

BERMUDA STATUTORY INSTRUMENT

BR 57/1998

MERCHANT SHIPPING ACT 1979

[made under section 41 of the Merchant Shipping Act 1979 [title 31 item 16] and brought into operation on 7 August 1998]

Citation

1 These Regulations may be cited as the Merchant Shipping (Certification, Manning and Watchkeeping) Regulations 1998.

Interpretation

2 (1) In these Regulations, unless the context otherwise requires—

"the Act" means the Merchant Shipping Act 1979 [*title 31 item 16*];

"appropriate certificate" means a certificate issued and endorsed in accordance with the provisions 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 on a ship of the type, tonnage, power and means of propulsion indicated by the endorsement while engaged on the particular voyage concerned;

"approved" (and "approved" in the STCW Convention so far as given effect by these Regulations) means approved by the Minister;

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"authorised person" means a person authorised by the Minister for the purpose of these Regulations;

"Bermuda Legal and Administrative Processes (BLAP)" means the appropriate knowledge of maritime legislation of Bermuda relevant to the functions which the master, chief mate, chief engineer officer and second engineer officer are required to perform;

"Bermuda Endorsement" means an endorsement issued by the Minister attesting the recognition of a certificate under the provisions of regulation 5;

"Bermuda ship" means a ship registered in Bermuda;

"certificate of competency" means a certificate issued by the Minister for the purposes of regulation 4 (other than a Bermuda Endorsement);

"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;

"company" includes an individual, and means the owner of the ship or any other organisation 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 the duties and responsibilities imposed on the company by the Regulations annexed to the STCW Convention;

Convention" means the STCW Convention;

"deck officer" means an officer qualified in accordance with the provisions of chapter II of the Convention;

"Engineer Officer" means an officer qualified in accordance with the provisions of chapter III of the Convention;

"exemption certificate" means a certificate issued by the Minister under paragraph (3);

"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 which is capable of manoeuvring for at least 4 hours at a speed of at least 20 knots in calm water with a suitably qualified crew of 3 persons and at least 8 knots with a full compliment of persons and equipment; and

(b) "survival craft" and "rescue boat" have the same meaning as in the Merchant Shipping (Life Saving Appliances) Regulation 1986 (S.I. 1986/1066);

"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;

"Gross Tonnage" or "GT" means the gross tonnage of a ship measured in accordance with the provisions of the International Convention on Tonnage Measurement of Ships 1969;

"high-speed craft" means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding $3.7\sqrt{\nabla^{0.1667}}$

where ∇ = displacement corresponding to design waterline (m^3);

"length" in relation to a vessel has the same meaning as in the Merchant Shipping (Tonnage) Regulations 1982;

"liquefied gas" means any liquefied gas having a vapour pressure exceeding 2.8 bar absolute at a temperature of 37.8 C, and other products as shown in Chapter 19 of the 1993 International Maritime Organisation (IMO) publication entitled "International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk — IGC Code";

"liquid chemical" means any liquid chemical listed in the publication entitled "International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk — IBC 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;

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

"Minister" means the Minister charged with responsibility for Shipping in Bermuda;

"month" means a calendar month or 30 days made up of periods of less than one month;

"near coastal voyage" means—

(a) a voyage during which the vessel is never more than 150 miles from a safe haven in Bermuda; or

(b) subject to paragraph (2), in the case of a vessel which is engaged on a special project the vessel is never more than 150 miles from a safe haven established by another party;

"officer" means a member of the crew, other than the master, designated as such by national law or regulations or, in the absence of such designation, by collective agreement or custom;

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

"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 or as 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;

"the Organization" means the International Maritime Organization ("IMO");

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

"petroleum" means crude liquid petroleum and the following substances produced directly or indirectly from crude, that is to say, fuel, lubricants, bitumen, wax, industrial spirits and any wide range substance (meaning a substance whose final boiling point at normal atmospheric pressure is more than 50

degree C higher than its initial boiling point) but excluding any product included in the definition of "liquefied gas";

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

"radio duties" include, as appropriate, watchkeeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the International Convention for the Safety of Life at Sea and, at the discretion of the Minister, the relevant recommendations of the Organization;

"radio operator" means a person holding an appropriate certificate issued or recognized by the Minister under the provisions of the Radio Regulations;

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

"the Registry" means the Registry of Shipping in Bermuda ("ROS");

"Ro-Ro Passenger ship" means a passenger ship with Ro-Ro cargo spaces or special category spaces as defined in the International Convention for the Safety of Life at Sea 1974 as amended;

"seagoing service" means service on board a ship relevant to the issue of a certificate or other qualification;

"safe manning document" means a document issued, in the case of a Bermuda ship, by the Minister, and in the case of any other ship, by the Administration of the flag state indicating the minimum level of manning, including grades, classes and numbers of seafarers with which the vessel would be regarded as being safely manned;

"safety committee" means a safety committee set up pursuant to regulation 3(5) of the Merchant Shipping (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulations 1986 [*title 31 item 16*];

"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;

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"ship class" means any reference to a ship of a particular Class as defined in the Merchant Shipping (Life-Saving Appliances) Regulations 1986;

"the STCW Code" means the Seafarer's 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" or "the Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended by the conference in London on 7th July 1995;

"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;

"tanker" means a ship which is constructed or adapted and used for the carriage of bulk cargoes consisting in whole or in part of petroleum, liquid chemicals or liquefied gases; and a reference to a type of tanker, chemical tanker or liquefied gas tanker, being tankers constructed or adapted and used to carry cargoes of the class indicated.

(2) A vessel referred to in paragraph (b) of the definition of "near-coastal vessel" shall—

(a) comply with the legislation of the coastal states in respect thereof; and

(b) hold a valid exemption certificate.

(3) The Minister may in such circumstances as he considers appropriate issue an exemption certificate to a vessel permitting such vessel to engage on near-coastal voyages outside the waters of Bermuda.

Application

3 (1) These Regulations apply to sea-going ships which are:

(a) Bermuda ships, other than fishing vessels, vessels owned and operated by a Government department or agency for non-commercial purposes and pleasure vessels under 24 metres in length, wherever they are; and

(b) other ships when in Bermuda territorial waters, except fishing vessels, pleasure craft and war ships, naval

auxiliaries or other ships owned or operated by a state and engaged only on non-commercial service.

(2) In these regulations, "sea-going" means going beyond the territorial waters of Bermuda.

**PART I
CERTIFICATION**

Qualification as an officer

4 (1) A person is qualified as an officer for the purpose of section 41 of the Merchant Shipping Act 1979 [*title 31 item 16*] for serving on a Bermuda ship in the capacity of master, chief mate, officer in charge of a navigational watch, chief engineer officer, second engineer officer or officer in charge of an engineering watch if he holds, in respect of any such capacity—

- (a) a certificate of competency issued by the Minister bearing the appropriate endorsement required by the STCW Convention attesting the issue of such a certificate; or
- (b) an appropriate certificate issued by the United Kingdom or accepted as equivalent to a United Kingdom certificate by the Marine and Coastguard Agency (MCA) of the Department of Environment, Transport and Regions (DETR) of the United Kingdom and in addition the Bermuda Endorsement referred to under paragraph (2); or
- (c) an appropriate certificate issued by a country which is a signatory to the IMO Convention and a Party to the STCW Convention and whose name has been identified by the IMO in accordance with the provisions of regulation 1/7 of the Convention (IMO white list) and—
 - (i) the Minister is satisfied that the requirements of the STCW Convention concerning standards of competence, the issue and endorsements of certificates and record keeping are fully complied with;
 - (ii) the Minister is satisfied that prompt notification will be given to the Registry of Shipping, Bermuda, of any significant change in the arrangements for training and certification provided, in compliance with the convention;

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- (iii) certain conditions with respect to the knowledge of English are met; and
- (iv) for officers intending to serve in the capacities of master, chief mate, chief engineer officer and second engineer officer the requirements under Regulation I/10 paragraph 2 of the Convention with respect to appropriate knowledge of the maritime legislation of Bermuda relevant to the functions the officer is required to perform are met; and
- (v) in addition the officer holds the Bermuda Endorsement referred to under paragraph (2).

(2) For the purpose of sub-paragraphs (1)(b) and (1)(c), "the Bermuda Endorsement" means an endorsement issued by the Minister as a separate document in accordance with Regulation 5, attesting the recognition of a certificate issued by another Party to the Convention.

(3) For the purpose of Regulation 34 (inspection of sea-going ships), a person is qualified as an officer on a non-Bermuda ship in the capacity of master, chief mate, officer in charge of a navigational watch, chief engineer officer, second engineer officer, officer in charge of an engineering watch or radio operator if he holds a valid appropriate certificate issued by a Party to the Convention, and holds the endorsement required by Article VI of the Convention attesting the issue of such certificate or the recognition of such certificate, as applicable.

Recognition of certificates

5 (1) The Minister may recognise 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 that—

- (a) 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) prompt notification will be given of any significant change in the arrangements for training and certification provided in compliance with that Convention.

(2) Where the Minister recognises a certificate pursuant to paragraph (1), he shall endorse such a certificate to attest its recognition if he is satisfied that the requirements in paragraph (1)(a) and (b) above of the STCW Convention have been complied with.

(3) The endorsement shall be in the form of a separate document issued by the Minister.

(4) Paragraph 5 applies where, pursuant to paragraph (1) the Minister has recognised the standard of competence required for the issue of a certificate by an authority of a Party to the STCW Convention outside Bermuda as being in part the standard to be obtained for officers qualified for the purposes of these Regulations.

(5) In a case referred to in paragraph (4) any conditions specified by the Minister for the issue of a Bermuda Endorsement shall be limited to an aptitude test for the purpose of assessing the applicant's ability to pursue the profession of officer on Bermuda 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, and which are necessary to pursue that profession.

Revalidation of certificates and Bermuda Endorsement

6 (1) The certificates mentioned in regulation 4(a), (b) and (c) issued to the master or other officer shall be revalidated at intervals not exceeding five years from the date of the issue or last revalidation, to establish continued professional competence in accordance with section A-I/11 of the STCW Code.

(2) A certificate not revalidated in accordance with paragraph (1) shall not be valid for sea-going service.

(3) A certificate of a category referred to in regulation 9 granted pursuant to the Merchant Shipping (Radio Installations) Regulations 1992 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-I/11 of the STCW Code.

(4) Every master and officer shall, for continuing sea-going service on ships referred to in regulations 10, 11, 12 and 13 successfully complete approved relevant training at intervals specified by the Minister.

(5) Unless previously cancelled the Bermuda Endorsement shall be valid until the expiry date shown on it, subject to continued validity of the appropriate certificate held by a Seafarer which had been recognised under regulation 5 for issuing the Bermuda Endorsement.

Appropriate Bermuda Endorsements

7 Any officer serving in the capacity set out in column 1 of the table below shall hold an appropriate Bermuda Endorsement for that capacity. A person shall only be entitled to be issued with such

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endorsement if he complies with the criteria in Regulations annexed to the STCW Convention set out in column 2 of the table in relation to that entry and any other requirements specified by the Minister.

TABLE OF CRITERIA FOR APPROPRIATE BERMUDA ENDORSEMENTS

COLUMN 1

COLUMN 2

MASTER AND DECK DEPARTMENT

REGULATION ANNEXED TO THE STCW CONVENTION

Officer in charge of a navigational watch on a ship of 500 GT or more

Regulation II/1.2

Master or chief mate on a ship of 3000 GT or more

Regulation II/2.2

Master or chief mate on a ship of less than 3000 GT

Regulation II/2.4

Officer in charge of a navigational watch on a ship of less than 500 GT engaged on near-coastal voyages

Regulation II/3.4

Master on a ship of less than 500 GT engaged on near-coastal voyages

Regulation II/3.6

ENGINE DEPARTMENT

REGULATION ANNEXED TO
THE STCW CONVENTION

1. Officer in charge of an engineering watch in a manual 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 III/1.2

2. Chief engineer officer or second engineer officer of a ship powered by main propulsion machinery of 3000 kW propulsion power or more

Regulation III/2.2

3. Chief engineer officer or second engineer officer of a ship powered by main propulsion machinery between 750 and 3000 kW propulsion power

Regulation III/3.2

Ratings and holders of other qualifications

8 (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 on watch are of an unskilled nature, shall be duly certificated. No person shall be entitled to be issued with a certificate as such a rating unless he complies with the criteria set out in Regulation II/4.2 in the Annex to the STCW Convention.

(2) 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 be duly certificated. No person shall be entitled to be issued with a certificate as such a rating unless he complies with the criteria set out in Regulation III/4.2 in the Annex to the STCW Convention.

(3) 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 Bermuda Endorsements referred to in regulation 7 or be the holder of a marine engineer operator's licence issued in compliance with criteria specified by the Minister.

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Radio Communications and Radio Personnel on GMDSS Ships

9 To serve on board a Bermuda ship as a GMDSS Radio Operator under regulation 16 of the Merchant Shipping (Radio Installation) Regulations 1992 a person must—

- (a) be at least 18 years of age;
- (b) have completed approved education and training and meet the standard of competence specified in section A-IV/2 of the STCW Code; and
- (c) hold an appropriate certificate as specified in regulation 4 paragraphs (1)(a), (1)(b), (1)(c) and (2) excepting paragraph (1)(c)(ii).

Mandatory minimum requirements for the training and qualification of masters, officers and ratings on tankers

10 (1) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on tankers shall have completed an approved shore-based advanced fire-fighting course in addition to the training required by section A-VI/1 of the STCW Code and shall have completed:

- (a) at least three months of approved seagoing 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:

Provided that the period of three months referred to in subparagraph (a) shall be reduced to no less than one month if—

- (i) the tanker on which such service is performed is of less than 3000 GT;
- (ii) the duration of each voyage of the tanker on which such approved service is performed does not exceed 72 hours; and
- (iii) 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 subparagraph (a) on a tanker of a size,

and performing voyages, not falling with sub-paragraphs (i) and (ii).

(2) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit or handling of cargo shall, in addition to meeting the requirements of paragraph (1) of this regulation have:

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

(3) If before 1 February 1999 a seaman has served in a particular capacity on board the type of tanker concerned for a period of not less than one year within the preceding five years, he shall be considered to have met the requirements of paragraph (2) as regards that capacity.

(4) An appropriate certificate shall be issued to masters and officers who are qualified in accordance with paragraph (1) or (2) above, or their existing certificate shall be duly endorsed. Every rating who is so qualified shall be duly certificated.

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

11 (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; or be required to provide evidence of having achieved the required standard of competence within the previous five years.

(4) Masters, officers and other personnel designated on muster lists to assist passengers in emergency situations on board ro-ro

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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-V/2, paragraph 3 of the STCW Code.

(7) Masters, chief mates, chief engineer officers, second engineer officers and every person assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings on board ro-ro passenger ships shall have completed approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 4 of the STCW Code.

(8) Masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board 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.

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

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

(2) Prior to being assigned shipboard duties on board 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; or be required to provide evidence of having achieved the required standard of competence with the previous five years.

(4) Masters, officers and other personnel designated on muster lists to assist passengers in emergency situations on passenger ships shall have completed training in crowd management as specified in section A-V/3, paragraph 1 of the STCW Code.

(5) Masters, officers and other personnel assigned specific duties and responsibilities on board passenger ships shall have completed the familiarisation training specified in section A-V/3, paragraph 2 of the STCW Code.

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

(7) Masters, chief mates, chief engineer officers, second engineer officers and every person assigned immediate responsibility for embarking and disembarking passengers shall have completed approved training in passenger safety as specified in section A-V/3, paragraph 4 of the STCW Code.

(8) Masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board passenger ships shall have completed approved training in crisis management and human behaviour as specified in section A-V/3, paragraph 5 of the STCW Code.

(9) 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.

Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on high-speed craft

13 (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 1 January, 1996.

(2) Prior to being assigned shipboard duties on board high-speed craft, masters and officers, ratings and other personnel shall have completed the training specified in Merchant Shipping Notice No.M.1696.

(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. In the case of masters, and of officers having an operational role in high-speed craft, the documentary evidence shall be a certificate in a form specified in Merchant Shipping Notice No.M.1696 and shall be endorsed in a manner specified in that notice.

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(4) An operator of high-speed craft may submit his proposal for training and certification for masters and officers, ratings and other personnel on board high-speed craft to the Minister for approval. The Minister must endorse any certificates issued by the operator under an approved scheme to such masters and officers, ratings and other personnel prior to being assigned shipboard duties on board high-speed craft.

(5) In the case of Type-rating Certificates which have been issued to masters, officers, ratings and other personnel for serving on board high speed-craft by another Administration who is a Party to the Convention, the Minister may accept such certificates, subject to satisfactory verification, permitting holders of such certificates to serve on board Bermuda registered high-speed craft provided they obtain Bermuda Endorsements prior to being assigned shipboard duties on such ships.

Mandatory minimum requirements for the training and qualifications of masters, officer, ratings and other personnel on large commercial sailing and motor yachts of under 3000 GT

14 (1) This regulation applies to masters and officers, ratings and other personnel serving on board large commercial sailing and motor yachts of under 3000 GT, and 24 metres in length and over which are engaged in commercial use for sports or pleasure and carry up to 12 passengers and no cargo.

(2) Masters, officers, ratings and other personnel assigned to serve on board vessels to which paragraph 1 applies shall be certificated as specified in the Code of practice for safety of large commercial sailing and motor yachts (Mega-yacht Code) and shall hold appropriate Bermuda Endorsements.

Mandatory minimum requirements for familiarisation, basic safety training and instruction for all seafarers

15 All seafarers shall receive familiarisation 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.

Mandatory minimum requirements for the issue of certificates of proficiency in survival craft, rescue boats and fast rescue boats

16 (1) Any 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. No person shall be granted such a certificate

unless he meets the criteria specified in Regulation VI/2.1 in the Annex to the STCW Convention.

(2) Any person designated to launch or take charge of a fast rescue boat shall have a certificate of proficiency in such boats. No person shall be granted such a certificate unless he meets the criteria in Regulation VI/2.2 in the Annex to the STCW Convention.

Mandatory minimum requirements for training in advanced fire-fighting

17 (1) Seafarers designated to control fire-fighting operations shall have successfully completed advanced training in techniques for fighting fire with particular emphasis on organisation, 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) If advanced fire-fighting does not form part of the qualifications for a certificate held by the person so designated, he shall hold a separate certificate or documentary evidence, as appropriate indicating that the holder has attended a course of training in advanced fire-fighting.

Mandatory minimum requirements relating to medical first aid and medical care

18 (1) Seafarers designated to provide medical first-aid on board ship shall meet the standard of competency in medical first-aid on board ships as specified in section a A-VI/4 paragraph 1 to 3 of the STCW code.

(2) Seafarers designated to take charge of medical care on board ships shall meet the standard of competence in medical care on board ships as specified in section a A-VI/4 paragraph 4 to 6 of the STCW code.

(3) When training in medical first-aid or medical care is not included in the qualifications for a certificate of competency which may be held by the person so designated, he shall hold a separate certificate or documentary evidence, as appropriate, indicating that the holder has attended a course of training in medical first-aid or medical care as appropriate.

Form, validity, record and surrender of certificates of competency and Bermuda Endorsements

19 (1) Certificates of competency or Bermuda Endorsements shall be issued on receipt of any fee payable, in addition to meeting the

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requirements of regulations 4 and 5, and delivered to the person entitled to hold them.

(2) A certificate of competency or Bermuda endorsement 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 Minister.

(3) A record of all certificates of competency and Bermuda Endorsements issued under these Regulations and of the suspension, cancellation or alteration of, and any other matters affecting, any such certificates or endorsements shall be kept, in such manner as the Minister may require, by the Principal Marine Surveyor or the Registrar of Shipping or by such other person as the Minister may direct.

(4) Where the holder of a Bermuda Endorsement issued under these Regulations is issued with a second Bermuda Endorsement providing higher qualifications, he shall surrender the first-mentioned endorsement to the Minister, or to such person as the Minister directs, for cancellation.

(5) Where a certificate of competency or a Bermuda Endorsement is issued and the conditions for its issue prescribed in these Regulations or specified by the Minister have not been complied with, then the holder of the relevant certificate or endorsement shall, at the direction of the Minister, deliver it to the Minister, or to such person as the Minister directs for cancellation.

Loss of certificates of competency or Bermuda Endorsements

20 If a person entitled to a certificate of competency or a Bermuda Endorsement proves to the satisfaction of the Minister that he has, without fault on his part, lost or been deprived of such certificate or endorsement already issued to him, the Minister shall, and where he is not so satisfied he may, upon receipt of any fee payable, cause a certified copy of the certificate of competency or Bermuda Endorsement, to which the said person appears to be entitled to be issued to him.

Endorsement of Bermuda certificates of competency

21 In the case of a certificate of competency issued by the Minister, such certificate shall be endorsed by the Minister in accordance with the STCW Convention if he is satisfied that the holder of the certificate complies with the requirements of regulation II, III, IV, VI or VII in the Annex to the Convention.

**PART II
MANNING**

Responsibilities of companies, masters and others

- 22 (1) This regulation applies to sea-going Bermuda ships.
- (2) Every company shall ensure that:
- (a) every seafarer assigned to any of its ships holds an appropriate certificate along with a Bermuda Endorsement in respect of any function he is to perform on that ship;
 - (b) every seafarer on any of its ships has had training specified in the STCW Code 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 competency in assigned duties;
 - (d) every master, deck officer, engineer officer and radio officer, is proficient in the English language;
 - (e) if more than one language is spoken on board Bermuda registered ships, a common working language is established for safety procedures;
 - (f) every officer intended to serve in the capacity of master, chief officer, chief engineering officer or second engineering officer is fully conversant with the Bermuda Legal and Administrative Processes (BLAP) in accordance with guidance issued to ship owners.
- (3) Nothing in paragraph (2) shall prohibit the allocation of tasks for training under supervision or in the 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 seafarers who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties. Such policies and procedures shall include:

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- (a) allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with:
 - (i) the specific equipment the seafarer will be using or operating; and
 - (ii) ship specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly; and
 - (b) designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seafarer to receive essential information in a language the seaman understands.
- (5) It shall be the duty of any master and any member of a crew instructed or designated with an obligation under paragraph (4) above to carry out that obligation.

Safe manning document

23 (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 aboard 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 subject to the provision of regulation 24.
- (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, subject to provision of regulation 24.
- (3) It shall be the duty of a company applying for a safe manning document in respect of any Bermuda ship, to submit to the ROS proposals for consideration as to the numbers and grade of personnel it considers should be carried so that ship would be safely manned if it proceeded to sea on any intended voyages.
- (4) In preparing proposals referred to in paragraph (3) the company shall take into account the Principles of Safe Manning

contained in IMO Resolution A481 (XII) or any other document replacing the same, and guidance issued by the ROS from time to time.

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

(6) Notwithstanding the revocation of the Merchant Shipping (Safe Manning Document) Regulations 1993 (B.R. 3/1993) [*title 31 item 16(zi)*] by regulation 38 a safe manning document issued pursuant to those revoked regulations shall continue to be valid subject to paragraph (5) above until 1st February 2002.

Exceptional Circumstances

24 In an occasion where a member of the crew specified on the safe manning documents is incapacitated through accident or sudden illness or is unable to sail due to disciplinary action; or in any other unforeseen circumstances causing the available compliment on the ship to be less than that prescribed on the safe manning document, the final decision as to whether the ship should proceed to sea rests with the master. However, prior to making any such decision to proceed to sea, the master shall ensure that—

- (a) the duration of the voyage is no more than 21 days and limited only to the next port of call;
- (b) subject to the provisions of regulation 29, suitable watchkeeping arrangements can be maintained throughout the voyage for the safe operation of the ship and the protection of the environment, having had due regards to the requirements of regulations 25, 26, 27 and 28;
- (c) necessary adjustments can be made to the muster list to meet any emergency situation;
- (d) the replacement seafarer would be available to join the ship at the next port of call;
- (e) the Registry of Shipping Bermuda is kept fully informed of the circumstances; and
- (f) appropriate entries are made in the ships official log book, relating to the circumstances.

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HOURS OF WORK AND REST

General Requirements for all seafarers

25 (1) All seafarers shall be entitled to a minimum of ten hours of rest in a day and 77 hours in a week. The minimum hours of rest in a day may be split but there shall be at least one uninterrupted period of 6 hours of rest.

(2) The standard hours of work shall be 72 hours in a week with a maximum of 14 hours of work in any single day. However based on a collective agreement a seafarer may work up to a maximum of 91 hours in a week, provided the minimum period of rest specified above can be ensured.

(3) Seafarers shall not be required to work more hours than is safe in relation to the safety of the ship except in case of an emergency where the master may require the seafarers to report to their muster stations or otherwise perform such emergency duties to save and protect life, property and the environment.

(4) It will be necessary for the ship to maintain a record of actual hours worked by seafarers to ensure that the mandatory requirement in respect of minimum hours of rest has been complied with.

Duty of company, employers and masters

26 (1) For the purpose of preventing fatigue the rest period for watchkeeping personnel and watch systems on board shall be arranged so that the efficiency of all watchkeeping personnel is not impaired by fatigue and that duties shall be so organised that the first watch at the commencement of the voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.

(2) Subject to regulation 28, 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 master and crew 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.

(3) Subject to regulation 28, it shall be the duty of every master of a ship to ensure, so far as is reasonably practicable, that seafarers do not work more hours than is safe in relation to the safety of the ship and seafarers' performance of their duties.

Duties of master and seamen

27 Every master and seafarer 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.

Schedule of duties and need to record

28 (1) It shall be the duty of the company to produce a schedule of duties complying with this regulation.

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

(3) The company may arrange with any such employer that the employer is to produce a schedule of duties complying with this regulation. 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 any other party who may have a genuine interest in the safety of the ship or welfare of the crew.

(5) A schedule complies 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 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) it specifies the maximum period of continuous watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work;

(c) it provides a minimum of ten hours of rest in any twenty four hour period; the hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length.

(6) Notwithstanding the provisions of paragraph 5(c), the minimum period of ten hours may be reduced to not less than six consecutive hours provided that any such reduction shall not extend

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beyond two days and not less than seventy-seven hours of rest are provided each seven-day period.

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

(8) 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 under this regulation, on condition that—

- (a) other employers and the company (as the case may be) have been consulted;
- (b) the company or the said employer has sought the views of the master and any other party who may have a genuine interest in the safety of the ship or the welfare of the crew, on the proposed changes;
- (c) the schedule as changed complies with paragraph (5).

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

(10) 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.

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

(12) The company for the time being shall ensure that a copy of the schedule and of the record of all deviations from its requirements are preserved for a period of three years from the date the schedule was introduced, and that they are available for inspection at any time by a public officer, or other person, appointed by the Minister.

Exception for Emergencies

29 (1) The requirements for rest periods specified in regulation 28(5)(c) need not be maintained in case of an emergency or drill or in other overriding operational conditions; and in particular a master of a ship or seafarer 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 of regulation 28, and the master may exceed, and a seafarer may be required to exceed, the schedule's work or duty periods, when in the opinion of the master it is necessary to meet an emergency threatening the safety of the ship or the life of any person or threatening damage to the environment.

(2) When in pursuance of paragraph (1) the master or a seafarer has worked within a rest period provided for by the schedule, his name shall be entered in the record required to be maintained by regulation 28(11), together with the reason why he so worked.

**PART III
WATCHKEEPING**

Watchkeeping arrangements

30 (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 the matters set out in Chapter VIII of section A of the STCW Code. The master shall give directions to the deck watchkeeping officers responsible for navigating the ship safely during their periods of duty, having particular regard to the matters set out in Chapter VIII/2, Part 3 (other than Part VIII/1) and any operational guidance specified by the Minister.

(2) The chief engineer officer of any ship shall, in consultation with the master, ensure that the engineering watchkeeping arrangements for the ship are at all times adequate for maintaining a safe watch, having regard to the matters set out in Part 3-2 of section A-VIII/2 of the STCW Code. When deciding the composition of the watch the chief engineer officer shall take into account the principles set out in Part 3-2 of that section and any operational guidance specified by the Minister.

Watchkeeping arrangements in port

31 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 for the purposes of safety. Such arrangements shall have regard to the matters set out in Part 4 of section A-VIII/2 of the STCW Code and to any operational guidance specified by the Minister.

Watchkeeping arrangements in port for ships carrying hazardous cargo

32 (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 watchkeeping arrangements required under regulation 27, in the case of:

- (a) a ship carrying cargo in bulk that is hazardous, whether it is or may be explosive, flammable, toxic, a threat to health or liable to pollute the environment, ensure that a

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safe deck watch and safe engineering watch are maintained by the ready availability on board of a duly qualified officer or officers, and ratings where appropriate; and

- (b) a ship carrying hazardous cargo other than in bulk, whether it is or may be explosive, flammable, toxic, a threat to health or liable to pollute the environment, ensure that in organizing safe watchkeeping arrangements he takes account of the nature, quantity, packing and stowage 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 any operational guidance specified by the Minister.

PART IV GENERAL

Carriage of documents

33 Without prejudice to regulation 22 the company and the master shall ensure that there are carried at all times on board ship all certificates, endorsements 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.

Inspection of sea-going ships

34 (1) An authorized person may inspect a Bermuda ship wherever located and any ship which is not a Bermuda ship to which these Regulations apply, when such ship is in Bermuda waters, for the purposes of:

- (a) verifying that all seafarers serving on board who are required to be certificated hold a valid appropriate certificate; and
- (b) assessing the ability of the seafarers 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 outside of Bermuda or in a port in Bermuda, 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 a discharge of substances from the ship when underway, at anchor or at a berth, contrary to the laws of Bermuda or, in the case of a Bermuda ship, outside of Bermuda, contrary to the laws of another country;
- (iii) the ship has been manoeuvred 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 a manner as to pose a danger to persons, property or the environment.

(2) Deficiencies which for the purposes of paragraph (1)(b)(iv) may pose a danger to persons, property or the environment include:

- (a) a failure of seafarers, required to hold an appropriate certificate to have an appropriate valid certificate or a valid exemption from that requirement;
- (b) a failure to comply with the safe manning document;
- (c) a failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by these Regulations for a Bermuda ship and for other ships by the competent authority of the country in which the ship is registered;
- (d) an absence on a watch of a person qualified to operate equipment essential to safe navigation and, safety radio communications or the prevention of marine pollution;
- (e) an inability of the master to provide adequately rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

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

(4) Pursuant to an inspection by an authorized person if it was found that there is sufficient ground to conduct a formal inquiry the Minister may appoint a Court of Inquiry or a Board of Inquiry (as the case may be) to enquire into the conduct of a seafarer (seafarer includes the master) and if found guilty, suspend or cancel a certificate or endorsement issued by him where deemed necessary. In case of the

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conduct of a seafarer who does not have a certificate of competency and being found unbecoming of a seafarer the Minister may withdraw the discharge certificate or otherwise impose restrictions on his future employment on Bermuda ships.

Where the seafarer holds a certificate or discharge book issued by another state the Minister shall arrange to communicate to the state concerned the findings of the court or the board and impose such restrictions on the employment of the seafarer on a Bermuda ship as deemed appropriate.

Power to detain

- 35 (1) In any case where it is found:
- (a) in relation to a ship which is a Bermuda ship, that there is any contravention of these Regulations; or
 - (b) in relation to a ship which is not a Bermuda ship, that there is—
 - (i) any contravention of regulation 23 (excepting reference to regulation 24), 30, 31 or 32;
 - (ii) a failure to correct a deficiency referred to in regulation 34(2) after notification to the master pursuant to regulation 34(3), and there is in consequence a danger to persons, property or the environment,

the ship may be detained.

Penalties

36 (1) Any company which contravenes regulation 22(2) or (4), 23(1) or (3), 26(2), 28 or 33 is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$10,000, or on indictment to a fine, or to imprisonment not exceeding 6 months, or both.

(2) Any master who contravenes regulation 22(5), 23(2), 26(3), 30(1), 31, 32, or 33 is guilty of an offence and is liable on conviction by a court of summary jurisdiction to a fine not exceeding \$10,000, or on indictment to a fine, or by imprisonment not exceeding 6 months, or both.

(3) When an employer has, pursuant to regulation 28(3), become subject to the duties of the company under that regulation any contravention of regulation 28 by the employer shall be an offence, punishable on summary conviction by a fine not exceeding \$10,000, or

on indictment by a fine, or (in the case of an individual) by imprisonment not exceeding 6 months or both.

(4) Any member of the crew who contravenes regulation 22(5) is guilty of an offence, punishable on summary conviction by a fine not exceeding \$3,000.

(5) Any chief engineer who contravenes regulation 30(2) is guilty of an offence punishable on summary conviction by a fine not exceeding \$10,000.

(6) If a company contravenes regulation 26(2), it is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000.

(7) If an employer contravenes regulation 26(2), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000.

(8) If a master contravenes regulation 27 or 28(10) or (11) he is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000.

(9) If a seaman contravenes regulation 27 he is guilty of an offence and liable on summary conviction to a fine of \$1,000.

(10) It shall be a defense for a person charged with an offence involving contravention of regulations to prove that he took all reasonable steps to avoid commission of the offence.

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

Exemptions and Dispensations

37 (1) The Minister 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.

(2) The Minister, in circumstances of exceptional necessity, if in his opinion this does not cause danger to persons, property or the environment, may issue a dispensation permitting a specified seafarer to serve on a specified ship for a specified period not exceeding six months in a capacity, other than that for the radio operator, except as provided by the relevant 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

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in a safe manner, to the satisfaction of the Minister. However dispensation shall not be granted to a master, or a chief engineer officer, except in circumstances of force majeure and then only for the shortest possible period.

(3) Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below. Where certification of the post below is not required by the Convention, a dispensation may be issued to a person whose qualification and experience are, in the opinion of the Minister, of a 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 possess certificates or documentary evidence as appropriate to indicate that the holder has attended courses of training in Emergency, Occupational safety, Medical care and Survival functions as required under Chapter VI, of the Convention, and additionally the person has sufficient evidence for carrying out the functions he is expected to perform, which may be accepted by the Minister as demonstrating that such a dispensation may safely be issued. In addition, the Minister requires that the post in question is filled by the holder of an appropriate certificate as soon as possible.

Revocations

38 (1) The following Regulations are hereby revoked:

- The Merchant Shipping (Tankers-Officers and Ratings) Regulations 1988;
- The Merchant Shipping (Engine Room Watch Ratings) Regulations 1988;
- The Merchant Shipping (Navigational Watch Ratings) Regulations 1988;
- The Merchant Shipping (Certificates of Proficiency in Survival Craft) Regulations 1988;
- The Merchant Shipping (Certification of Deck Officers) Regulations 1991;
- The Merchant Shipping (Certification of Marine Engineer Officers) Regulations 1991;
- The Merchant Shipping (Certification and Watchkeeping) Regulations 1988;
- The Merchant Shipping (Safe Manning Document) Regulations 1993; and
- The Merchant Shipping (Hours of Work) Regulations 1995.

(2) Notwithstanding the revocations of Regulations made by paragraph (1)—

- (a) certificates or licences granted, endorsements made and standards of competency and training already met, pursuant to such 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 of full validity, subject to regulation 6, until 31st January 2002;
- (b) seafarers who commence:
 - (i) seagoing service as part of an approved training programme; or
 - (ii) the shore-based phase of an approved training programme before 1st August 1998 may be issued with certificates, or have a certificate recognized or endorsed, pursuant to such revoked Regulations and the provisions of subparagraph (a) shall apply to such certificates;
- (c) seafarers who commence and satisfactorily complete training on or after 1st August 1998, or complete a training programme which meets the standards required by these Regulations after that date, shall be issued with an appropriate certificate.

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