



BERMUDA

MERCHANT SHIPPING (STANDARDS OF TRAINING, CERTIFICATION AND
WATCHKEEPING) REGULATIONS 2019

BR 105 / 2019

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SCHEDULE

Categories of Certificates of Competency and Criteria for Issue

The Minister responsible for Maritime Administration, in exercise of the powers conferred by sections 59 and 93 of the Merchant Shipping Act 2002, makes these Regulations:

PART 1
INTRODUCTORY PROVISIONS

Citation

1 These Regulations may be cited as the Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2019.

Interpretation

2 (1) In these Regulations—

“able seafarer deck” means a rating qualified in accordance with regulation II/5 of the Convention;

“able seafarer engine” means a rating qualified in accordance with regulation III/5 of the Convention;

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“appropriate certificate” means a certificate issued and endorsed in accordance with Part 2 and entitling the lawful holder to serve in the capacity and perform the functions involved—

- (a) at the level of responsibility specified;
- (b) on a ship of the type, tonnage or power and means of propulsion indicated; and
- (c) while engaged on the particular type of voyage concerned;

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

“certificate of competency” means an appropriate certificate issued by an authority of another party to the STCW Convention, for the purposes of regulation 6 (other than a certificate of equivalent competency);

“certificate of equivalent competency” means an endorsement in the form of a separate document entitled “certificate of equivalent competency” issued by the Minister, in accordance with regulation 32 or 33, to a master, officer or radio operator who holds an appropriate certificate issued by or under the authority of another party to the STCW Convention;

“certificate of proficiency” means a certificate, other than a certificate of competency or a certificate of equivalent competency, issued to a seafarer, stating that the relevant requirements of training, competencies or seagoing service under the STCW Convention have been met;

“certificate of proficiency in training for tanker cargo operations” means a certificate of proficiency issued in accordance with the STCW Regulations V/1-1 and V/1-2 in basic or advanced training for—

- (a) oil tanker cargo operations;
- (b) chemical tanker cargo operations; or
- (c) liquefied gas tanker cargo operations;

“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 IBC 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” in relation to a ship, means the owner of the ship or any other person, such as the manager or the bareboat charterer, 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 STCW Regulations;

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- “constructed” in relation to a craft means where the keel is laid or 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;
- “documentary evidence” means documentation, other than a certificate of competency or certificate of proficiency, used to establish that the relevant requirements of the STCW Convention have been met;
- “electro technical officer” means an officer designated as such and qualified in accordance with Regulation III/6 of the STCW Convention;
- “electro technical rating” means a rating qualified in accordance with Regulation III/7 of the STCW Convention;
- “engineer officer” means an officer qualified in accordance with Regulation III/1, III/2 or III/3 of the STCW Convention;
- “fast rescue boat” means a rescue boat complying with the requirements of Part 10 of Schedule 2 to the UK Merchant Shipping Notice 1676(M);
- “fishing vessel” means a vessel used for catching fish or other living resources of the sea;
- “GMDSS radio operator” means a person who is qualified in accordance with Regulations IV/1 and IV/2 of the STCW Convention;
- “GT” means gross tonnage as determined under the Merchant Shipping (Tonnage) Regulations 2008;
- “high speed craft” has the same meaning as in the Merchant Shipping (High Speed Craft) Regulations 2010;
- “High Speed Craft Code” means the International Code of Safety for High Speed Craft 2000;
- “IBC Code” means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk published by the International Maritime Organization
- “IGC Code” means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, published by the International Maritime Organization;
- “IGF Code” means the International Code of safety for ships using gases or other low flashpoint fuels, as defined in SOLAS Regulation II-1/2.29;
- “ISPS Code” means the International Ship and Port Facility (ISPS) Code adopted on 12th December 2002 by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS);

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- “length” has the same meaning as in the Merchant Shipping (Tonnage) Regulations 2008;
- “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 IGC Code;
- “Medical Certification Regulations” means the Merchant Shipping (Medical Certification for Seafarers) Regulations 2013;
- “Merchant Shipping Notice” means a Notice described as such and issued by the Chief Marine Surveyor, or the equivalent UK Merchant Shipping Notice, as applicable;
- “near-coastal voyage” means a voyage during which the vessel is not more than 30 nautical miles from a safe haven in Bermuda, except where the vessel is located within a specified trading area in accordance with conditions set by the Minister;
- “oil” means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products, other than oil-like substances which are subject to the Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 2019;
- “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 which carries more than 12 passengers;
- “Polar Code” means the International Code for Ships Operating in Polar Waters, as defined in SOLAS Regulation XIV/1.1;
- “Polar waters” means Arctic waters or the Antarctic area or both, as defined in SOLAS Regulations XIV/1.2 to XIV/1.4.
- “prescribed fee” means the fee prescribed by the Minister in Regulations made under section 250 of the Act;
- “propulsion power” means the total maximum continuous rated output power in kilowatts of all of a ship’s main propulsion machinery which appears on the ship’s certificate of registry or other official document;
- “rescue boat” means a boat complying with the requirements of Schedule 2 or 3 of UK Merchant Shipping Notice 1676(M) and designed to rescue persons in distress and to marshal liferafts;
- “safe manning document” means a document, described as such, issued—
- (a) in the case of a Bermuda ship, by the Minister; and
 - (b) in the case of any other ship by or on behalf of the government of the State whose flag the ship is entitled to fly;

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“seafarer” means any person, including a master, who is employed or engaged or works in any capacity on board a ship and whose normal place of work is on a ship;

“sea-going” means going to sea beyond the limits of category A, B, C or D waters (as categorised in UK Merchant Shipping Notice 1827(M);

“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” includes all security tasks and duties on board ships as defined by chapter XI-2 of the International Convention for the Safety of Life at Sea 1974 (SOLAS), as amended, and the International Ship and Port Facility Security (ISPS) Code;

“STCW Code” means the Seafarers’ Training, Certification and Watchkeeping Code adopted by the 2010 Manila Conference of Parties to the STCW Convention;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978;

“STCW Regulation” means a Regulation contained in Attachment 1 to the Final Act of the 2010 Manila Conference of Parties to the STCW Convention;

“tanker” means a chemical tanker, a liquefied gas tanker or an oil tanker;

“third-party State” means a State contracting to the STCW Convention.

(2) Any reference to the IBC Code, the IGC Code, the ISPS Code, the STCW Code, the STCW Convention or an STCW Regulation includes reference to any document amending the Code or Convention which is considered by the Minister to be relevant from time to time and is specified in a Merchant Shipping Notice.

(3) Any reference to a requirement in an STCW Regulation also constitutes a reference to the corresponding section of Part A of the STCW Code.

[Regulation 2 paragraph (1) definitions "IGF Code", "Polar Code" and "Polar waters" inserted by BR 149 / 2020 reg. 2 effective 29 December 2020]

Application

3 These Regulations apply to ships registered in Bermuda.

[Regulation 3 revoked and substituted by BR 149 / 2020 reg. 3 effective 29 December 2020]

Ambulatory reference

3A (1) In these Regulations, any reference to the STCW International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 is to be construed—

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- (a) as a reference to the STCW International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 as modified from time to time; and
- (b) if the STCW International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 is replaced, a reference to the replacement.

(2) For the purposes of paragraph (1), the STCW International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 is modified or replaced if the modification or replacement takes effect in accordance with Article XII of the Convention.

(3) A modification or replacement of the STCW International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 has effect at the time such modification or replacement comes into force in accordance with Article XII of the Convention.

[Regulation 3A inserted by BR 149 / 2020 reg. 4 effective 29 December 2020]

PART 2

TRAINING AND CERTIFICATION: SHIPS

Application of Part 2

4 This Part applies to a seafarer serving on board a sea-going ship registered in Bermuda, except on—

- (a) a fishing vessel;
- (b) a pleasure vessel which is—
 - (i) less than 80 GT; or
 - (ii) under 24 metres in length; or
- (c) a wooden ship of primitive build.

Requirement for seafarers to be qualified

5 This Part specifies standards of competence to be attained and other conditions to be satisfied by seafarers in order to be qualified for the purposes of section 59 of the Act.

Certificates of competency, equivalent competency or proficiency

Qualification as an officer

6 (1) A person must hold, in respect of the category and capacity in which that person is serving, listed in column 1 of the Table in the Schedule—

- (a) an appropriate certificate of competency; or
- (b) an appropriate certificate of equivalent competency.

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(2) Subject to paragraph (6), the Minister may issue a certificate of equivalent competency to a person, only if that person complies with the criteria in the STCW Regulations listed in column (2) of that Table in relation to the category of service listed in column (1).

- (3) A certificate of competency required by this regulation—
- (a) must be issued and endorsed in accordance with this Part;
 - (b) entitles the holder to serve in the specified capacity; and
 - (c) entitles the holder to perform the functions involved—
 - (i) at the specified level of responsibility;
 - (ii) on a ship of the type, GT or power and means of propulsion indicated by the endorsement; and
 - (iii) while engaged on the particular voyage concerned.

(4) In the circumstances specified in paragraph (5), the Minister may permit a person who does not hold an appropriate certificate of competency, to serve in an appropriate capacity on board a ship for a maximum period of three months.

- (5) The circumstances referred to in paragraph (4) are—
- (a) the person holds a valid certificate issued by a third-party State;
 - (b) that certificate is appropriate for the capacity in which the person is to serve; and
 - (c) the person has submitted an application to the Minister under regulation 33, for a certificate of equivalent competency.

(6) The Minister may issue a certificate of equivalent competency, provided that the associated functions and levels of responsibility are stated on the certificates and endorsements are selected from and are identical to those sections specified in the STCW Code.

Engine-room watch duties

7 (1) This Regulation applies to a seafarer performing watchkeeping duties in a manned or periodically unmanned engine room on a ship whose main propulsion machinery has a propulsion power of not less than 350 kilowatts, but less than 750 kilowatts.

- (2) The seafarer must—
- (a) hold one of the engineering certificates of competency referred to in regulation 6; or
 - (b) be the holder of a marine engine operator's licence issued in compliance with the criteria specified in section 10 of UK Merchant Shipping Notice 1857(M+F).

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Radio communication and radio personnel on a GMDSS ship

8 (1) A seafarer in charge of or performing radio duties on a ship required to participate in the GMDSS must hold a certificate of equivalent competency related to the GMDSS.

(2) A certificate of equivalent competency under this regulation shall not be issued to a person ("the applicant") by the Minister unless the applicant—

- (a) is at least 18; and
- (b) has completed the education and training and meets the standards of competence specified in section A-IV/2 of the STCW Code.

Seafarers on an oil or chemical tanker - basic training

9 A seafarer assigned specific duties and responsibilities related to cargo or cargo equipment on an oil or chemical tanker must hold a certificate of proficiency in basic training for oil and chemical tanker cargo operations meeting the criteria specified in STCW Regulation V/1-1.

Seafarers on an oil tanker - advanced training

10 (1) This regulation applies to the following seafarers serving on board an oil tanker—

- (a) the master;
- (b) a chief engineer officer;
- (c) a chief mate;
- (d) a second engineer officer; and
- (e) any other seafarer with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo related operations.

(2) A person to whom this regulation applies must hold a certificate of proficiency in advanced training for oil tanker cargo operations meeting the criteria specified in STCW Regulation V/1-1, paragraph 4.

Seafarers on a chemical tanker - advanced training

11 (1) This regulation applies to the following seafarers serving on board a chemical tanker—

- (a) the master;
- (b) a chief engineer officer;
- (c) a chief mate;
- (d) a second engineer officer; and

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- (e) any other seafarer with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo related operations.

(2) A person to whom this regulation applies must hold a certificate of proficiency in advanced training for chemical tanker cargo operations.

(3) The Minister may issue a certificate of equivalent proficiency required by paragraph (2), only to a person who meets the criteria specified in STCW Regulation V/1-1, paragraph 6.

Seafarers on a liquefied gas tanker - basic training

12 An officer or rating assigned specific duties and responsibilities related to cargo or cargo equipment on a liquefied gas tanker must hold a certificate of proficiency in basic training for liquefied gas tanker cargo operations meeting the criteria specified in STCW Regulation V/1-2, paragraph 2.

Seafarers on a liquefied gas tanker - advanced training

13 (1) This regulation applies to the following seafarers serving on board a liquefied gas tanker—

- (a) the master;
- (b) a chief engineer officer;
- (c) a chief mate;
- (d) a second engineer officer; and
- (e) any other seafarer with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo related operations.

(2) A person to whom this regulation applies must hold a certificate of proficiency in advanced training for liquefied gas tanker cargo operations meeting the criteria specified in STCW Regulation V/1-2, paragraph 4.

Seafarers on ships subject to the IGF Code

13A All masters, officers and ratings and other personnel serving on board ships subject to the IGF Code shall have completed the training, and hold the certification, as required by STCW Regulation V/3.

[Regulation 13A inserted by BR 149 / 2020 reg. 5 effective 29 December 2020]

Seafarers on ships subject to the Polar Code

13B All masters, officers and ratings and other personnel serving on board ships subject to the Polar Code shall have completed the training, and hold the certification, as required by STCW Regulation V/4.

[Regulation 13B inserted by BR 149 / 2020 reg. 5 effective 29 December 2020]

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Ratings forming part of a navigational watch

14 (1) A rating forming part of a navigational watch on a ship of 500 GT or more must hold a certificate of proficiency to perform such duties meeting the criteria specified in STCW Regulation II/4, paragraph 2.

- (2) This regulation does not apply to—
- (a) a rating under training; and
 - (b) a rating whose duties are of an unskilled nature.

Ratings forming part of an engine-room watch

15 (1) A 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 kilowatts propulsion power or more must hold a certificate of proficiency to perform such duties meeting the criteria specified in STCW Regulation III/4, paragraph 2.

- (2) This Regulation does not apply to—
- (a) a rating under training; and
 - (b) a rating whose duties are of an unskilled nature.

Ratings as able seafarer (deck)

16 An able seafarer deck serving on board a ship of 500 GT or more must hold a certificate of proficiency meeting the criteria specified in STCW Regulation II/5, paragraph 2 or paragraph 6.

Ratings as able seafarer (engine)

17 An able seafarer (engine) serving on board a ship powered by main propulsion machinery of 750 kilowatts propulsion power or more must hold a certificate of proficiency, meeting the criteria specified in STCW Regulation III/5, paragraph 2 or 4.

Electro-technical ratings

18 An electro-technical rating serving on board a ship powered by main propulsion machinery of 750 kilowatts propulsion power or more, must hold a certificate of proficiency, meeting the criteria specified in STCW Regulation III/7, paragraph 2 or 4.

Seafarers designated to launch or take charge of a survival craft or rescue boat (other than a fast rescue boat)

19 (1) A seafarer designated to launch or take charge of a survival craft or a rescue boat, other than a fast rescue boat, must hold a certificate of proficiency in such craft, meeting the criteria specified in STCW Regulation VI/2, paragraph 1.

- (2) In this regulation—

“liferaft” means a liferaft complying with the requirements of either Schedule 4 to UK Merchant Shipping Notice 1676(M) or Schedule 5 to UK Merchant Shipping Notice 1677(M); and

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“survival craft” means a craft capable of sustaining the lives of persons in distress from the time of abandoning the ship.

Seafarers designated to launch or take charge of a fast rescue boat

20 A seafarer designated to launch or take charge of a fast rescue boat must hold a certificate of proficiency in such craft, meeting the criteria specified in STCW Regulation VI/2, paragraph 1.

Ship security officers

21 (1) A ship security officer must hold a certificate of proficiency for the performance of the duties or functions of such a role, meeting the criteria specified in STCW Regulation VI/5, paragraph 1.

(2) In this regulation, “ship security officer” means the person on board a 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.

Seafarers on a passenger ship engaged on international voyages (other than a high-speed craft)

22 (1) This regulation applies to seafarers serving on board a passenger ship engaged on international voyages, other than a high-speed craft.

(2) Prior to being assigned shipboard duties on board a passenger ship, a seafarer must have completed the training required by paragraphs (3) to (6), in accordance with their capacity, duties and responsibilities.

(3) Training in crowd management as specified in section A-V/2 of the STCW Code, must be completed by the following—

- (a) the master;
- (b) each officer; and
- (c) any other seafarer designated on muster lists to assist passengers in emergency situations on board passenger ships.

(4) Safety training specified in section A-V/2 paragraph 2 of the STCW Code, must be completed by a seafarer providing direct service to passengers in passenger spaces on board a passenger ship.

(5) Approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 4 of the STCW Code must be completed by—

- (a) the master;
- (b) a chief engineer officer;
- (c) a chief mate;
- (d) a second engineer officer; and

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- (e) any other seafarer assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings on board a ro-ro passenger ship.
- (6) Approved training in crisis management and human behaviour specified in section A-V/2, paragraph 3, of the STCW Code must be completed by—
- (a) the master;
 - (b) a chief engineer officer;
 - (c) a chief mate;
 - (d) a second engineer officer; and
 - (e) any other seafarer designated on muster lists as having responsibility for the safety of passengers in emergency situations.
- (7) In paragraph (1) “international voyage” means a voyage from a port in one country to a port in another country, either of the countries being a party to the STCW Convention.

Seafarers on a high-speed craft

- 23 (1) This regulation applies to a seafarer serving on board a high-speed craft constructed on or after 1st January 1996.
- (2) Before being assigned shipboard duties on board a high-speed craft to which this regulation applies, a seafarer must complete the training specified in section 18.3.3 of the High-Speed Craft Code.
- (3) A person providing the training referred to in this regulation must issue documentary evidence to every person successfully completing such training.
- (4) In the case of masters and officers, the documentary evidence must be a certificate in the form and must be endorsed in a manner specified in UK Merchant Shipping Notice 1740(M).

Safety familiarisation, basic training and instruction for all seafarers

- 24 Before being assigned to shipboard duties, a seafarer must—
- (a) receive familiarisation and basic training or instruction in accordance with section A-VI/1 of the STCW Code; and
 - (b) meet the appropriate standard of competence specified in that section.

Seafarers designated as a fire fighting controller

- 25 A seafarer designated to control fire-fighting operations must—
- (a) have successfully completed advanced training in techniques for fighting fire, with particular emphasis on organisation, tactics and command in accordance with section A-VI/3, paragraphs 1 to 4 of the STCW Code; and
 - (b) meet the standard of competence specified in that section.

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Seafarers designated as a provider of medical first aid or to take charge of medical care

26 (1) A seafarer designated to provide medical first aid on board a ship must meet the standard of competence in medical first aid specified in section A-VI/4, paragraphs 1 to 3 of the STCW Code.

(2) A seafarer designated to take charge of medical care on board a ship must 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.

Security-related familiarisation training for seafarers on an ISPS ship

27 (1) This regulation applies to a seafarer serving on a seagoing ship which is required to comply with the ISPS Code.

(2) Before being assigned to shipboard duties, a seafarer must—

(a) receive security-awareness familiarisation and security-awareness training or instruction in accordance with section A-VI/6, paragraphs 1 to 3 of the STCW Code; and

(b) meet the appropriate standard of competence specified in that section.

(3) A seafarer with designated security duties must meet the standard of competence specified in section A-VI/6, paragraphs 4 to 6 of the STCW Code.

[Regulation 27 amended by BR 149 / 2020 reg. 6 effective 29 December 2020]

Application and issuing of certificates

Application for a certificate of equivalent competency

28 An application for the issue of a certificate of equivalent competency required by this Part must be made in a form specified by the Minister and be accompanied by the prescribed fee and evidence of identity, age, relevant service, standards of competence and certificates or qualifications held.

Form of a certificate and approval of seagoing service

29 A certificate of equivalent competency or a certificate of proficiency issued under this Part must be in the form specified in section A-I/2, paragraph 1, of the STCW Code.

Endorsements on a certificate

30 Where the Minister issues a certificate of equivalent competency under regulation 6, 8, 9, 10, 11, 12 or 13, the certificate must be endorsed by the Minister in the form prescribed in STCW Regulation I/2.

Exemptions

31 (1) The Minister may grant an exemption from the requirements of this Part provided the Minister is satisfied that—

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- (a) in the case of a master or chief engineer officer, the conditions specified in paragraphs (2) and (3) are met;
 - (b) in the case of a radio operator, the conditions specified in paragraph (2) are met and the relevant requirements of the radio Regulations annexed to, or regarded as being annexed to the International Telecommunication Convention 1981, are met; and
 - (c) in the case of any other category of seafarer, the conditions specified in paragraph (2) are met.
- (2) The conditions referred to in each subparagraph of paragraph (1) are that—
- (a) an exemption is necessary and does not pose a danger to persons, property or the environment;
 - (b) the seafarer is adequately qualified to fill the vacant post in a safe manner; and
 - (c) the seafarer is—
 - (i) properly certificated to fill the post immediately below that which the seafarer now performs; or
 - (ii) where certification of the post immediately below is not required, the qualification and experience of the seafarer are of clear equivalence to the requirements for the post to be filled and the seafarer passes a test accepted by the Minister as demonstrating that an exemption may safely be issued.
- (3) The conditions referred to in paragraph (1)(a) only is that circumstances of force majeure exist.
- (4) The Minister must specify the duration of an exemption and the duration must be—
- (a) in the case of a seafarer referred to in paragraph (1)(a), the shortest possible period; and
 - (b) in the case of another category of seafarer, a period not exceeding six months.
- (5) In exercising the function specified in paragraph (4), the Minister must have as an objective, ensuring that the post in question is filled by the holder of an appropriate certificate as soon as possible.
- (6) The Minister may impose such additional terms on an exemption under this regulation as the Minister may consider appropriate.
- (7) The Minister may amend or cancel any exemptions granted under this regulation.

Recognition of certificates

Recognition of certificates issued by the UK

32 (1) The Minister may recognise a certificate issued by or under the authority of a 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 prompt notification will be given, about any significant change in the arrangements for training and certification provided in compliance with the Convention; or
- (b) any other certificate of proficiency issued in accordance with the requirements of the STCW Convention by or on the authority of a State which is a party to the STCW Convention.

(2) Subject to paragraphs (3) and (4), on the application of a holder of a certificate described in paragraph (1)(a), the Minister may issue a certificate of equivalent competency attesting to its recognition.

(3) Subject to paragraphs (5) and (6), the Minister may, before issuing a certificate of equivalent competency to an applicant performing management level functions, require the applicant to demonstrate sufficient knowledge of such Bermuda maritime legislation as is relevant to the applicant's management level functions.

(4) The Minister must not issue a certificate of equivalent competency to an applicant, unless the applicant can demonstrate possession of adequate language proficiency, in accordance with the requirements in sections A-II/1, A-III/1, A-IV/2 and A-II/4 of the STCW Code.

(5) An applicant may, instead of demonstrating knowledge of Bermuda maritime legislation in accordance with paragraph (3), choose to undergo an adaptation period, of the duration specified by the Minister (but which must not exceed three years).

(6) If an applicant chooses to undergo an adaptation period in accordance with paragraph (5), the Minister must, for the duration of that period, issue to the applicant a certificate of equivalent competency, of such next lower capacity as does not require knowledge of Bermuda maritime legislation.

(7) A certificate of equivalent competency issued under this regulation must be in the form set out in section A-I/2, paragraph 3 of the STCW Code.

(8) In this regulation—

“management level functions” means functions of the level of responsibility associated with—

- (a) serving as master, chief mate, chief engineer or second engineer officer on board a seagoing ship; and

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- (b) ensuring that all functions within the designated area of responsibility are properly performed; and

“functions within the designated area of responsibility” means the seven functions listed in paragraph 2 of the Introduction to the STCW Code.

Recognition of a certificate issued by another STCW State

33 (1) This regulation applies to the following certificates issued by or under the authority of a third-party State—

- (a) a certificate of competency issued to a master or an officer;
- (b) a certificate of competency issued to a GMDSS radio operator; and
- (c) a certificate of proficiency in training for tanker cargo operations issued to a master or an officer.

(2) The Minister may recognise such a certificate if the certificate issued by the third-party State is recognised by an STCW State, and such recognition has not been withdrawn.

(3) Subject to paragraphs (5) and (6), where the Minister recognises a certificate pursuant to paragraph (2), the Minister must, on application of the holder of a certificate, issue a certificate of equivalent competency attesting to its recognition.

(4) The Minister must not issue a certificate of equivalent competency, to an applicant, unless the applicant can demonstrate possession of adequate language proficiency, in accordance with the requirements in sections A-II/1, A-III/1, A-IV/2 and A-II/4 of the STCW Code.

(5) Where, pursuant to paragraph (2), the Minister recognises the standard of competence or proficiency required for the issue of a certificate by a third-party State as satisfying only in part the standard required for officers qualified for the purpose of this Part, the Minister may specify additional standards which are to be attained, and the means by which such standards may be demonstrated, for the issue of a certificate of equivalent competency.

(6) Certificates of equivalent competency issued on the basis of that recognition before the date of the decision to withdraw recognition remain valid.

(7) An officer holding a certificate of equivalent competency may not be issued with a certificate of equivalent competency of a higher grade based on a certificate issued by that third-party State, except where an officer qualifies for a certificate solely on the basis of additional sea service.

(8) A certificate of equivalent competency issued under this regulation must be in the form set out in section A-I/2, paragraph 3 of the STCW Code.

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Validity of Certificates

Validity of a certificate or endorsement

34 (1) Subject to regulations 35 and 36, a certificate issued under this Part remains valid for sea-going service, provided the holder complies with the standards and conditions—

- (a) as to medical fitness prescribed by the Medical Certification Regulations; and
- (b) of professional competency to act in the appropriate capacity required by the STCW Convention and this Part.

(2) Subject to regulation 35, an endorsement issued under regulation 30 remains valid for sea-going service, provided that the conditions specified in paragraphs (3) and (4) are met.

(3) The first condition referred to in paragraph (2) is that the certificate which is endorsed has not expired or been withdrawn, suspended or cancelled.

(4) The second condition referred to in paragraph (2) is that the holder complies with the standards and conditions—

- (a) as to medical fitness prescribed by the Medical Certification Regulations; and
- (b) of professional competency to act in the appropriate capacity required by the STCW Convention and this Part.

Revalidation of certain certificates and endorsements

35 (1) This regulation applies to—

- (a) a certificate of competency issued to a master or an officer;
- (b) a certificate of equivalent competency issued to a master or an officer;
- (c) a certificate of proficiency in training for tanker operations issued to a master or an officer; and
- (d) an endorsement issued under regulation 30.

(2) A certificate of equivalent competency or endorsement to which this regulation applies is not valid for seagoing service unless, at intervals not exceeding five years, it is revalidated by the Minister.

(3) Before revalidating a certificate of equivalent competency or endorsement to which this regulation applies, the Minister must be satisfied that the holder of the certificate has established continued professional competence in accordance with section A-I/11 of the STCW Code.

(4) An application for revalidation must be made in a form specified by the Minister and be accompanied by—

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- (a) evidence of identity, age, relevant service, standards of competence and certificates or qualifications held; and
- (b) the prescribed fee.

Refresher training for certain seafarers

36 (1) Paragraph (2) applies to a seafarer who holds a certificate of proficiency in the following—

- (a) personal survival techniques;
- (b) survival craft and rescue boats;
- (c) advanced firefighting;
- (d) fire prevention and firefighting; and
- (e) fast rescue boats.

(2) A seafarer to whom this regulation applies, must at intervals not exceeding five years, successfully complete approved refresher training relating to the certificate held.

(3) A master and a seafarer designated to take charge of medical care on board ship must at intervals not exceeding five years successfully complete approved refresher training relating to that designation.

(4) Every master and officer must for continuing sea-going service on ships referred to in regulations 22 and 23, successfully complete approved refresher training relating to the training and qualifications required under those sections at intervals not exceeding five years.

Cancellation of certificates and appeals

Cancellation of a certificate

37 The Minister may cancel a certificate of equivalent competency issued under this Part, where—

- (a) the holder is convicted of an offence under section 59(5) of the Act; or
- (b) a certificate or endorsement is issued and the conditions for its issue prescribed in these Regulations have not been complied with.

Appeal against refusal or cancellation of a certificate

38 (1) If the Minister intends to refuse the issue of, refuse the revalidation of, or cancel, a document specified in paragraph (2) for any reason, the Minister must give notice in writing to the applicant or holder of the certificate.

- (2) The documents referred to in paragraph (1) are—
 - (a) a certificate of competency;
 - (b) a certificate of equivalent competency;

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- (c) a certificate of proficiency; or
- (d) an endorsement issued under regulation 30.

(3) The applicant may, before a date specified in the notice, require the refusal or cancellation to be reviewed at an inquiry.

(4) If the Minister fails either to—

- (a) issue or revalidate a certificate of equivalent competency; or
- (b) give notice in writing pursuant to paragraph (1), to an applicant for a certificate of equivalent competency within twenty-eight days of the application being made,

the Minister is deemed to have refused the application and the applicant has the right, to require in writing, before the expiry of a further twenty-eight days, that the application be reviewed at an inquiry.

(5) If the applicant has required an inquiry in accordance with paragraph (3) or (4), the Minister must cause such an inquiry to be held by one or more persons appointed by the Minister.

Loss of certificates and record keeping

Loss of a certificate

39 Where a person who holds a certificate of equivalent competency has lost or been deprived of it, the Minister may, upon receipt of the prescribed fee, issue a certified copy of the certificate to the holder.

Register of certificates and endorsements

40 (1) The Registrar must keep a register of certificates and endorsements issued under this Part (“the register”) recording the items of information listed in section A-I/2, paragraph 9, of the STCW Code.

(2) Upon the request of a State or company referred to in paragraph (3), the Registrar must provide from the register, the information listed in paragraph (4), in so far as such information is necessary to verify the authenticity or validity of documents held by a seafarer.

(3) For the purposes of paragraph (2), a State or company is—

- (a) the United Kingdom;
- (b) a third-party State; or
- (c) a company which employs, or is considering employing, the seafarer to whom the information relates on board a ship.

(4) The information mentioned in paragraph (2) is information on the status of—

- (a) a certificate of competency;

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- (b) a certificate of proficiency in training for tanker cargo operations issued to a master or an officer;
- (c) an endorsement issued in respect of a certificate within (a) or (b); or
- (d) any dispensation or exemption granted under section 60 or 66 of the Act which relates to the seafarer to whom the request relates.

(5) In this regulation “the Registrar” means the Registrar of Shipping or such other person appointed by the Minister to perform the functions under this regulation.

Training

Provision and quality of training

41 (1) A person providing the training or assessment of seafarers for certification under the STCW Convention or this Part, must ensure that—

- (a) such training or assessment is administered, supervised and monitored in accordance with section A-I/6 of the STCW Code; and
- (b) those responsible for such training are appropriately qualified in accordance with that section, for the type and level or training involved.

(2) A person providing training specified by the Minister must issue documentary evidence to every person successfully completing such training which complies and which, in the case of masters and officers having an operational role on high speed craft, must be a certificate in a form specified in UK Merchant Shipping Notice 1740(M) endorsed in a manner specified in that notice.

(3) The Minister must ensure that—

- (a) a quality standards system meeting the requirements of STCW Regulation I/8 is in place; and
- (b) periodically an evaluation is undertaken.

PART 3

TRAINING AND CERTIFICATION: HOVERCRAFT

Hovercraft personnel

42 (1) This Part applies to every sea-going hovercraft registered in Bermuda which was constructed on or after 1st January 1996.

(2) The owner of a hovercraft to which this Part applies must ensure that a seafarer serving on board a hovercraft to which this regulation applies, has completed the training specified in section 18.3.3 of the High-Speed Craft Code.

(3) A person providing the training referred to in paragraph (2), must issue documentary evidence to every person successfully completing such training.

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(4) In the case of a master or an officer, the documentary evidence must be a certificate in the form specified by the Minister in UK Merchant Shipping Notice 1740(M) and the certificate must be endorsed in a manner so specified.

Certificates

43 Regulations 28 to 30, 34 and 37 to 39 apply to certificates issued under regulation 42, as they apply to certificates issued under Part 2.

Exemptions

44 The Minister may grant to the owner of a hovercraft, on such terms, if any, as may be specified, exemptions from any of the requirements of regulation 42 for classes of case or individual cases, and may amend or cancel any exemptions so granted.

PART 4

SAFE MANNING AND WATCH KEEPING

General

Application of Part 4

- 45 (1) This Part applies to sea-going ships which are—
- (a) Bermuda ships wherever they are; and
 - (b) other ships when in Bermuda waters.
- (2) This Part does not apply to—
- (a) a fishing vessel; and
 - (b) a pleasure vessel.
- (3) In this Part, “ship” includes hovercraft.

Safe manning

Safe manning document

- 46 (1) In relation to a ship of 500 GT or more, a company must ensure that—
- (a) a safe manning document issued by the Minister, 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 a ship to which this regulation applies, must 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.

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(3) A company applying for a safe manning document in respect of a Bermuda ship must submit to the Minister, proposals as to the numbers and grade of seafarer it considers must be carried so that the ship is safely manned if it proceeded to sea on an intended voyage.

(4) The Minister may issue guidance to companies on safe manning to assist them in preparing proposals under paragraph (3).

(5) After any approval by the Minister, of proposals and the issue of a safe manning document, a company must inform the Minister as soon as there is any change in the circumstances which are pertinent to that document.

(6) Upon receipt of notification by a company under paragraph (5), the Minister may review the document's continuing validity or approve fresh proposals from the company.

Watchkeeping arrangements

Arrangements generally and at sea

47 (1) The master of a ship must ensure that the watchkeeping arrangements for the ship are at all times adequate for maintaining safe navigational, engineering and radio watches—

- (a) in accordance with STCW Regulation VIII/2, paragraph 2; and
- (b) taking into account—
 - (i) the prevailing circumstances and conditions; and
 - (ii) section A-VIII/2 of the STCW Code.

(2) Without prejudice to the duties of a master provided by paragraph (1), a master must give directions to the deck watchkeeping officers responsible for navigating the ship safely during their periods of duty, in accordance with—

- (a) section A-VIII/2, Part 4-1, of the STCW Code; and
- (b) any requirements specified in UK Merchant Shipping Notice 1868(M).

(3) The chief engineer officer of a ship must ensure that the engineering watchkeeping arrangements for the ship are at all times adequate for maintaining a safe watch, in accordance with—

- (a) section A-VIII/2, Part 4-2, of the STCW Code; and
- (b) any requirements specified in UK Merchant Shipping Notice 1868(M).

Arrangements in port

48 (1) The master of a ship which is safely moored or safely at anchor under normal circumstances in port, must arrange for an appropriate and effective watch to be maintained for the purposes of safety.

(2) The arrangements required by paragraph (1) must be in accordance with—

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- (a) section A-VIII/2, Part 5, of the STCW Code; and
- (b) any requirements specified in UK Merchant Shipping Notice 1868(M).

Watchkeeping arrangements in port for ships carrying hazardous cargo

49 (1) The master of a ship which is carrying hazardous cargo and which is in port, even when safely moored or safely at anchor must, in addition to any watchkeeping arrangements required under regulation 48, 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 qualified officer or officers and, where appropriate, ratings; and
- (b) a ship carrying hazardous cargo other than in bulk, ensure that in organising safe watchkeeping arrangements, account is taken 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 must take account of the principles and requirements specified in UK Merchant Shipping Notice 1868(M).

(3) In this regulation “hazardous cargo” means cargo which is or may be explosive, flammable, toxic, health-threatening or environment-polluting.

Exemptions

50 The Minister may grant, on such terms, if any, as may be specified, exemptions from all or any of the provisions of this Part for classes of case or individual cases, and may amend or cancel any exemptions so granted.

PART 5

GENERAL

Responsibilities of companies, masters and others

51 (1) This regulation applies to a sea-going ship registered in Bermuda, except for—

- (a) a fishing vessel;
- (b) a pleasure vessel which is—
 - (i) less than 80 GT; or
 - (ii) under 24 metres in length; and
- (c) a wooden ship of primitive build.

(2) A company must ensure that—

- (a) a seafarer assigned to any of its ships holds an appropriate certificate in respect of any function that person performs on that ship;

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- (b) a seafarer on any of its ships has had training specified in Part 2, in respect of any function that person performs on that ship; and
 - (c) documentation and data relevant to a seafarer 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.
- (3) Nothing in paragraph (2) prohibits the allocation of tasks for training under supervision or in case of force majeure.
- (4) A company must 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 officers and ratings 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.
- (5) The policies and procedures referred to in paragraph (4) include—
- (a) allocation of a reasonable period of time during which each newly employed officer or rating will have an opportunity to become acquainted with—
 - (i) the specific equipment the officer or rating will be using or operating; and
 - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the officer or rating needs to know, to perform the assigned duties properly; and
 - (b) designation of a knowledgeable crew member responsible for ensuring that an opportunity is provided to each newly employed officer or rating to receive essential information, in a language the officer or rating understands.
- (6) A master and a member of a crew designated with an obligation under paragraph (5)(b) must carry out that obligation.

Carriage of documents

52 A company and a master must ensure that there are carried at all times on board ship all original certificates and other documents issued pursuant to the STCW Convention and Part 2 of these regulations, 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 non-Bermuda ships

- 53 (1) An authorised person may inspect any ship which is not a Bermuda ship, for the purposes of—
- (a) verifying that a seafarer serving on board who is required to be certificated holds valid STCW certificates; and

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- (b) assessing the ability of a seafarer in the ship, to maintain the watchkeeping standards required by Part 4 of these Regulations, where there are grounds for believing that such standards are not being maintained because, while 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 an unlawful discharge of substances from the ship when underway, at anchor or at a berth;
 - (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) If an authorised person finds on inspection any deficiency of a kind specified in paragraph (3), the authorised person must notify in writing the master of the ship, and the nearest maritime, consular or diplomatic representative of the flag State, that such a deficiency has been found.

(3) Deficiencies referred to in paragraph (2) are—

- (a) a failure of a seafarer to hold an STCW 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 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, 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.

(4) In this regulation—

“authorised person” means a person authorised by the Minister, for the purposes of these Regulations; and

“STCW Certificate” means a certificate issued and endorsed in accordance with the STCW Convention entitling the lawful holder to serve in the capacity and perform the functions involved—

- (a) at the level of responsibility specified;

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- (b) on a ship of the type, tonnage or power and means of propulsion on which the seafarer is serving; and
- (c) while engaged on the particular voyage concerned.

Power to detain

- 54 (1) Paragraph (2) applies 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) a contravention of regulation 47, 48 or 49;
 - (ii) a breach of a term of an exemption granted under regulation 50; or
 - (iii) a failure to correct a deficiency of a kind specified in regulation 53(3) after notification to the master pursuant to regulation 53(2), and there is in consequence a danger to persons, property or the environment.

(2) Where this paragraph applies, the ship may be detained, and section 242 of the Act (detention of a ship) applies as if for the words “the Act”, whenever they appear, there were substituted the words “The Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2019”.

(3) Regulations 14, 15 and 16 (rights of appeal and compensation, arbitration and compensation for unjustified detention) of the Merchant Shipping (Port State Control) Regulations 2019, apply in relation to a detention order under these Regulations, as they apply to a detention order under those Regulations.

Penalties

55 (1) An owner who contravenes regulation 42(2) commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000 or on conviction on indictment, to a fine not exceeding \$20,000, or to imprisonment not exceeding 6 months, or both.

(2) Any company which contravenes regulation 46(2), 47(1) or (2), 48, 49, 51(6) or 52 commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000, or on conviction on indictment, to a fine not exceeding \$20,000 or to imprisonment not exceeding 6 months, or both.

(3) Any master who contravenes regulation 46(2), 47(1) or (2), 48, 49, 51(6) or 52 commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000, or on conviction on indictment, to a fine not exceeding \$20,000 or to imprisonment not exceeding 6 months, or both.

(4) Any member of the crew who contravenes regulation 51(6) commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000.

(5) Any chief engineer who contravenes regulation 47(3) commits an offence and is liable on summary conviction, to a fine not exceeding \$10,000.

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(6) It is a defence for a person charged with an offence under these Regulations, that the person took all reasonable steps to avoid commission of the offence.

(7) 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 is for the person charged to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Revocation and savings

56 (1) The Merchant Shipping (Training, Certification, Manning and Watchkeeping) Regulations 2005 are revoked.

(2) Notwithstanding paragraph (1), Certificates of equivalent competency 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, in these Regulations, and shall accordingly remain valid until expiry of the certificate or endorsement.

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SCHEDULE

(Regulation 6)

CATEGORIES OF CERTIFICATES OF COMPETENCY AND CRITERIA FOR ISSUE

Categories and capacity

STCW Regulation in which the requirements for the issue of a certificate of competency are contained

(1) Categories and capacity	(2) STCW Regulation in which the requirements for the issue of a certificate of competency are contained
<p>Master and deck department</p> <p>Officer in charge of a navigational watch on any ship on voyages not limited to near-coastal voyages.</p> <p>Master or chief mate on a ship of 3000 GT or more.</p> <p>Master on a ship of between 500 GT and 2999 GT not engaged on near-coastal voyages.</p> <p>Chief mate on a ship of between 500 GT and 2999 GT.</p> <p>Officer in charge of a navigational watch on a ship of less than 500 GT engaged on near-coastal voyages.</p> <p>Master on a ship of less than 500 GT engaged on near-coastal voyages.</p>	<p>Regulation II/1, paragraph 2</p> <p>Regulation II/2, paragraph 2</p> <p>Regulation II/2, paragraph 4</p> <p>Regulation II/2, paragraph 4</p> <p>Regulation II/3, paragraph 4</p> <p>Regulation II/3, paragraph 6</p>

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(1) Categories and capacity	(2) STCW Regulation in which the requirements for the issue of a certificate of competency are contained
<p>Engine department</p> <p>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 kilowatts propulsion power or more.</p> <p>Chief engineer officer or second engineer officer on a ship powered by main propulsion machinery of 3000 kilowatts propulsion power or more.</p> <p>Chief engineer officer and second engineer officer on a ship powered by main propulsion machinery of between 750 and 3000 kilowatts propulsion power.</p> <p>Electro-technical officer on a ship powered by main propulsion machinery of 750 kilowatts propulsion power or more.</p>	<p>Regulation III/1, paragraph 2</p> <p>Regulation III/2, paragraph 2</p> <p>Regulation III/3, paragraph 2</p> <p>Regulation III/6, paragraph 2.</p>

Made this 16th day of October 2019

Minister of Tourism and Transport

[Operative Date: 17 October 2019]

[Amended by:

BR 149 / 2020]