise commences;
- (c) guidance given and exercise stimuli are appropriate to the selected exercise objectives and tasks and to the level of trainee experience;
- (d) exercises are effectively monitored, supported as appropriate by audio and visual observation of trainee activity and pre-and post-exercise evaluation reports;
- (e) trainees are effectively debriefed to ensure that training objectives have been met and that operational skills demonstrated are of an acceptable standard;
- (f) the use of peer assessment during debriefing is encouraged; and
- (g) simulator exercises are designed and tested so as to ensure their suitability for the specified training objectives.

### **108. Assessment procedures**

Where simulators are used to assess the ability of candidates to demonstrate levels of competency, assessors shall ensure that—

- (a) performance criteria are identified clearly and explicitly and are valid and available to the candidates;
- (b) assessment criteria are established clearly and are explicit to ensure reliability and uniformity of assessment and to optimize objective measurement and evaluation, so that subjective judgements are kept to the minimum;
- (c) candidates are briefed clearly on the tasks and/or skills to be assessed and on the tasks and performance criteria by which their competency will be determined;
- (d) assessment of performance takes into account normal operating procedures and any behavioural interaction with other candidates on the simulator or with simulator staff;
- (e) scoring or grading methods to assess performance are used with caution until they have been validated; and
- (f) the prime criterion is that a candidate demonstrates the ability to carry out a task safely and effectively to the satisfaction of the assessor.

### **109. Qualifications of simulator instructors and assessors**

Simulator instructors and assessors shall be appropriately qualified and experienced for the particular types and levels of training and corresponding assessment of competence as specified in regulation 85.

#### ***G-Oral examination***

### **110. Appointment of examiners**

The Director-General shall—

- (a) appoint examiners to conduct oral examinations;
- (b) designate a senior examiner deck and engine, respectively; and
- (c) designate a chief examiner from amongst the appointed examiners.

### **111. Oral examination**

(1) The purpose of an oral examination shall be to ascertain a candidate's competency in the practical aspects of an officer's duties and shall be conducted by an examiner appointed under regulation 110.

(2) Candidates for the issue of Kenyan certificates of competency shall—

- (a) make an application for an oral examination to the Authority; and

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- (b) be required to demonstrate, through the oral examination, the standards of competence described in the relevant tables of standards of competency given in chapters II, III and IV of the STCW Code.

(3) A candidate shall not take the oral examination unless he has passed in the written examination.

(4) Every candidate for an oral examination shall be required to obtain from the Authority a letter of eligibility to sit for an oral examination which a letter shall be issued only upon verifying the authenticity and validity of the documentary evidence provided as proof of the following with respect to the candidate—

- (a) identity and age;
- (b) successful completion of an approved education and training programme;
- (c) medical fitness;
- (d) relevant qualifying seagoing service together with seagoing service testimonials; and
- (e) successful completion of the mandatory and ancillary training required for a particular certificate.

(5) The letter of eligibility under subregulation (4) shall—

- (a) specify the place of examination;
- (b) include other additional requirements, if any, to be met by the candidate;
- (c) be valid for a period of 3 years.

(6) A candidate may, during an oral examination, be required to complete a calculation or to elaborate upon a section of the syllabus applicable to the certificate or endorsement for which he is being examined.

(7) A candidate who fails an oral examination may re-sit examination at the following intervals—

- (a) second attempt, at least two weeks after the initial examination;
- (b) third attempt, at least two weeks after the second attempt; and
- (c) subsequent attempts, at least three weeks after the previous attempt.

(8) The examiner may reduce time periods between oral examination re-sits.

(9) Where a candidate exhibits a lack of basic competency across the syllabus or makes fundamental errors in areas of safety, the examiner may impose a seagoing service penalty not exceeding six months, which the candidate must complete before re-sitting the examination.

(10) A candidate who without reasonable excuse fails to appear for an oral examination at the appointed time and place may be deemed to have failed the examination.

## **112. Proof of identity**

Every candidate for a certificate or an endorsement shall furnish proof of his identity to the satisfaction of the Chief Examiner, in the form of a valid Kenyan identity card or passport or, in the case of a foreign citizen or resident, a valid passport or a Kenyan alien identity document.

## **113. Fraudulent Conduct**

A candidate who has been convicted of fraudulent conduct in relation to certificates as a seafarer or upon whom a penalty for fraud has been imposed under the Penal Code shall not be admitted to any examination for a certificate or endorsement before a period of at least 24 months has elapsed since the date of such conviction or the date of imposition of such penalty, as the case may be.



## PART XI – ENFORCEMENT

**114. Offences, penalties and defences**

(1) Any—

- (a) company or a master who has engaged a person not holding a certificate as required by these regulations;
- (b) master who has allowed any function or service in any capacity required by these regulations to be performed by a person not holding the required certificate, a valid dispensation or having the documentary proof required by regulation 11;
- (c) person has obtained by fraud or forged documents an engagement to perform any function or serve in any capacity required by these regulations to be performed or filled by a person holding a certificate or dispensation; or
- (d) person who fails to comply with any of the provisions of these Regulations or the Code of Seafarers' Qualifications in respect of ships or of seafarers duly certificated by the Authority;

commits an offence and shall be liable on, conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or both.

(2) In proceedings for an offence in terms of this regulation, it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

(3) In proceedings for an offence in terms of regulation 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 what was in fact done to satisfy the duty or requirement.

(4) Nothing in this regulation shall prevent the allocation of tasks for training under supervision or in cases of *force majeure*.

**115. Extension of all co-operation possible to any Party**

The Authority shall extend all co-operation possible to any Party which advises it of its intention to initiate proceedings, under its jurisdiction, against any company or any person stationed in Kenya who is believed on clear grounds to have been responsible for, or to have knowledge of, any apparent non-compliance with the corresponding regulations in that Party.

**116. Director-General may impose penalty upon admission of guilt**

(1) If any person—

- (a) admits to the Director-General that he or she has contravened any provision of these regulations, or that he has failed to comply with any such provision with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

the Director-General may, after such enquiry as he deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(2) The imposition of a penalty under subregulation (1) shall be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

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PART XII – TRANSITIONAL ARRANGEMENTS,  
SAVINGS AND REPEAL OF REGULATIONS**117. Transitional provisions and savings**

(1) Until 1st January 2017, the Authority may continue to—

- (a) continue to issue, recognize and endorse certificates in accordance with the provisions of the Convention which applied immediately prior to 1st January 2012 in respect of those seafarers who commenced approved seagoing service, an approved education and training programme or an approved training course before 1st July 2013; and
- (b) renew and revalidate certificates and endorsements in accordance with the provisions of the Convention which applied immediately prior to 1st January 2012.

(2) Any certificates in force at the commencement of these regulations which were issued under—

- (a) the Merchant Shipping Act 1967 (repealed); or
- (b) the Harbours Regulations, 1970; or
- (c) the Kenya Ports Authority Act (Chapter 391 of the Laws of Kenya).

shall be valid until the 1st of January 2017 and the holders of such certificates shall be required thereafter to obtain certification under these regulations.

(3) Notwithstanding regulation 118, certificates issued under the L.N. 115/2012 shall continue to be valid until they expire and shall thereafter be renewed under these regulations.

**118. Repeal of L.N. 115/2012**

The Merchant Shipping (Training and Certification) Regulations, 2012, are revoked.

## FIRST SCHEDULE

[r. 5(10)]

## FORMAT OF CERTIFICATES OF COMPETENCY

**1. Format of Certificates of Competency issued under Parts III and IV**

(Official seal)  
 REPUBLIC OF KENYA  
 Merchant Shipping Act 2009  
 Merchant Shipping (Training and Certification) Regulations

Certificate of Competency: \_\_\_\_\_  
 Certificate No.....

This is to certify that.....has been found duly qualified to hold this certificate of competency.....and is entitled under the Merchant Shipping Act(CAP 389) to serve onboard a merchant ship in any capacity requiring a certificate of competency of this class unless the holder is required to have additional training and sea service in accordance with the above Regulation

Date of Issue.....

(Official seal)  
 Signature.....  
 Name.....  
 Head of Seafarers' Training Examination and Certification

Signature of Orals Examiner  
 .....  
 Name of Orals Examiner

Particulars of holder \_\_\_\_\_

Passport no.....

Country of Birth.....

Date of birth.....

Signature of holder of the certificate.....

Photograph of holder of the certificate

\_\_\_\_\_  
 Limits of Near Coastal Voyages  
*The original of this certificate must be kept onboard while serving on a ship*

2. FORMAT OF CERTIFICATE OF COMPETENCY ISSUED UNDER PART V

Merchant Shipping

[Subsidiary]

(Official seal)

REPUBLIC OF KENYA

GMDSS Radio Operator Certificate of Competency: \_\_\_\_\_  
 Certificate No.....

This is to certify that..... has been found duly qualified to hold this Certificate of Competency under the provisions of the Radio Regulations annexed to the International Telecommunication Union Convention and regulation IV/2 of the international Convention on Standards of Training, Certification and Watchkeeping for Seafarers,1972, as amended from time to time.

It is also certified that the holder has made a declaration that he/she will preserve the secrecy of correspondence

AUTHORITY TO OPERATE RADIO APPARATUS

The holder of this certificate is hereby authorized to operate a ship radio station and a ship earth station established in a ship under license issued by the communications Authority of Kenya

The Kenya Maritime Authority may at any time suspend or cancel this authority in case of misconduct or contravention of any provision of the Merchant Shipping Act 2009, or any regulation framed thereunder on the part of the holder.

Date of issue.....  
 Date of expiry.....

(Official Seal)

Signature.....  
 Name.....

Head of Seafares' Training  
 Examination and Certification

Photograph of  
 holder of the  
 certificate

Particulars of holder

Passport No.....

Country of birth.....

Date of birth.....

Signature.....

*The original of this certificate must be kept onboard while serving on a ship*

3. FORMAT OF CERTIFICATE OF PROFICIENCY ISSUED TO RATINGS

(Official seal)  
REPUBLIC OF KENYA

Certificate of Proficiency as Rating: \_\_\_\_\_

Certificate No.:.....

The Government of Kenya certifies that the lawful holder has been found duly qualified as .....in accordance with the provisions of regulation.....of the International Convention on Standards of Training; Certification and Watchkeeping for seafarers, 1978, as amended , and competent to perform the following functions as the support level;

S/No	FUNCTION

Date of Issue.....

Date of expiry.....

(Official Seal)

Signature.....

Name.....

Head of Seafares' Training  
Examination and Certification

Photograph of  
holder of the  
certificate

Particulars of holder \_\_\_\_\_

Passport No.....

Country of birth.....

Date of birth.....

Signature.....

*The original of this certificate must be kept onboard while serving on a ship*

4. Format of Certificate of Proficiency issued under Parts III, IV, VI and VII

Merchant Shipping

[Subsidiary]

(Official seal)  
REPUBLIC OF KENYA

Certificate of Proficiency: \_\_\_\_\_

Certificate No.....

This is to certify that.....has been found duly qualified in/as\*.....in accordance with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for seafarers, 1978, as amended and has also met the criteria applicable to the issue of the certificate.

(Official Seal)

Signature.....

Name.....

Head of Seafares' Training  
Examination and Certification

\*delete as appropriate

Particulars of holder

Passport No.....

Country of birth.....

Date of birth.....

Signature of the holder of the Certificate.....

The validity of this certificate is hereby extended until.....

(Official seal)	Signature of duly authorized official
Date of revalidation.....	Name of duly authorized official

Photograph of holder of the certificate

*The original of this certificate must be kept onboard while serving on a ship*

SECOND SCHEDULE

[r. 10(3)]

FORMAT OF ENDORSEMENT USED TO ATTEST THE ISSUE OF A CERTIFICATE OF COMPETENCY

ENDORSEMENT ATTESTING THE ISSUE OF A CERTIFICATE UNDER PROVISIONS OF THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978, AS AMENDED

Endorsement No. ....

The Government of Kenya certifies that certificate of competency no.....has has been issued to.....who has been found duly qualified in accordance with the provisions of regulation .....of the convention, as amended, and has been found competent to perform the following functions, at the levels specified, subject to any limitations indicated until.....or until the date of expiry of any extension of the validity of this endorsement issued by Kenya Maritime Authority as may be shown overleaf:

FUNCTION	LEVEL	LIMITATIONS APPLYING ( IF ANY )

The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Administration:

CAPACITY	LIMITATIONS APPLYING(IF ANY)

Date of Issue.....

Date of expiry.....

(Official Seal)

Signature.....  
Name.....

Head of Seafares' Training  
Examination and Certification

Photograph of  
holder of the  
certificate

Particulars of holder

Passport No.....

Country of birth.....

Date of birth.....

Signature of the holder of the Certificate.....

Merchant Shipping

[Subsidiary]

The validity of this endorsement is hereby extended until.....	
(Official seal)  Date of revalidation.....	Signature of duly authorized official ..... Name of duly authorized official
The validity of this endorsement is hereby extended until.....	
(Official seal)  Date of revalidation.....	Signature of duly authorized official ..... Name of duly authorized official

*The Original of this endorsement shall be kept onboard while serving on a ship*

\_\_\_\_\_



THIRD SCHEDULE

[r. 10(4)]

FORMAT OF ENDORSEMENT ATTESTING TO THE RECOGNITION OF A CERTIFICATE

THIRD SCHEDULE	(R. 10(4))															
Format of endorsement attesting to the recognition of a certificate(Regulation(10(4) ( <i>Official seal</i> )																
REPUBLIC OF KENYA																
ENDORSEMENT ATTESTING THE RECOGNITION OF A CERTIFICATE UNDER THE PROVISIONS OF THE INTERNATIONAL CONVENTION ON STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978 AS AMENDED																
Endorsement No. ....																
The Government of Kenya certifies that certificate No.....issued to .....by or on behalf of the Government of .....is duly recognized in accordance with the provisions of regulations 1/10 of the above Convention, as amended, and the lawful holder is authorized to perform the following functions, at the level specified, subject to any limitations indicated until: .....or until the date of the expiry of any extension of the validity of this certificate as maybe shown overleaf:																
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">FUNCTION</th> <th style="width: 33%;">LEVEL</th> <th style="width: 34%;">LIMITATIONS APPLYING ( IF ANY )</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>		FUNCTION	LEVEL	LIMITATIONS APPLYING ( IF ANY )												
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CAPACITY	LIMITATIONS APPLYING(IF ANY)															
Date of Issue.....																
Date of expiry.....																
<div style="border: 1px solid black; padding: 5px; min-height: 100px;">                     (<i>Official Seal</i>)                       Signature.....                      Name.....                       Head of Seafares' Training                      Examination and Certification                       Name of duly authorized official                 </div>	<div style="border: 1px solid black; padding: 5px; text-align: center; min-height: 100px;">                     Photograph of                      holder of the                      certificate                 </div>															
Particulars of holder																
Passport no.....																

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Country of birth.....	
Date of birth.....	
Signature of the holder of the certificate.....	
The validity of this endorsement is hereby extended until.....	
(Official seal)	Signature of duly authorized official .....
Date of revalidation.....	Name of duly authorized official
The validity of this endorsement is hereby extended until.....	
(Official seal)	Signature of the authorized official .....
Date of revalidation.....	Name of duly authorized official
The Original of this endorsement shall be kept onboard while serving on a ship	

\_\_\_\_\_

FOURTH SCHEDULE

[r. 87]

CERTIFICATE OF APPROVAL TO CONDUCT A COURSE

**Certificate number**



**CERTIFICATE OF APPROVAL TO CONDUCT A COURSE  
(Regulation 87)**

**This is to certify that:**

.....(name of institution).....

having been assessed and found to comply with the requirements for approval in terms of the Merchant Shipping (Training and Certification) Regulations, 2016, is hereby approved to conduct ....  
(name of course).....

This approval is valid from.....(dd-mm-yyyy)..... to  
.....(dd-mm-yyyy) ..... and may subject to annual verification audits be renewed in accordance with the regulations.

-----SIGN-----

-----NAME-----  
DIRECTOR-GENERAL



**THE MERCHANT SHIPPING (KENYAN SEAFARERS'  
IDENTITY DOCUMENT) REGULATIONS**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation
2. Interpretation
3. Objects of the Regulations
4. Scope of application
5. Eligibility for a Kenyan SID
6. Application for a Kenyan SID
7. Form of Kenyan SID
8. Validity of Kenyan SID
9. Suspension, withdrawal and confiscation
10. Review
11. Renewal
12. Replacement
13. Continuous possession
14. Record of Kenyan SIDs
15. Focal Point
16. Quality control and evaluation
17. Recognition of Foreign SIDs
18. Shore leave
19. Transit and transfer
20. Offences and penalty

SCHEDULES

APPLICATION

FEES

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## THE MERCHANT SHIPPING (KENYAN SEAFARERS' IDENTITY DOCUMENT) REGULATIONS

[Legal Notice 174 of 2022]

### 1. Citation

These Regulations may be cited as the Merchant Shipping (Kenyan Seafarers' Identity Document) Regulations.

### 2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Merchant Shipping Act (Cap. 389);

"certificate of proficiency" means a certificate, other than a certificate of competency, issued to a seafarer indicating the relevant requirements of training, competencies or seagoing service that have been met;

"Convention" means the Seafarers' Identity Documents Convention, No. 185 (Revised in 2003);

"data" has the meaning assigned to it under section 2 of the Data Protection Act (Cap. 411C);

"Foreign SID" means a valid seafarers' identity document issued by a Member State in accordance with the Convention;

"holder" in respect of a Kenyan Seafarer's Identity Document, means the person to whom the Kenyan Seafarer's Identity Document is granted in accordance with these Regulations;

"immigration officer" has the meaning assigned to it under the Kenya Citizenship and Immigration Act (Cap. 170);

"Kenyan seafarer" means a citizen of Kenya employed, engaged or working in any capacity on board a vessel, including any person working on board commercial fishing vessels, engaged in international voyage;

"Kenyan SID" means a Kenyan Seafarer's Identity Document issued under these Regulations;

"Member State" means a State that is a signatory to the Convention;

"personal data" has the meaning assigned to it under section 2 of the Data Protection Act (Cap. 411C); and

"port officer" means an officer in a port empowered to enforce the legislation relating to public health, public safety, public order or national security, or any government officer assigned to perform any duty related thereto; and

"STCW safety training certificate" means a Standards of Training, Certification and Watchkeeping basic safety training certificate.

### 3. Objects of the Regulations

The purpose of these Regulations is to—

- (a) give effect to the provisions of the Seafarers' Identity Documents Convention, No. 185 (Revised in 2003); and
- (b) provide for the application, production, issuance and administration of Kenyan identity documents.

### 4. Scope of application

- (1) These Regulations shall apply to—

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- (a) Kenyan seafarers;
- (b) seafarers on board ships in Kenyan waters; and
- (c) seafarers crossing Kenyan borders.

(2) Except as otherwise provided, these Regulations shall not apply to seafarers working on board a ship of war.

(3) These Regulations shall be read alongside and not in derogation of the Conventions and Rules annotating various provisions of the International Civil Aviation Organization Document 9303 and the Convention.

(4) The provisions of the Data Protection Act (Cap 411C) relating to the rights of data subjects and responsibilities of data controllers and processors shall apply to these Regulations.

## 5. Eligibility for a Kenyan SID

(1) A person is eligible to apply for a Kenyan Seafarers' Identity Document if that person

- (a) is a person to whom these Regulations apply; and
- (b) meets the requirements under regulation 6.

(2) A Kenyan seafarer holding a valid continuous discharge certificate and record book, valid STCW safety training certificate and a valid Kenyan passport may apply for a Kenyan SID.

## 6. Application for a Kenyan SID

(1) An application for a Kenyan SID shall be—

- (a) made to the Authority in the form set out in the First Schedule;
- (b) accompanied by—
  - (i) a national identity card of the applicant;
  - (ii) a valid Kenyan passport;
  - (iii) a continuous discharge certificate and record book;
  - (iv) a valid STCW safety training certificate; and
  - (v) proof of payment of the application fee specified in the Second Schedule.

(2) Upon receipt of an application under subregulation (1), the Authority shall consider the application and may, in writing, require such additional information, from the applicant, as may be necessary to determine the application.

(3) The Authority may, after considering an application under this regulation—

- (a) issue a Kenyan SID to a successful applicant in the form set out under regulation 7; or
- (b) in writing, reject the application where—
  - (i) the application does not meet the specified requirements;
  - (ii) the applicant gives false material information for the purpose of obtaining the Kenyan SID;
  - (iii) the applicant submits an incomplete application; or
  - (iv) the applicant does not respond to the request for additional information in accordance with subregulation (2), and within seven days from the date the decision, notify the applicant of the decision thereof.

## 7. Form of Kenyan SID

(1) The Kenyan SID shall conform to the model set out in the Convention and, in particular, shall include the following details—

- (a) full name of the applicant;



- (b) the gender of the applicant;
  - (c) the date and place of birth of the applicant;
  - (d) the nationality of the applicant;
  - (e) any special physical characteristics that may assist identification of the applicant;
  - (f) digital and original photograph of the applicant; and
  - (g) the signature of the applicant.
- (2) Notwithstanding subregulation (1), the Director-General may specify—
- (a) any other particulars that may be considered necessary;
  - (b) additional biometric data to be incorporated in the Kenyan SID in line with the Convention.

## **8. Validity of Kenyan SID**

A Kenyan SID shall be valid for a period of five years from the date of issue.

## **9. Suspension, withdrawal and confiscation**

- (1) The Authority may suspend, withdraw or confiscate a Kenyan SID where the holder—
- (a) knowingly permits another person to use his or her Kenyan SID;
  - (b) is convicted of the offence of drug trafficking, money laundering, trafficking in persons and smuggling, an act of terrorism or any other international crime;
  - (c) is involved in fraud or the forgery of documents or transnational crimes; or
  - (d) the holder's continuous discharge certificate and record book or certificate of proficiency or certificate of competency is suspended or cancelled.
- (2) Where a Kenyan SID is suspended, withdrawn or confiscated under these Regulations, the Authority—
- (a) shall, in writing and within seven days from the date of the decision, notify the holder indicating the reasons for the suspension, withdrawal or confiscation;
  - (b) may require the holder to surrender the identification document in the case of withdrawal, suspension or confiscation; and
  - (c) shall notify the Director of Immigration Services of such suspension, withdrawal or confiscation.

## **10. Review**

A person who is aggrieved by the decision of the Authority to suspend, refuse to issue, withdraw or confiscate their Kenyan SID may, within fourteen days of the receipt of written notice of such suspension, refusal to issue, withdrawal or confiscation, apply to the Authority for a review of their decision.

## **11. Renewal**

- (1) Where a Kenyan SID expires, the holder may apply for a renewal of the Kenyan SID.
- (2) An application under subregulation (1) shall be—
- (a) made in the form set out in the First Schedule;
  - (b) accompanied by the fees specified in the Second Schedule; and
  - (c) accompanied by the original copy of the expired document.
- (3) Upon receipt of an application under this regulation, the Authority shall consider the application in the manner specified under regulation 6 and may issue a Kenyan SID to a successful applicant.

## **12. Replacement**

- (1) Where a Kenyan SID is defaced, destroyed, mutilated or lost, the holder shall apply for a replacement of the Kenyan SID.

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- (2) An application under subregulation (1) shall be—
- (a) made in the form set out in the First Schedule;
  - (b) accompanied by the fees specified in the Second Schedule; and
  - (c) accompanied by—
    - (i) a sworn affidavit explaining the circumstances surrounding the loss, defacing, destruction or mutilation of the document; and
    - (ii) the defaced, destroyed or mutilated document.
- (3) Where an application under this regulation is in respect of a lost or otherwise misplaced Kenyan SID—
- (a) the holder shall report the loss, theft or misplacement to—
    - (i) the nearest police station, where the Kenyan SID is lost or stolen while the holder is on land;
    - (ii) to the nearest Kenyan Mission, if the holder is resident outside the country; and
    - (iii) the master of the ship on which the seafarer is serving, where the Kenyan SID is lost or stolen at sea;
  - (b) the application shall be accompanied by—
    - (i) a police abstract report; and
    - (ii) a signed handwritten letter explaining the circumstances surrounding the loss or misplacement of the document.
- (4) Upon receipt of an application under this regulation, the Authority shall consider the application in the manner specified under regulation 6 and may issue a new Kenyan SID to a successful applicant.
- (5) Upon replacement of a Kenyan SID under this regulation—
- (a) the defaced, destroyed, mutilated or lost Kenyan SID shall be cancelled; and
  - (b) the Authority shall notify the Director of Immigration of the replacement.

**13. Continuous possession**

A holder of a Kenyan SID shall, at all times, keep the Kenyan SID in his or her possession, except when, with the seafarer's written consent, the Kenyan SID is held for safekeeping by the master of the ship on which the seafarer is serving.

**14. Record of Kenyan SIDs**

- (1) The Authority shall maintain an electronic database of each Kenyan Seafarers' Identity Document issued, suspended or withdrawn under these Regulations.
- (2) The Authority and all other respective institutions shall take all necessary measures to ensure that the database is free from interference or unauthorised access.
- (3) The information contained in the record under this regulation shall be restricted to details which are essential for the purposes of verifying a Kenyan SID or the status of a seafarer and which are consistent with the seafarer's right to privacy and the data protection requirements specified in the Data Protection Act (Cap. 411C).
- (4) A person shall not exchange any data relating to photographs without the express written consent of the Authority which consent shall contain a mechanism to ensure that appropriate data protection and privacy standards are adhered to.
- (5) The personal data on the electronic database shall not be used for any purpose other than verification of the Kenyan SID.

**15. Focal Point**

The Authority shall designate a focal point to address inquiries from the immigration authorities or other competent authorities of Member States to the International Labor Organisation relating to the authenticity and validity of a Kenyan SID.

**16. Quality control and evaluation**

(1) The Director-General shall, in line with the Convention, the Act and these Regulations, oversee the implementation of processes and procedures for the issuance of Kenyan SID including quality control procedures.

(2) The processes and procedures in subregulation (1) shall be subject to an independent evaluation every five years.

(3) The Director-General shall, subject to the removal of any confidential material, provide the reports of evaluations under this regulation to the Director-General of the International Labor Organisation and copied to the representative organizations of shipowners and seafarers in Kenya.

**17. Recognition of Foreign SIDs**

(1) A seafarer who holds a valid Foreign SID shall be recognised as a seafarer in Kenya unless there are reasonable grounds challenging the authenticity of that SID.

(2) Where the recognition under subregulation (1) is in respect of a seafarer under regulation 18 or 19, the verification and inquiries undertaken thereto shall be—

- (a) at no cost to the seafarer or shipowner;
- (b) carried out in the shortest possible time:

Provided that reasonable advance notice of the holder's arrival into Kenya shall be given to the immigration officer.

**18. Shore leave**

(1) Where a seafarer seeking access to temporary shore leave presents a Foreign SID to an immigration officer, the immigration officer shall, in the shortest possible time, permit the seafarer entry into Kenya while the ship is in port unless—

- (a) there are reasonable grounds to challenge the authenticity of the Foreign SID presented;
- (b) the formalities on arrival of the ship have not been fulfilled; or
- (c) the port officers have reason to refuse entry on grounds of public health, public safety, public order or national security.

(2) A seafarer holding a valid Foreign SID shall not be required to acquire a visa for the purpose of temporary shore leave.

**19. Transit and transfer**

(1) An immigration officer shall, in the shortest possible time, permit the entry of a seafarer holding a valid Foreign SID accompanied by a valid passport, when the entry is requested for the purpose of—

- (a) joining a ship or transferring to another ship;
- (b) passing in transit to join a ship in another country or for repatriation; or
- (c) any other purpose approved by the relevant authorities of the Member State concerned.

(2) The entry under subregulation (1) shall not be allowed where—

- (a) clear grounds exist for challenging the authenticity of the Foreign SID; or
- (b) port officers have reason to refuse entry on grounds of public health, public safety, public order or national security.

(3) An immigration officer may, before permitting entry into Kenya for under subregulation (1), require satisfactory evidence, including documentary evidence, of a seafarer's intention and ability to carry out that intention.

(4) The immigration officer may also limit the seafarer's stay to a period considered reasonable for the purpose in question.

[Subsidiary]

**20. Offences and penalty**

A person who—

- (a) makes, whether within or outside Kenya, a false declaration or statement, with knowledge or reasonable cause to believe to be false or misleading, for the purpose of obtaining or assisting another person to obtain a Kenyan SID;
- (b) forges, alters, destroys or wilfully defaces a Kenyan SID;
- (c) knowingly uses or possess' a forged or alter Kenyan SID;
- (d) knowingly possess' a Kenyan SID which he cannot reasonably account of its possession;
- (e) knowingly gives, sells or parts with the possession of a Kenyan SID to be used by another person;
- (f) without prior written approval of the Director-General, uses or in any manner publishes any name, description, title or symbol indicating, conveying or purporting to indicate or convey or leads other persons to infer that such action is carried on under or by virtue of the provisions of these Regulations;
- (g) presents a forged, altered or false document for the purposes of obtaining a Kenyan SID;
- (h) counterfeits a Kenyan SID;
- (i) without any lawful cause, confiscates, forcefully takes or detains a Kenyan SID issued to another person;
- (j) contravenes any requirement imposed under these Regulations relating to surrender of a Kenyan SID;
- (k) prints, publishes or possess' a document, card, booklet or paper, purporting, either by reason of the use of the word "Kenyan Seafarers' Identity Document", "Kenyan SID" or by reason of the contents thereof, to be a Kenyan SID, or a Foreign SID; or
- (l) uses a Kenyan SID issued to another person,

commits an offence and shall be liable, on conviction, to the penalty specified in section 412A of the Act.

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FIRST SCHEDULE

[r. 6(1), 11(2), r. 12(2)]

APPLICATION

**REPUBLIC OF KENYA**

**APPLICATION FOR A KENYAN SEAFARERS' IDENTITY DOCUMENT**

**(KENYAN SEAFARERS' IDENTITY DOCUMENT)**

*Issued in accordance with section 200 of the Merchant Shipping Act, 2009*

APPLICATION TYPE:

(where applicable)

# First Application

# Renewal

# Replacement

WARNING TO APPLICANTS:

*A false declaration may lead to legal proceedings*

**PART I**

Surname .....

Given Names .....

Place of Birth ..... Date of Birth ..... DD/MM/YYYY

Nationality .....

I.D Card Number .....

Passport Number .....

CDC Number .....

Colour of eyes ..... Height .....

Special peculiarities (If any) .....

Next of Kin (Relative / Guardian):

Name .....

Relationship .....

Place of Residence ..... County .....

City .....Street Name ..... House Number/  
Block .....

Address: .....

Telephone Number .....

Email Address .....

Next of kin ID Number .....

Next of Kin (Relative / Guardian):—

Name .....

Relationship .....

Place of Residence .....County .....

City ..... Street Name ..... House Number/  
Block .....

Address: .....

Telephone Number .....

Email Address .....

Next of kin ID Number .....

*For replacement of expired / lost / stolen / defaced / destroyed / mutilated Kenyan Seafarers' Identity Document:*

Defaced / Destroyed / Mutilated Kenyan Seafarers' Identity Document

1. Submit sworn affidavit explaining the circumstances
2. Submit defaced / destroyed / mutilated Kenyan Seafarers' Identity Document

**Expired Kenyan Seafarers' Identity Document**

1. Submit expired Kenyan Seafarers' Identity Document

**Lost Kenyan Seafarers' Identity Document**

1. Submit Police abstract report

Merchant Shipping

[Subsidiary]

- 2. Submit sworn affidavit explaining the circumstances
- 3. Submit hand written letter explaining the circumstances

**PART II:  
DECLARATION**

I apply for the issue of a Kenyan Seafarer’s Identity Document and certify that the particulars given are true. I declare that I am a Kenyan seafarer.

Signature of applicant .....

Date .....

**Part III**

*For official use*

*Applicant MUST NOT WRITE here.*

- 1. DULY FILLED KMA SID APPLICATION FORM ATTACHED
- 2. SCANNED COPY OF NATIONAL AND PASSPORT ATTACHED.
- 3. SCANNED COPY OF CDC
- 4. JPEG PASSPORT PHOTOGRAPH (Dimensions 50mm by 40mm)
- 5. SCANNED COPY OF BANK SLIP:
- 6. PRESCRIBED FEE FOR NEW/REPLACEMENT/ RENEWAL/LOST SID

RENEWAL:

NEW	#
RENEWAL	#
DEFACED	#
DESTROYED	#
MUTILATED	#
LOST	#

*Received* by: *Signature*.....  
*Date*.....

*Recommended for Issuance*

Yes # No #

*Signature* ..... *Date*.....

*Approved for issuance*

*Signature* ..... *Date*

*Registrar of Seafarers*

SECOND SCHEDULE  
[r. 6(1), 11(2), 12(2)]

FEES

	ITEM	CHARGES (USD)
1.	First application for Kenyan Seafarers' Identify Documents	20

*Merchant Shipping*

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[Subsidiary]

- 2. Renewal of a Kenyan Kenyan Seafarers'20 Identify Documents
  - 3. Replacement Kenyan Seafarers' Identify 25 Documents
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