L.N. 29 of 2003

MERCHANT SHIPPING ACT
(CAP. 234)

Merchant Shipping (Safe Manning and Watchkeeping) Regulations, 2003

IN exercise of the powers conferred by articles 90, 281 and 374 of the Merchant Shipping Act, the Minister for Transport and Communications has made the following regulations:–

Short title.

1. The title of these regulations is the Merchant Shipping (Safe Manning and Watchkeeping) Regulations, 2003.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires –

"Act" means the Merchant Shipping Act; Cap. 234.

"appropriate certificate" means an appropriate certificate as defined in the STCW Convention;

"authorised person" means a person authorised by the Registrar-General for the purpose of these regulations;

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

"GT" means gross tonnage;

"hazardous cargo" means cargo which is or may be explosive, flammable, toxic, health threatening or environment-polluting;

"safe manning document" means a document described as such issued, in the case of a Maltese ship by the Registrar-General,

and 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;

"STCW Code" means the Seafarers' Training Certification and Watchkeeping Code adopted by the 1995 Conference of Parties to the STCW Convention;

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping signed in London on 7th July 1978.

(2) Any reference in these regulations to an international convention or its related code shall include reference to any amendments to such convention code accepted by the Government of Malta.

(3) Any reference in these regulations to an article, regulations, regulation or paragraph shall include reference to any amendment to or replacement of such article, regulations, regulation or paragraph.

Application.

3. (1) Subject to subregulation (2)(c) hereof these regulations apply to all sea-going ships, except fishing vessels and pleasure craft, that are Maltese ships wherever they are and other ships when in Maltese waters.

(2) The Registrar-General may either on a case by case basis or through the issue of *Merchant Shipping Notices* –

(a) extend, subject to such conditions as may be deemed proper, any of the provisions of these regulations to any Maltese ship or to other classes of Maltese ships or, to any ship or to other classes of ships when they are in Maltese waters;

(b) exempt, subject to such conditions as may be deemed proper, from any of the provisions of these regulations any Maltese ship or classes of Maltese ships or, any ship or classes of ships when such ship or ships are in Maltese waters; and

(c) determine, lay down, prescribe, set or specify what may be required to be determined, laid down, prescribed, set or specified by these regulations or expound on the requirements of these regulations or clarify their applicability or interpretation;

and in so doing, and without prejudice to the generality of the foregoing, the Registrar-General shall be guided by the circulars, clarifications, codes, decisions, directives, guidelines, instruments, interpretations, manuals, notices, publications, recommendations, regulations,

resolutions, rules or any other similar medium of the International Maritime Organisation or any other body or organisation with an appropriate knowledge or competence on the subject matter.

Responsibilities of companies, masters and others.

4. (1) This regulation applies only to Maltese ships.

(2) Every company shall ensure that -

(a) every seaman assigned to any of its ships holds an appropriate certificate in respect of any function the seaman is to perform on that ship;

(b) every seaman on any of its ships has had training specified in the Merchant Shipping (Training and Certification) Regulations, 2001 in respect of any function the seaman is to perform on that ship; L.N. 197 of 2001.

(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.

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

(4) The company shall provide written instructions to the master of each of its ships setting out the policies and the procedures to be followed to ensure that all seamen who are newly employed on board the ship are given 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 their duties.

(5) The policies and procedures referred to in subregulation (4) hereof shall include -

(a) allocation of a reasonable period of time during which each newly employed seaman will have an opportunity to become acquainted with -

(i) the specific equipment the seaman will be operating; and

(ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly;

(b) designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seaman to receive essential information in a language the seaman understands.

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

Safe manning document.

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

(a) a safe manning document is in force in respect of the ship and the manning of the ship;

(b) the safe manning document is kept on board the ship at all times;

(c) the manning of the ship is maintained at all times to at least the levels specified in the safe manning document.

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

(3) It shall be the duty of the company applying for a safe manning document in respect of any Maltese ship to submit to the Registrar-General any information that may be required for the issue of such document.

(4) It shall be the duty of the company after the issue of a safe manning document to inform the Registrar-General as soon as there is any change of the circumstances which are pertinent to that safe manning document.

Watchkeeping arrangements.

6. (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 Chapter VIII of section A of the STCW Code.

(2) Without prejudice to the duties of the master provided by subregulation (1) hereof the master shall give directions to the deck watchkeeping officers responsible for navigating the ship safely during their periods of duty, in accordance with Part 3-1 of Section VIII/2 of the STCW Code and any requirements specified by the Registrar-General.

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

Watchkeeping arrangements in port.

7. 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 be in accordance with Part 4 of section A-VIII/2 of the STCW Code and any operational guidance specified by the Registrar-General.

Watchkeeping arrangements in port for ships carrying hazardous cargo.

8. 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 7 hereof, in the case of -

(a) a ship carrying hazardous cargo in bulk ensure that a safe deck watch and safe engineering watch are maintained by the ready availability on board of a duly qualified officer or officers, and where appropriate ratings; and

(b) a ship carrying hazardous cargo other than in bulk, ensure that in 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.

Carriage of documents.

9. Without prejudice to regulation 4 hereof, the company and the master shall ensure that there are carried at all times on board ship all original certificates and other documents issued persuant to the STCW Convention indicating the qualification of any member of the crew to perform functions which they are required.

Inspection of ships.

10. (1) An authorised person may inspect any ship for the purpose of -

(a) verifying that all seamen serving on board who are required to be certificated hold valid appropriate certificates;

(b) assessing the ability of the seamen in a Maltese ship to maintain the watchkeeping standards required by these regulations; and

(c) assessing the ability of the seamen in a ship which is not a Maltese 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 Maltese waters, or in the approaches to those waters, any of the following has 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 berth;

(iii) the ship has been manoeuvered in an erratic or unsafe manner; 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 subregulation (3) hereof such person shall notify in writing the master of the ship and also, in the case of a ship which is not a Maltese ship, the nearest maritime, consular or diplomatic representative of the flag State.

(3) Deficiencies referred to in subregulation (2) hereof are -

(a) failure of any seaman, required to hold an appropriate certificate to have a valid appropriate certificate or a valid exemption from that requirement;

(b) failure to comply with the safe manning requirement

(c) failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the competent authority of the country in which the ship is registered;

(d) absence on a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution.

Power to detain.

11. In any case where it is found -

(a) in relation to a ship which is a Maltese ship, that there is any contravention of these regulations; or

(b) in relation to a ship which is not a Maltese ship, that there is -

(i) any contravention of regulation 5, 6, 7 or 8 hereof; or

(ii) a failure to correct a deficiency of a kind specified in regulation 10(3) hereof after notification to the master pursuant to that same regulation, and there is in consequence a danger to persons, property or the environment,

the Registrar-General may detain such ship in terms of the Act until the Registrar-General is satisfied that ship is fit to proceed to sea.

Penalties.

12. Any person or company who contravenes the provisions of these regulations shall, for each offence, be liable to the penalties provided for in the Act, and if no such penalty is provided, such person shall for each offence be liable to a fine (multa) not exceeding 500 units.

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