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## STATUTORY INSTRUMENTS

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1984 No. 1115

### MERCHANT SHIPPING

### SAFETY

## THE FISHING VESSELS (CERTIFICATION OF DECK OFFICERS AND ENGINEER OFFICERS) REGULATIONS 1984

*Text of the Regulations as they have effect in the Isle of Man. Amendments are indicated by  
**Bold italics***

<i>MANX EXTENDING INSTRUMENT</i>	<i>UK S.I.s APPLIED</i>
1. Merchant Shipping (Masters and Seamen) (Application No.2) Order 1984 (GC 18/85)	1984/1115
2. Merchant Shipping (Masters and Seamen) (Application and Amendment) Order 1999 (SD 299/99)	1998/1013

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1984 No. 1115

### MERCHANT SHIPPING

### SAFETY

## THE FISHING VESSELS (CERTIFICATION OF DECK OFFICERS AND ENGINEER OFFICERS) REGULATIONS 1984

*Made* : 23<sup>rd</sup> July 1984

*Laid before Parliament* : 10<sup>th</sup> August 1984

*Coming into Operation*

(a) *for the purposes of Parts I  
(except Regulation 1(3))  
and III* : 1<sup>st</sup> September 1984

(b) *for all other purposes* : 1<sup>st</sup> January 1987

The Secretary of State for Transport, being satisfied that it is necessary or expedient in the interests of safety to make the following Regulations in so far as they require fishing vessels and government fishery research vessels to carry qualified deck officers and engineer officers, and after consulting with the organisations referred to in section 99(2) of the Merchant Shipping Act 1970 <sup>(a)</sup> and the persons referred to in section 22(2) of the Merchant Shipping Act 1979 <sup>(b)</sup>, in exercise of the powers conferred by section 43 of the said Act of 1970 <sup>(c)</sup>, and now vested in him <sup>(d)</sup>, and of section 21(1)(a), (3)(e), (5) and (6)(b) and (bb) and section 22(1)(a) and (3)(a) of the said Act of 1979 <sup>(e)</sup>, and of all other powers enabling him in that behalf, hereby makes the following Regulations :

### PART I - GENERAL

#### Citation, commencement, interpretation, and revocation

1.- (1) These Regulations may be cited as the Fishing Vessels (Certification of Deck Officers and Engineer Officers) Regulations 1984 and shall come into operation (a) for the purposes of Parts I (except regulation 1(3)) and III on **1<sup>st</sup> February 1985** and (b) for all other purposes, on 1<sup>st</sup> January, 1987.

(2) In these Regulations :

“the Act of 1894” means the Merchant Shipping Act 1894 <sup>(f)</sup>;

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- (a) 1970 c. 36 (b) 1979 c. 39  
(c) Section 43 was amended by sections 37(2) and (3), 43(1) and Part IV of Schedule 6 to the Merchant Shipping Act 1979.  
(d) See S.I. 1979/1537  
(e) Section 21(6)(b) and (bb) were substituted by section 49(3)(a) of the Criminal Justice Act 1982 (c.48)  
(f) 1894 c. 60

“the Act of 1970” means the Merchant Shipping Act 1970 ;

“the Act of 1979” means the Merchant Shipping Act 1979;

“fishing vessel” means a vessel for the time being employed in sea fishing but does not include a vessel used otherwise than for profit;

“length” in relation to a fishing vessel, means the length shown on the vessel’s certificate of registry;

“limited area” means any location within the area bounded by a line from a point on the Norwegian coast in latitude 62°N due west to a point 62°N 3°W; thence to a point 58°N 10°W; thence to a point 53°N 12°W; thence to a point 49°N 12°W; thence to a point 46° 30’N 6°W; and thence due East to the French coast;

“Merchant Shipping Notice” means a Notice described as such issued by the Secretary of State;

“propulsive power” means, in relation to a fishing vessel, the brake or shaft power specified in either the vessel’s certificate of registry or the record of particulars of a *fishing vessel registered in the Isle of Man under Part III of the Merchant Shipping Registration Act 1991* <sup>(g)</sup> required by Rule 125(2) of the Fishing Vessel (Safety Provisions) Rules 1975 <sup>(h)</sup> ; in either case the power so defined shall be the total continuous rated brake or shaft power of all the propulsion engines, irrespective of whether some of the power may be diverted from the propulsion shafts or whether or not all the power is normally used;

“specified by the Secretary of State” means specified in the Department of Transport Merchant Shipping publications entitled “Examinations for Certificates of Competency for Fishing Vessels: Deck Officer Requirements Syllabuses and Specimen Papers” and “Examinations for Certificates of Competency for Fishing Vessels: Marine Engineer Officer Requirements Syllabuses and Specimen Papers” both to be published by Her Majesty’s Stationery Office, or in any document amending or replacing those publications which is specified in a Merchant Shipping Notice;

“unlimited area” means any location not within the limited area.

“United Kingdom ship” (*Definition omitted by GC 18/85*)

(3) The Merchant Shipping (Fishing Boats) Order 1948 <sup>(i)</sup> , the Merchant Shipping (Fishing Boats) (Amendment) Order 1976 <sup>(j)</sup> , and the Merchant Shipping (United Kingdom Fishing Vessels : Manning) Regulations 1980 <sup>(k)</sup> are hereby revoked.

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(g) 1991 c. 15

(h) S.I. 1975/330; to which there are amendments not relevant to these Regulations.

(i) S.I. 1948/366

(j) Si. 1976/455

(k) S.I. 1980/1227

## Exemptions

2. The *Department of Trade and Industry after consultation with the* Secretary of State 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 *it* may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

## PART II - MANNING REQUIREMENTS

### Deck Officers

3. Every *sea-going fishing vessel or Government fishery research vessel registered in the Isle of Man under Part III of the Merchant Shipping Registration Act 1991* which

- (a) operates in the unlimited area; or
- (b) being 16.5 metres in length or more, operates in the limited area,

of a description set out in column 2 of Table 1 when going to sea to the fishing area set out in relation to that description of vessel in column 1 of the said Table shall carry at least such number of qualified officers as are set out in column 3 of that Table.

**TABLE 1**

Column 1	Column 2	Column 3		
Fishing area	Length of vessel	Minimum number of qualified deck officers to be carried		
		Class 1 (Fishing vessel) Certificate	Class 2 (Fishing vessel) Certificate	Class 3 (Fishing vessel) Certificate
Unlimited	40 metres and over	2	1	Not applicable
Unlimited	Under 40 metres	1	1	Not applicable
Limited	30 metres and over	1	1	Not applicable
Limited	24 metres or more but under 30 metres	-	1	1
Limited	16.5 metres or more but under 24 metres	-	1	-

## **Engineer Officers**

4. Every *sea-going fishing vessel or Government fishery research vessel registered in the Isle of Man under Part III of the Merchant Shipping Registration Act 1991* which has a propulsive power of 750 kilowatt or more, when going to sea shall carry at least two qualified engineer officers, namely a chief engineer holding a Class 1 (Fishing Vessels) Certificate and a second engineer holding a Class 2 (Fishing Vessels) Certificate.

## **Qualification**

5. (1) For the purposes of these Regulations an officer shall be qualified if he is the holder for the time being of a certificate of competency issued under these Regulations, or of a certificate which is to be treated as equivalent to such a certificate by virtue of these Regulations and, at the material time, such certificate is in force in relation to the person named in it and is of a type (whether deck or engineer) and class appropriate to the officer's capacity in the vessel.

(2) The provisions of regulations 3 and 4, insofar as they impose a requirement with respect to the carrying in a vessel of a qualified officer who is the holder of a certificate of competency issued under these Regulations of a particular class, shall be treated as complied with if the officer who is carried in pursuance of that requirement is the holder of a certificate of competency issued under these Regulations of a higher class or of a certificate which is to be treated as equivalent to such a certificate of a higher class by virtue of these Regulations.

## **PART III - CERTIFICATION OF OFFICERS**

### **Certificates of competency**

6. (1) Certificates of competency issued in accordance with these Regulations shall be of the following classes, that is to say :

- (a) Deck Officer Certificate of Competency (Fishing Vessel) Class 1  
Deck Officer Certificate of Competency (Fishing Vessel) Class 2  
Deck Officer Certificate of Competency (Fishing Vessel) Class 3
- (b) Engineer Officer Certificate of Competency (Fishing Vessel) Class 1  
Engineer Officer Certificate of Competency (Fishing Vessel) Class 2.

(2) For the purposes of these Regulations, a certificate of competency of a class set out in the list contained in either paragraph (a) or paragraph (b) above shall be treated as being a certificate of a higher class than a certificate of any class which is set out after it in that list.

## Certificates equivalent to a certificate of competency

7 (1) An existing Certificate of Competency granted under section 414 of the Act of 1894 shall be deemed for the purposes of these Regulations and of **sections 35 to 44 and 56(2) of the Merchant Shipping (Masters and Seamen) Act 1979 (An Act of Tynwald)** <sup>(m)</sup> to be a certificate issued under section 43 of the Act of 1970 and such a certificate of a class set out in column 1 of Table 2 shall be treated as equivalent to a certificate of competency issued under these Regulations of a class set out opposite thereto in column 2 of that Table.

**TABLE 2**

Column 1	Column 2
Class of 1894 Certificate	Equivalent Class of Certificate of competency (Deck Officer) issued under these Regulations
Skipper (Full)	Class 1
Second Hand (Full)	Class 1 restricted to use as second in command
Skipper (Limited)	Class 1 in the limited area; Class 2 in the unlimited area
Second Hand (Special)	Class 2 in the limited area only
Second Hand (Limited)	Class 2 in the limited area only, restricted to use as second in command

(2) Deck officer certificates of service of a description set out in column 1 of Table 3 **issued before 8<sup>th</sup> May 1998** shall be treated as equivalent to a deck officer certificate of competency issued under these Regulations of the class set out in column 2 of that Table opposite that description of certificate of service.

**TABLE 3**

Column 1	Column 2
Certificate of Service	Equivalent class of certificate of competency (Deck Officer) under these Regulations
<b><i>Skipper in vessels of 16.5 metres or more in length, but under 24 metres in length, in the limited area and operating from the Isle of Man</i></b>	Class 2 in the limited area

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(m) 1979 c. 14

Certificate of Service	Equivalent class of certificate of competency (Deck Officer) under these Regulations
Third Hand in vessels of 40 metres or more	Class 2 in the unlimited area restricted to service as watchkeeping officer but not as first or second in command; Class 3 in the limited area
Second Hand in vessels of less than 50 tons but of 25 tons or more or of 16.5 metres or more	Class 3 in the limited area

(3) Engineer officer certificates of service class 1 and class 2 *issued before 8<sup>th</sup> May 1998* shall be treated as equivalent to an engineer officer certificate of competency issued under these Regulations of the corresponding numbered class.

#### **Standards and conditions for the issue of Certificates**

8. (1) Subject to paragraph (3) below :
- (a) the standards of competency to be attained and the conditions to be satisfied by a person before he may be issued with a certificate of competency under these Regulations, including any exceptions applicable with respect to any such standards or conditions;
  - (b) the manner in which the attainment of any such standards or the satisfaction of any such conditions is to be evidenced; and
  - (c) the conduct of any examination for that purpose and the conditions of admission thereto

shall be such as may be specified by the Secretary of State either in relation to certificates of competency in general or to a particular class as may be so specified.

(2) *[Omitted by S.I. 1998/1013].*

(3) Notwithstanding that an applicant for *a certificate of competency or a certificate of equivalent competency* complies with the standards or fulfils the conditions specified by, or by virtue of, the foregoing provisions of this regulation, the Secretary of State shall not issue the 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 competently in the capacity to which it relates. If the Secretary of State intends to refuse the issue of a certificate to any such applicant on either of these grounds he shall give notice in writing to the applicant who shall have the right to make representations to the Secretary of State.

## **Form, validity, record and surrender of Certificates**

9. (1) Certificates of competency and *certificates of equivalent competency* shall be issued in duplicate, on receipt of any fee payable, the original to be delivered to the person entitled to the certificate and the duplicate to be retained by the Secretary of State.

(2) A certificate shall remain valid for sea-going service only so long as the holder can comply with the standards and conditions as to medical fitness and competency to act in the appropriate capacity specified by the Secretary of State.

(3) A record of all certificates of competency and of all certificates of service issued under these Regulations and of the suspension, cancellation or alteration of, and any other matters affecting, any such certificate shall be kept, in such manner as the Secretary of State may require, by the Registrar General of Shipping and Seamen or by such other person as the Secretary of State may direct.

(4) Where the holder of a certificate of a particular class issued under these Regulations is issued with such a certificate of a higher class, he shall surrender the first mentioned certificate to the Secretary of State, or to such person as the Secretary of State directs, for cancellation.

(5) Where a person is convicted of an offence under *section 35 of the Merchant Shipping (Masters and Seamen) Act 1979 (An Act of Tynwald)*, or where a certificate is issued and the conditions for its issue specified by, or by virtue of, these Regulations have not been complied with, then the holder of the relevant certificate shall at the direction of the Secretary of State deliver it to the Secretary of State, or such person as the Secretary of State directs, for cancellation.

## **Loss of certificates**

10. If a person entitled to a certificate of competency or a certificate of service proves to the satisfaction of the Secretary of State that he has, without fault on his part, lost or been deprived of a certificate already issued to him, the Secretary of State shall, and where he is not so satisfied may, upon receipt of any fee payable, cause a copy of the certificate to which the said person appears to be entitled to be issued to him. Any such copy shall, before it is so issued, be certified as such by the Registrar General of Shipping and Seamen or, as the case may be, by such person as the Secretary of State may have directed to keep the record referred to in regulation 9(3) above.

## **PART IV - WATCHKEEPING REQUIREMENTS**

### **Officers to act only in a capacity for which certificated**

11. (1) No person shall act in a capacity which requires a certificate of competency or certificate of service under the Regulations unless he holds an appropriate certificate :

Provided that in the event of the death or incapacity of any officer required to be certificated under these Regulations, a deck officer or engineer officer, as appropriate, who is not certificated to act in that capacity may act in the certificated capacity until the vessel reaches the next intended port of call.



(2) Except in the case of vessels of less than 24 metres in length operating in the limited area, the skipper shall not permit any person to be in charge of a navigational watch unless that person holds a certificate of competency or certificate of service of the class required by these Regulations to be held by a deck officer required to be carried in that vessel at that time.

(3) No person shall appoint any other person to act in a capacity for which he is not duly qualified in accordance with these Regulations.

## **Offences and penalties**

12 Any contravention

- (a) by any person of regulation 11(1) or (3) of these Regulations, or
- (b) by any skipper of regulation 11(2) of these Regulations,

shall be an offence punishable on summary conviction by a fine not exceeding £2,000 and on conviction on *information* by imprisonment for a term not exceeding two years and a fine.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations)*

These Regulations require certain *sea-going fishing vessels or Government fishery research vessels registered in the Isle of Man under Part III of the Merchant Shipping Registration Act 1991* to carry a specified number of deck and engineer officers (regulations 3 and 4). Such officers must be qualified by holding an appropriate certificate of competency issued under these Regulations or an equivalent certificate (regulation 5). Existing certificates of competency issued under section 414 of the Merchant Shipping Act 1894 and certificates of service issued under these Regulations are to be treated as equivalent to specified certificates of competency issued under these Regulations (regulation 7).

Provision is made for specification by the Secretary of State of the standards and conditions for the issue of certificates of competency under these Regulations. The conditions for the issue of certificates of service are set out (regulation 8). Offences are created in the following cases :

- (a) acting in a capacity requiring a certificate without holding an appropriate certificate;
- (b) by a skipper permitting a person who does not hold an appropriate certificate to be in charge of a navigational watch;
- (c) appointing any person to act in a capacity for which he is not qualified under the Regulations (regulations 11 and 12).

Other relevant offences are contained in the *Merchant Shipping (Masters and Seamen) Act 1979* : making a false statement to obtain a certificate or other document (*section 35*) ; going to sea undermanned (*section 37*) ; and going to sea as a qualified person when unqualified (*section 38*).

The Merchant Shipping (Fishing Boats) Order 1948, the Merchant Shipping (Fishing Boats) (Amendment) Order 1976, and the Merchant Shipping (United Kingdom Fishing Vessels : Manning) Regulations 1980 are revoked (regulation 1(3)).

The Department of Transport publications setting out the detailed requirements regarding the certificates of competency may be amended or replaced, and such changes will be published in Merchant Shipping Notices obtainable from the Department of Transport Marine Library, Sunley House, 90 High Holborn London WC1 and from any Department of Transport Marine Office.

Provisions of the Regulations which enable certificates to be issued under the Regulations come into operation on *1<sup>st</sup> February 1985* , and other provisions come into operation on *1<sup>st</sup> January 1987*