

REGULATIONS

REGARDING STANDARDS OF TRAINING,
CERTIFICATION AND WATCHKEEPING FOR

seafarers

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SCHEDULES

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STCW REGULATIONS, 1998
(Sections 103 & 502, 19 FSMC)

PART 1 - PRELIMINARY

1.1 Authority – These regulations are promulgated by the Secretary pursuant to sections 103 and 502 of the Act, and provide for the training and certification of FSM seafarers and other related issues, in accordance with the requirements of the STCW Convention as amended in 1995.

1.2 Application --These Regulations shall apply to -

- (a) all vessels registered in the Federated States of Micronesia; and
- (b) all vessels to which the STCW Convention applies when in the waters of the Federated States of Micronesia;
- (c) all seafarers who are employed on vessels referred to in paragraphs (a) and (b); and
- (d) all owners and masters of vessels referred to in paragraphs (a) and (b); and
- (e) all Micronesian seafarers and holders of certificates recognized and endorsed by the Government; and
- (f) all maritime training institutions located in the Federated States of Micronesia; and
- (g) all certificates issued and recognized by the Government.

1.3 STCW Convention

(1) The STCW Convention shall be incorporated into and shall have the force of law in the Federated States of Micronesia.

(2) All vessels registered in the Federated States of Micronesia to which the STCW Convention applies shall carry on board a copy of the Convention.

(3) All other vessels to which the STCW Convention applies shall carry on board, when in the waters of the Federated States of Micronesia, a copy of the Convention.

1.4 Delegation and Exemption

(1) The Secretary may delegate in writing any duty or power imposed by these Regulations, to any person deemed appropriate to carry out such duty, except the power of delegation;

(2) Notwithstanding anything contained in these Regulations, the Secretary may exempt the owner of any vessel from any of the provisions contained herein, if by so doing;

- (a) there is no additional risk of loss of life or personal injury or damage to property; or
- (b) he deems it in the public interest to do so.

1.5 Definitions

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

"Act" means the National Maritime Act, 1997;

"Administration" means the Division of Marine Transportation, which shall be responsible for the administration of the Convention;

"agreement" shall mean Shipping Articles as defined in section 106(33) of the Act;

"appropriate certificate" means a certificate held by a seafarer appropriate for the size, type, trading area and horsepower of the vessel in accordance with the standards set forth in Schedule IV.

"certificate" means –

- (a) certificate of competency issued to a seafarer under section 504 of the Act and in accordance with Part 2; or
- (b) a certificate of competency revalidated under section 2.6; or
- (c) a certificate of competency issued to a seafarer by the maritime administration of another Contracting Party and recognized by the Secretary under section 2.4;

"clear grounds" in respect of the control procedures set forth in section 6.1 include a collision, grounding or stranding; an illegal discharge; operations which would pose a danger to seafarers, property and the environment and any deficiencies in the vessel's equipment or documentation;

"Code" means the Seafarers' Training, Certification and Watchkeeping Code, (Code) attached as Resolution 2 to the Final Act of the 1995 STCW Conference;

"Convention" means the STCW Convention, and includes the Articles, the Annex containing the Regulations and the Code;

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 and any other amendments that are accepted by or binding on The Federated States of Micronesia;

"crewing" has the same meaning as "manning".

"deficiencies" in respect of clear grounds include failure to hold an appropriate certificate; failure to comply with the provisions of the Safe Crewing Certificate; watch arrangements that do not conform with those specified by the Flag State Administration; absence in a watch of a qualified seafarer; inability to provide for watches seafarers who are sufficiently rested or otherwise fit for duty.

"dispensation" means a dispensation from a requirement of the Convention, granted either generally or in a particular case by the Secretary under section 2.7;

"Division of Marine Transportation" means that division of the Department of Transportation, Communications and Infrastructure;

"duly certificated", in relation to a seafarer, means holding a valid certificate showing that the holder is qualified to serve in the capacity concerned on the type, tonnage, power and means of propulsion, and class of vessel and voyage concerned and to perform the functions involved at the relevant level of responsibility specified in the certificate;

"endorsement" means an endorsement made to a certificate by the Secretary under Section 2.5 or made by the maritime administration of another Party;

"Government" means the Government of the Federated States of Micronesia;

"IMO" means the International Maritime Organization;

"maritime training institution" means a training institution approved by the Government for training of seafarers to the level stipulated under the Convention and for the issuance of STCW certificates by the Government;

"medical certificate" means a Seafarer's Medical Fitness Certificate;

"owner" means an owner or operator or bareboat charterer and includes "company" as defined in Regulation I/1 of the Convention;

"Party" means a Party to the Convention;

"physician" means a person who holds a current license to practice medicine issued under the laws of the Federated States of Micronesia or by a licensing authority recognized by the Government;

"recognized physician" means a physician who is knowledgeable about seafaring and is designated by the Secretary or those physicians recognized by the Government for the purpose of conducting medical examinations for seafarers;

"Registrar" means the Registrar of Seafarers;

"Registrar of Seafarers" means the Principal Shipping Officer appointed under Section 503 of the Act;

"Safe Manning Certificate" means that certificate required under international law or the law of the flag state of each vessel, showing the minimum crewing requirements to operate the vessel safely;

"seafarer" means a person in any capacity on a vessel and includes a person who is employed, or who seeks employment, as master, officer, or rating on a vessel;

"seaman" has the same meaning as seafarer;

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

"SOLAS" means the International Convention for the Safety of Life at Sea, 1974, as amended by the Protocols of 1978 and 1988 and any other Amendments from time to time adopted by IMO.

"Micronesian seafarer" means a seafarer who is a citizen of the Federated States of Micronesia;

"FSM registered vessel" means a vessel that is registered or licensed in the Federated States of Micronesia.

(2) In compliance with STCW Regulation I/3, the following terms shall apply to these Regulations: -

"Near-coastal voyage" means voyage within the 200 nautical mile Exclusive Economic Zone of the Federated States of Micronesia and includes voyages, trades and operation of vessels within the groups of islands that comprise the Federated States of Micronesia;

"unlimited voyage" means voyage beyond the 200 nautical mile Exclusive Economic Zone of the Federated States of Micronesia and includes voyages, trades and operation of vessels within the groups of islands that comprise the Federated States of Micronesia.

(3) In respect of Part 10, Shipborne Radio Equipment and Installations, the following terms apply: -

"Radio Regulations" means the Radio Regulations annexed to, or regarded as being annexed to, the most recent International Telecommunications Convention which may be in force at any time.

"GMDSS" means the global maritime distress and safety system as prescribed in Chapter IV of the STCW Code.

(4) Where a term is used in these Regulations that is defined in Article II or Regulation I/1 of the Convention, the term shall have the same meaning as in the Convention unless a different meaning is given to that term by these Regulations.

PART 2 - TRAINING AND CERTIFICATION

2.1 Training and Assessment

(1) The training and assessment of competence of seafarers in the Federated States of Micronesia shall be administered, supervised, and monitored in accordance with the provisions of Section A-I/6 of the Code.

(2) Every person responsible for the training and assessment of competence of seafarers shall be appropriately qualified in accordance with the provisions of Section A-I/6 of the Code for the type and level of training or assessment involved.

(3) Training programs provided for seafarers in the Federated States of Micronesia shall be those as specified in Schedule II and shall be conducted in accordance with the provisions of the Convention and to the standards required by the Code.

(4) The assessment of competence of seafarers in the Federated States of Micronesia shall be in accordance with the provisions of the Convention and to the standards specified in relevant sections of the Code.

(5) Curricula developed for training programs offered in the Federated States of Micronesia shall be based on the relevant requirements of the Code.

(6) The use of simulator training shall be in accordance with Regulation I/12.

(7) The Secretary shall promulgate Regulations establishing standards and procedures for:

- (a) course outlines, detailed curricula and methods of assessment;
- (b) procedures for application for certificates, calculation of sea service and determination of prerequisites;
- (c) conduct of examinations and determination of passing criteria;
- (d) procedures for retaking of examinations;
- (e) the format of certificates of discharge.

2.2 Training Institutions

(1) The College of Micronesia-FSM shall be designated the primary institution for maritime training and assessment in the Federated States of Micronesia.

(2) The Secretary may approve, subject to compliance with the provisions of the Convention and the requirements of the Code, the training, assessment and issue of assessment certificates by the College of Micronesia-FSM.

(3) The Secretary may appoint appropriately qualified Assessors for the particular type and level of training and assessment of competence of seafarers.

(4) The College of Micronesia-FSM may issue assessment criteria for each student who has satisfactorily completed the training programs for one of the certificates specified in Schedule II.

(5) The final assessment certificate issued by the Division of Marine Transportation shall be sufficient evidence of that seafarer's competence in the subjects mentioned in the certificate.

(6) The person in charge of the College of Micronesia-FSM shall maintain a record of the assessment of all seafarers to whom assessment certificates are issued.

2.3 Issuance of Certificates

(1) The Secretary shall approve the issuance of certificates, exemptions and dispensations; recognize and endorse certificates; and suspend, revoke or take such other administrative action as is reasonably necessary for the proper administration of training and certification of seafarers in accordance with the provisions of the Convention.

(2) The Secretary may, at any time, in writing, delegate to any person deemed appropriate to carry out such duty, any or all of the powers referred to in sub-section (1), including the authority to issue, endorse, revalidate, suspend or revoke certificates, or issue dispensations.

(3) The classes of certificates that may be issued and the pre-requisites that candidates must satisfy for their issue, shall be those set forth in Schedule IV.

(4) Candidates for certification shall provide satisfactory proof of –

- (a) their identity and age; and
- (b) their medical fitness, in accordance with Part 7; and
- (c) completion of sea-going service, training or re-training; and
- (d) any other requirement of the Administration.

(5) The certificates issued under sub-sections (1) and (2) shall be in a format similar to that set forth in Schedule X to these Regulations.

(6) No certificates shall be issued to any seafarer unless found duly qualified in accordance with the provisions of Article VI and Regulation 1/2 of the Convention and the standards required by the Code.

(7) Any need to wear visual aids to meet the required medical standards specified in Part 7 and the Schedules shall be recorded on each certificate or endorsement issued.

2.4 Recognition of Certificates

(1) Certificates issued and endorsed by a Party to the Convention as meeting the provisions of the Convention, as set forth in Schedule I, shall be recognized in the Federated States of Micronesia, provided that such certificates are –

- (a) issued by the maritime administration of the Party; and
- (b) appropriate to the duties to be performed by the seafarer aboard the vessel; and

- (c) valid for the vessel and the voyage and trade on which the vessel is engaged.

(2) Seafarers who present certificates for recognition shall have, in accordance with Regulation I/10 of the Convention, an appropriate knowledge of the maritime legislation applicable to the vessel and its area of operation, and relevant to the functions they are permitted to perform.

(3) The Secretary may, under the provisions of Regulation I/10 paragraph 5 of the Convention, if circumstances require, permit a seafarer to serve on a vessel registered in the Federated States of Micronesia for a period not exceeding three months while holding an appropriate and valid certificate issued and endorsed by another party to the Convention, pending its endorsement for service on vessels registered in the Federated States of Micronesia.

2.5 Endorsements of Certificates

(1) Where a certificate is to be endorsed such endorsement shall be made by the Secretary in a format similar to that illustrated in the Convention, and may form part of the certificate.

(2) No such endorsement shall be made unless the Administration is satisfied that all the requirements of the Convention have been complied with.

2.6 Revalidation of Certificates

(1) Every seafarer holding a certificate issued or recognized under these Regulations shall, in order to qualify for seagoing service, be required at intervals not exceeding five years to –

- (a) meet the standards of medical fitness prescribed in the Part 7; and
- (b) establish continued professional competence in accordance with Section A-I/11 of the Code.

(2) Every seafarer holding a qualification issued in accordance with the requirements of Regulations VI/1, VI/2, VI/3 and VI/4 of the Convention shall be required to demonstrate competence in accordance with the requirements of Sections A-VI/1, VI/2, VI/3 and VI/4 as may be relevant, at intervals of not exceeding five years.

(3) Where a seafarer seeking revalidation of a certificate produces evidence to the Secretary that he has satisfactorily completed a re-training course in emergency procedures, survival functions, occupational safety, and first aid within the last five years, or continued competence in those functions, and has paid the fee prescribed

in Schedule VII to these Regulations, the Secretary may revalidate that seafarer's certificate for a period not exceeding five years.

(4) A certificate, which is not so revalidated in accordance with these Regulations, shall not be valid for seagoing service.

2.7 Dispensations -- Dispensations shall only be issued by the Administration in cases of exceptional necessity or *force majeure* and in strict compliance with Article VIII of the Convention.

2.8 Offenses and penalties

(1) A seafarer who makes a false declaration in order to obtain a certificate or endorsement issued under this Part commits an offense for which the penalty shall be a fine not exceeding \$1,000.

(2) Any seafarer who obtains or uses forged documents or obtains documents by fraud for the purpose of obtaining a certificate commits an offense for which the penalty shall be a fine not exceeding \$1,000.

(3) Any seafarer who issues a false document or forges a document to facilitate the issue of a certificate commits an offense for which the penalty shall be a fine not exceeding \$1,000.

2.9 Fees -- The fees payable for receiving applications, assessing competence and issuing certificates under this Part shall be those prescribed in Schedule VII to these Regulations.

PART 3 – CREWING

3.1 Crewing

(1) The number of seafarers and classes of certificates required for the safe crewing of each class of vessels shall be in accordance with Schedule V.

(2) The minimum number of Micronesian seafarers employed on each vessel registered or licensed in the Federated States of Micronesia shall be determined by the Secretary.

(3) The number of seafarers and classes of certificates for the safe crewing of vessels laid up and securely moored shall be determined by the Secretary.

(4) Where a vessel has been crewed in accordance with these Regulations, the Secretary shall issue a Safe Crewing Certificate in the form set forth in Schedule VI

3.2 Offenses and Penalties

(1) The owner of a FSM registered vessel who engages, or causes or permits to be engaged, as a seafarer a person not duly certificated, commits an offense for which the penalty shall be a fine not exceeding \$50,000.

(2) The owner of a FSM registered vessel, who causes or permits the vessel to go to sea when it is not safely crewed in accordance with this Part, commits an offense for which the penalty shall be a fine not exceeding \$50,000.

(3) The owner of a FSM registered vessel, who causes or permits the vessel to go to sea when it is not crewed with the prescribed number of Micronesian seafarers, commits an offense for which the penalty shall be a fine not exceeding \$25,000.

(4) The master of a FSM registered vessel, who engages, as a seafarer a person not duly certificated, commits an offense for which the penalty shall be a fine not exceeding \$20,000.

(5) The master of a FSM registered vessel, who takes the vessel to sea when it is not safely crewed in accordance with this Part, commits an offense for which the penalty shall be a fine not exceeding \$20,000.

(6) The master of a FSM registered vessel, who takes the vessel to sea when it is not crewed with the prescribed number of Micronesian seafarers, commits an offense for which the penalty shall be a fine not exceeding \$25,000.

(7) Where these Regulations require a function or service on a vessel to be performed by a seafarer holding an appropriate certificate, a master who requires or permits that function or service to be performed by a seafarer not holding the required certificate, a valid dispensation, or recognition endorsement, commits an offense for which the penalty shall be a fine not exceeding \$25,000.

PART 4 - RESPONSIBILITIES OF OWNERS AND OTHERS

4.1 Responsibilities of Owners

(1) The owner of a vessel to which these Regulations apply shall employ seafarers for service on the vessel in accordance with the Convention.

(2) The owner of a vessel shall provide written instructions to the master setting out the policies and procedures to be followed to ensure that all seafarers on board the vessel are given a reasonable opportunity to become familiar with --

- (a) the shipboard equipment and operating procedures; and
- (b) any other arrangements needed for the proper performance of their duties before being assigned to those duties.

(3) The policies and procedures referred to in Sub-section (2) shall include --

- (a) allocation of a reasonable period of time during which each seafarer will have an opportunity to become familiar with:
 - (i) the specific equipment the seafarer will be operating; and
 - (ii) vessel-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 seafarer who will be responsible for ensuring that an opportunity will be provided for each seafarer to receive essential information in a language the seafarer understands; and
- (c) ensuring that seafarers are free from fatigue, that rest periods are observed and that watch schedules are posted in accordance with the watchkeeping arrangements prescribed in Part 5, and that these schedules are readily available for inspection by Port State Control officers and seafarers.

(4) The owner of a vessel shall provide vessel-specific introductory programs aimed at assisting newly employed seafarers to familiarize themselves with all procedures and equipment relating to their area of responsibility.

(5) Every owner shall enter into an employment contract with each seafarer, the main terms of which shall be contained in the pre-approved Agreement, to be signed by either the owner or master and the seafarer.

(6) The Owner shall keep a record of the bio-data of the seafarer required by the Convention.

(7) The Owner shall maintain records of the date on which the seafarer was engaged and in what capacity, the seafarer's certificate, the nature of the voyage, and the date of the seafarer's discharge.

4.2 Joint responsibilities of owners and masters

(1) Both the owner and the master to whom these Regulations apply shall ensure that -

- (a) every seafarer employed on the vessel is duly certificated; and
- (b) the vessel is crewed in compliance with the applicable safe crewing requirements prescribed in Part 3; and
- (c) documentation and data relevant to all seafarers employed on their vessels are maintained and readily accessible and shall include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties; and
- (d) every seafarer employed on the vessel is familiarized with that seafarer's specific duties and with all vessel arrangements, installations, equipment, procedures and vessel characteristics that are relevant to their routine or emergency duties; and
- (e) the vessel's complement can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

(2) Both the owner and the master of a vessel to whom these Regulations apply shall ensure that every seafarer can make a knowledgeable and informed contribution to the safe operation of the vessel.

(3) The following information shall be recorded by the owner or master in the Seaman's Employment Record Book as prescribed in Section 506 of the Act:

- (a) Name of vessel;
- (b) Official number;
- (c) Gross tonnage;
- (d) Total maximum continuous rated output power in kW;
- (e) Port of Registry;
- (f) Date and Place of Engagement;
- (g) Date and Place of Discharge;
- (h) Capacity on board;

- (i) Description of the voyage.

4.3 Responsibilities of master

- (1) The master shall take all steps necessary to implement any company instructions issued in accordance with section 4.1, which steps should include –
 - (a) identifying all seafarers who are newly employed on board the vessel before they are assigned to any duties; and
 - (b) providing the opportunity for all newly arrived seafarers to –
 - (i) visit the spaces, in which their primary duties are to be performed; and
 - (ii) get acquainted with the location, controls and display features of equipment they will be operating or using; and
 - (iii) activate the equipment when possible and perform functions using the controls on the equipment; and
 - (iv) observe and ask questions of someone who is already familiar with the equipment, procedures and other arrangements, and who can communicate information in a language which the seafarer understands; and
 - (c) providing for a suitable period of supervision when there is any doubt that a newly employed seafarer is familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of his duties.

(2) Every owner or master shall maintain an agreement evidencing the contract of employment between the owner and the seafarer for the duration of the voyage.

(3) The owner or master shall sign an agreement and ensure that the seafarer fully understands their meaning before appending his signature or mark.

4.4 Responsibilities of seafarers

(1) Seafarers assigned to a vessel should take full advantage of every opportunity provided to become familiar with the shipboard equipment, operating procedures, and other arrangements needed for the proper performance of their duties, and immediately upon arriving on board for the first time, each seafarer has the responsibility to become acquainted with the vessel's working environment, particularly with respect to new or unfamiliar equipment, procedures, or arrangements.

(2) Seafarers who do not promptly obtain the level of familiarity required for performing their duties shall bring this fact to the attention of their supervisor.

4.5 Offenses and Penalties

(1) An owner who fails to comply with any of the provisions contained in sections 4.1 and 4.2 commits an offense for which the penalty shall be a fine not exceeding \$25,000.

(2) A master who fails to comply with any of the provisions contained in sections 4.2 and 4.3 commits an offense for which the penalty shall be a fine not exceeding \$10,000.

(2) A seafarer who fails to comply with any of the provisions contained in section 4.4 commits an offense for which the penalty shall be a fine not exceeding \$5,000

PART 5 - WATCHKEEPING

5.1 Watchkeeping Arrangements

(1) The owner, master, chief engineer officer and all watchkeeping personnel of a vessel to which these Regulations apply shall observe the requirements, principles and guidelines set out in the Convention and the Code to ensure that a safe watch is maintained at all times.

(2) The master of a vessel shall ensure that watchkeeping arrangements are adequate to maintain a safe watch while the vessel is at sea, taking into account the following principles: -

- (a) the officer in charge of a navigational watch is responsible for the safe navigation of the vessel and shall be physically present on the bridge or associated location during his period of duty;
- (b) the radio operator is responsible for maintaining continuous radio watch on appropriate frequencies during his period of duty;
- (c) the officer in charge of an engineering watch shall be immediately available and shall be physically present in the machinery spaces when required.

(3) Appropriate and effective watches shall be maintained for the purpose of safety at all times-

- (a) when the vessel is at anchor or moored; and
- (b) when the vessel is carrying dangerous goods, as defined in Section 106(5) of the Act; and
- (c) when the vessel is carrying hazardous and noxious substances as defined by international maritime conventions.

(4) Watchkeeping arrangements and principles to be observed shall be those contained in Section A-VIII/2 of the Code, and due regard shall be had to the guidance contained in Section B-VIII/2 of the Code and "STCW Standards Regarding Watchkeeping" published by the Secretariat of the Pacific Community.

(5) The owner, master, chief engineer officer and all watchkeeping personnel of a vessel to which these Regulations apply who fails to observe the requirements, principles and guidelines in respect of watchkeeping set out in the Convention and the Code commits an offense and shall, upon conviction, be liable to the penalties set out below:

- (a) An owner - a fine not exceeding \$25,000;
- (b) A master, chief engineer officer and all watchkeeping personnel - a fine not exceeding \$10,000;
- (c) A seafarer - a fine not exceeding \$5,000.

5.2 Fitness for Duty

(1) The system of watches aboard a vessel shall be so arranged and that duties are so organized that –

- (a) the efficiency of all personnel with watchkeeping duties is not impaired by fatigue; and
- (b) the first watch at the commencement of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.

(3) Without limiting the general requirements of sub-section (1) –

- (a) all seafarers who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be provided a minimum of 10 hours rest in any 24-hour period; and

- (b) the hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length; and
- (c) the requirements for the rest periods laid down above need not be maintained in the case of an emergency or drill, or in other over-riding operational conditions; and
- (d) notwithstanding the provisions in paragraphs (a) and (b) above, the minimum period of 10 hours may be reduced to not less than six consecutive hours, provided that any such reduction shall not extend beyond two days and not less than 70 hours of rest are provided in each seven day period; and
- (e) watch schedules shall be posted on board where they are easily accessible.

PART 6 - CONTROL

6.1 Control Procedures

(1) A Surveyor appointed under Section 404 of the Act and authorized to board any vessel under Section 405(1) of the Act, may exercise the control procedures described in Article X and Regulation I/4 of the Convention and Section 511 of the Act.

(2) Control shall be limited to verifying that all seafarer's certificates are in order and that the number of qualified seafarers is in conformity with the vessel's manning requirement as evidenced in the vessel's Safe Manning Certificate, unless there are clear grounds for believing that the standards of the Convention are not being maintained.

(3) In the event there are clear grounds for believing that the standards of the Convention are not being maintained, the competence of seafarers may be assessed in accordance with the control procedures specified in Section A-I/4 of the Code.

6.2 Register of Seafarers and Certificates

(1) The Registrar shall maintain a Register of Seamen in accordance with Section 507 of the Act and record relevant particulars of documents issued to masters, officers and, as appropriate, ratings, including –

- (a) all certificates issued by the Government;
- (b) all endorsements made to certificates;
- (c) all certificates suspended or cancelled;
- (d) all certificates issued by another country that are recognized as valid on FSM registered vessels;
- (e) all dispensations and exemptions granted;
- (f) all certificates issued or recognized that have been revalidated;
- (g) all certificates issued to replace those lost or expired;
- (h) all medical certificates issued to seafarers under Part 7.

(2) The Registrar shall provide information from the Register to the Secretary-General of IMO, any Party, or any owner seeking authenticity and validity of certificates and endorsements issued.

6.3 Offenses and Penalties

(1) In respect of these Regulations or the Convention, a person who does anything prohibited, or omits to do anything required, commits an offense and, if no other penalty is prescribed, shall be liable upon conviction to a penalty as set forth in subsection (2).

(1) Penalties shall be as follows:

- (a) For owners, agents and operators - a fine not exceeding \$20,000;
- (b) For masters - a fine not exceeding \$5,000;
- (c) For officers or seafarers - a fine not exceeding \$3,000.

PART 7 - MEDICAL STANDARDS

7.1 Seafarers Medical Fitness Certificates -- Every seafarer employed on any FSM registered vessel to which the Convention applies shall hold a valid Seafarers Medical Fitness Certificate, set forth in Schedule IX, if that seafarer

—

- (a) is required to be on board by virtue of the vessel's Safe Manning Certificate; or
- (b) has any responsibility on board relating to emergency procedures; or
- (c) has any watchkeeping responsibilities; or
- (d) has any duties relating to the normal operation of the vessel.

7.2 Standards

(1) The standards of medical fitness for seafarers as required by Regulation I/9 of the Convention are set forth in Schedule VIII.

(2) Only physicians recognized by the Government for the purpose of conducting medical examinations for seafarers shall conduct medical examinations. The examination shall be conducted in accordance with recognized regional guidelines.

(3) A list of recognized medical practitioners shall be maintained by the Registrar and made available to other Parties to the Convention and to owners.

7.3 Certificates

(1) A physician shall, after completing the medical examination of a seafarer under these Regulations, issue a medical certificate to the seafarer in the form determined by the Secretary.

(2) The physician shall indicate in the medical certificate the assessment of the seafarer's suitability for employment aboard ships as –

- (a) unfit for service at sea; or
- (b) fit for service at sea, with limitations; or
- (c) fit for service at sea, without limitations.

(4) A physician who assesses a seafarer as fit for service at sea with limitations shall state those limitations on the Seafarer's Medical Fitness Certificate.

7.4 Duration

(1) Except where a re-examination is required under section 7.5, and subject to sub-sections (2) and (3) below, a medical certificate shall be valid for a period of two years, beginning on the day of its issuance.

(2) Where appropriate, taking into account the state of health of the seafarer examined, a physician may issue a medical certificate that specifies a shorter period of validity than the period set out in sub-section (1).

(3) Where the period of validity of a medical certificate expires in the course of a voyage, the certificate will remain in force until the end of the voyage, or until the end of an additional period of three months whichever occurs first.

7.5 Re-examination -- The seafarer may at any time be re-examined –

- (a) where the Secretary has reason to believe that a re-examination is desirable in order to protect the safety of the vessel or of other seafarers on board the vessel; or
- (b) at the request to the Secretary by the seafarer's employer, where the employer has grounds to believe that the seafarer's state of health may constitute a risk to the safety of the vessel or of other seafarers on board the vessel; or
- (c) at the request of the seafarer.

7.6 Review of a Medical Certificate

(1) A seafarer may apply to the Secretary for a review by a recognized reviewing physician of a medical certificate issued under this Part that indicates the seafarer to be-

- (a) unfit for service at sea; or
- (b) fit for service at sea with limitations.

(2) After reviewing a medical certificate and the state of health of the seafarer to whom it was issued, the reviewing physician may direct that further medical examinations be carried out and may stipulate the examinations and the seafarers or organizations to carry them out.

(3) The reviewing physician shall –

- (a) confirm the medical certificate originally issued; or
- (b) where appropriate, based on further examinations conducted pursuant to sub-section (2), issue a new medical certificate in the form issued by the Secretary.

7.7 Appeal of a Reviewed Medical Certificate

(1) A seafarer who requested a review of a medical certificate, may appeal to the Secretary for a further review of the case by an appeal board if the medical certificate confirmed or issued by the reviewing physician indicates that the seafarer is –

- (a) unfit for service at sea; or
- (b) fit for service at sea with limitations.

(2) An application for a review by an appeal board shall be accompanied by a review fee of \$100.00.

(3) On appeal from a seafarer pursuant to sub-section (1), the Secretary shall appoint an appeal board composed of at least –

- (a) a representative of the Secretary;
- (b) a representative proposed by the employer of the seafarer; and

- (c) a representative proposed by the seafarer.

(4) Every appeal board shall be assisted in its deliberations by a physician selected from the recognized physicians list by the representatives referred to in sub-section 3.

(5) An appeal board has the same power as a reviewing physician and may –

- (a) confirm the medical certificate issued or confirmed by the reviewing physician; or
- (b) where appropriate, based on its deliberations, issue a new medical certificate in the form required by section 7.3.

(6) An appeal board shall record its decision and the reasons for it in writing and send a copy of it to the Secretary, to the seafarer and to the employer of the seafarer.

7.8 Costs of Medical Examinations for Reviews and Appeals -- The costs of any medical examination conducted as a result of a review under section 7.6 or an appeal under section 7.7 shall be borne by the applicant seafarer.

7.9 Offenses and Penalties

(1) An owner who employs a seafarer, whose function on the vessel requires a medical certificate without that seafarer having one, commits an offense for which the penalty shall be a fine not exceeding \$25,000.

(2) A seafarer who accepts employment on a vessel in a function, which requires a medical certificate without having one, commits an offense for which the penalty shall be a fine not exceeding \$1,000.

(3) A seafarer who fails to declare an existing medical pre-condition or illness that would otherwise have led to a determination of his unfitness for duty commits an offense for which the penalty shall be a fine not exceeding \$1,000.

PART 8 - QUALITY STANDARDS

8.1 Application

(1) The purpose of this Part is to provide the means for which all training, assessment of competence, certification, endorsement and revalidation activities are continuously monitored through a quality standards system to ensure achievement of the defined objectives, including those concerning the qualifications and the experience of instructors and assessors in accordance with the provisions of the Convention.

(2) This Part shall apply to activities carried out by public or private agencies and entities involved in the training, assessment of competence, certification, endorsement and revalidation required under the Convention.

8.2 Quality Standards

(1) A set of quality standards shall be established to cover the administration of the training, examination, and assessment carried out under the authority of the Government of the Federated States of Micronesia in accordance with the guidelines set forth in Section B-1/8 of the Code.

(2) Education and training objectives and related standards of competence shall be clearly defined and the levels of understanding and the skills appropriate to the examinations and assessments required by the Convention shall be identified.

8.3 Evaluation -- The Administration shall appoint qualified persons, who are not themselves involved in the activities concerned, to conduct an independent evaluation of the knowledge, understanding, skills and competence acquisition and assessment activities, and the administration of the certification system, at intervals of five years in order to verify that -

- (a) all internal management control and monitoring measures and the follow-up actions comply with planned arrangements and documented procedures and are effective in ensuring achievement of the defined objectives; and
- (b) the results of each independent evaluation are documented and brought to the attention of those responsible for the area evaluated; and
- (c) timely action is taken to correct deficiencies.

8.4 Reporting

(1) The evaluation report required by section 8.3 shall be submitted to the Secretary as soon as it is completed.

(2) Information relating to the independent evaluation shall be communicated to the Secretary-General of IMO.

PART 9 - IMPARTIAL INVESTIGATIONS

9.1 Application

(1) This Part establishes provisions for the conduct of proceedings in any impartial investigation carried out under Regulation 1/5 of the Convention, but does not apply to Preliminary Investigations conducted under Section 429 or Marine Inquiries conducted under Section 430 of the Act.

(2) Any investigation conducted on any reported incompetency, act or omission of a seafarer, which may pose a threat to safety of life or property at sea or to the marine environment shall be impartial.

(3) This Part shall apply to –

- (a) owners and agents of vessels registered in the Federated States of Micronesia; and
- (b) all seafarers employed on vessels registered censed in the Federated States of Micronesia; and
- (c) all seafarers holding a certificate issued or recognized by the Government of the Federated States of Micronesia, and
- (d) all foreign vessels in waters of the Federated States of Micronesia.

9.2 Impartial Investigation

(1) Where the Secretary has caused an impartial investigation to be carried out under Regulation I/5 of the Convention, the following processes and procedures shall be followed to the extent that they are applicable.

(2) The person conducting an impartial investigation, shall, if he thinks it is advisable, retain expert advisers to form a panel to assist in any impartial investigation.

(3) The person conducting an impartial investigation may regulate the processes and procedures in such a manner as is advisable or necessary in the circumstances subject to sub-sections (4) and (5) hereof and Chapter 4 of the Act.

(4) Where it is likely during the course of any impartial investigation that the conduct of a seafarer will be called into question or it is likely that a seafarer will be adversely affected by a decision of the inquiry or investigation, the person conducting the inquiry or investigation shall -

- (a) give that seafarer at least 72 hours notice of the place, day and hour of the inquiry; and
- (b) furnish that seafarer –
 - (i) a copy of the report of any previous investigation in relation thereto; or
 - (ii) in any other case, a statement of the case on which the inquiry was so ordered.

(5) Every seafarer whose conduct is likely to be questioned during the course of an impartial investigation, or who is likely to be adversely affected by the decision of the impartial investigation is entitled to –

- (a) be represented by counsel; and
- (b) be sworn and give evidence before the investigator or panel; and
- (c) call witnesses; and
- (d) examine, cross-examine and re-examine all witnesses in accordance with rules of procedure and evidence applicable to the law of the Federated States of Micronesia; and
- (e) take all proper exceptions to the admissibility of evidence; and
- (f) address the investigator or panel, either at the conclusion or at any other proper time.

(6) A member of the investigation panel may dissent in writing from any report of the Board and an Order shall be made on the majority decision of the members.

(7) Any investigation may determine the costs incurred by that investigation which a seafarer, by Order, may be required to pay.

(8) Where it appears to the Secretary to be necessary or desirable to do so, he may order the suspension of any certificate issued under the Act or Regulations to any seafarer pending the outcome of the investigation.

(9) Where, as the result of an investigation, it is determined that a seafarer whose certificate had been suspended was not unfit to discharge his duties because of incompetence, misconduct or for any other reason, or has not been seriously negligent in the discharge of his duties, the person conducting the investigation may recommend to the Secretary that the suspension of the certificate be revoked as soon as practicable and the certificate be returned to the seafarer forthwith.

(10) Assessors appointed to an investigation panel should hold appropriate maritime qualifications and have the necessary experience to provide sound professional advice.

(11) Two or more assessors may be appointed when the investigation is of a significant magnitude, or a significant complexity involving several issues.

(12) The person conducting the investigation shall not recommend the cancellation or suspension of the certificate of any master or seafarer, unless a statement of the reasons for the decision has been furnished to the master or seafarer holding the certificate, and where practicable, the master or seafarer has had an opportunity to respond.

(13) Where an impartial investigation is held, no person shall in relation to the investigation -

- (a) hinder or obstruct the investigation; or
- (b) fail to answer any relevant question relating to the matters being investigated; or
- (c) fail to produce any document or certificate in his possession or control relating to the matters being investigated.

9.3 Immunities -- The person conducting the impartial investigation shall be immune from any action or suit for any act, matter or thing done, or ordered to be done, by him in good faith in the execution of his duties under this Part.

9.4 Offenses and Penalties -- A person who contravenes or fails to comply with Section 9.2 commits an offense for which the penalty shall be a fine not exceeding \$25,000.

PART 10 - SHIPBORNE RADIO EQUIPMENT AND INSTALLATIONS

10.1 Radio Regulations -- Chapter IX N of the Radio Regulations annexed to the most recent International Telecommunications Union (ITU) Convention, which may be in force at any time, are incorporated into and have the force of law in the Federated States of Micronesia.

10.2 Certification of Radio Personnel

(1) Every seafarer in charge of or performing radio duties on a vessel required to be fitted with GMDSS equipment shall hold an appropriate certificate related to the GMDSS, issued or recognized by the Secretary under the provisions of the Radio Regulations.

(2) Every candidate for certification for service on a vessel of 300 gross tons and over, which is required to have a radio installation, shall meet the provisions of Regulation IV/2 of the Convention and Section A-IV/2 of the Code.

(3) Radio personnel on vessels less than 300 gross tons are not required to meet the provisions of this Part. Radio personnel on these vessels are, nevertheless, required to comply with the Radio Regulations.

(4) The Secretary shall ensure that the appropriate certificates as prescribed by the Radio Regulations are issued to or recognized in respect of such radio personnel.

10.3 Radio Certificates

(1) Every seafarer in charge of, or required to perform, radio duties operating with a GMDSS system shall hold:

- (a) On vessels with a Cargo Vessel Safety Radio Certificate or a Passenger Vessel Safety Certificate valid for operation in area A1 only, at least a Restricted Operators Certificate issued in accordance with Sub-section D of Section III A of Article 55 of the Radio Regulations and Regulation IV/2 of STCW 95,
- (b) On Vessels with a Cargo vessel Safety Radio Certificate or Passenger Vessel Safety Certificate valid for operations in areas A1+A2, A1+A2+A3 and A1+A2+A3+A4 at least a General Operators Certificate issued in accordance with Sub-section C of Section III A of Article 55 of the Radio Regulations and Regulation IV/2 of STCW 95,
- (c) An endorsement to an appropriate certificate issued by a party under this chapter which states that the holder is qualified to perform the radio - communication function at the operation level,

(2) Notwithstanding the provisions of Sub-section (1) above, vessels of 300 gross tons or more which operate with a GMDSS radio system in sea areas A2, A3 or A4 shall carry either one first or second class radio electronics officer qualified in accordance with sub paragraph 1 (b), who shall not be the master: or in lieu thereof two general operators, one of whom may be the master.

(3) Nothing in this section shall preclude the Secretary or a person delegated by him from varying the requirements for the number of radio personnel required to be carried provided that those requirements comply with the provisions of the radio Regulations and STCW 95.

10.4 Offenses and Penalties -- An owner, or master, or seafarer who fails to comply with any of the provisions contained in this Part, the Convention, the Regulations, the Code, and the Radio Regulations commits offense for which the penalty shall be a fine not exceeding:

- (a) for owners, \$25,000;
- (b) for masters, \$10,000;
- (c) for seafarers, \$3,000.

PART 11 - TRANSITIONAL PROVISIONS

11.1 Recognition of Certificates

(a) The transitional provisions in respect of training and certification of seafarers shall be in accordance with Article VII and Regulation I/15 of the Convention.

(b) The certificate structure and the trading limits described in the South Pacific Maritime Code shall continue to have validity until 1 February 2002.

(c) Prior to the full implementation of the Convention, all certificates issued under STCW 1978 shall continue to be recognized until 1 February 2002;

(d) Until the expiration of the transitional period, the standards concerning training, assessment and certification in place prior to 1 February 1997 shall continue to be to recognized.

(e) Holders of certificates issued in accordance with the provisions of the Convention which applied prior to 1 February 1997 shall undergo appropriate refresher and updating training and/or assessment to meet the standards of competence for the appropriate certificates specified in Part A of the Code and shall be issued with a certificate attesting thereto before being eligible for service after 1 February 2002,.

(f) The processes and procedures for the issue of certificates under the South Pacific Maritime Code shall be, to the extent practicable, those set out in these Regulations.

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