

NO. 4 OF 2009

MERCHANT SHIPPING ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

Page

1. Merchant Shipping (Fees) Regulations (LN 109/2004) – revoked by L.N. 192/2011.....
2. Merchant Shipping (Application of Safety Convention, 1974) Order, LN 60/2004.....
3. Merchant Shipping (Maritime Service Providers) Regulations, LN 112/2011.....
4. Merchant Shipping (Port State Control) Regulations, LN 191/2011.....
5. Merchant Shipping (Fees) Regulations, LN 192/2011.....
6. Merchant Shipping (Licensing of Vessels) Regulations, LN 48/2012.....
7. Merchant Shipping (Small Vessel Safety) Regulations, LN 114/2012.....
7. Merchant Shipping (Safe Manning) Regulations, LN 116/2012.....
8. Merchant Shipping (Radiocommunications) Regulations, LN 117/2012.....
9. Merchant Shipping (International Safety Management (ISM Code) Regulations, LN 150/2015.....
10. Merchant Shipping (Occupational Safety) Regulations, LN 151/2015.....
11. Merchant Shipping (Training and Certification) Regulations, LN 41/2016.....
12. Merchant Shipping (Seafarer Medical Examination and Certification) Regulations, LN 42/2016.....

MERCHANT SHIPPING (FEES) REGULATIONS, 1994

[L.N. 150/1994, L.N. 109/2001.]

Revoked by L.N. 192/2011.

**MERCHANT SHIPPING (APPLICATION OF SAFETY
CONVENTION, 1974) ORDER, 2004**

[L.N. 60/2004.]

1. This Order may be cited as the Merchant Shipping (Application of Safety Convention, 1974) Order, 2004.
 2. The Safety Convention, 1974, including the protocols and amendments thereto, being a convention to which Kenya is a party, is declared to be a convention applicable to Kenya under the Merchant Shipping Act.
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MERCHANT SHIPPING (MARITIME SERVICE PROVIDERS) REGULATIONS, 2011

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation.
2. Application.
3. Interpretation.

PART II — LICENSING

4. Role of the Authority.
5. Qualifications for licensing.
6. Application for licence.
7. Membership to registered associations.
8. Renewal of licence.
9. Fine, suspension or revocation of licence.
10. Appeals.
11. Professional staff.

DISCIPLINE

12. Professional misconduct.
13. Changes in companies.
- 14.
15. Obligations of maritime service providers.
16. Disciplinary proceedings.

PART IV — MISCELLANEOUS PROVISIONS

17. Tariffs.
18. Submission of information.
19. Inspection of premises.
20. Marine cargo movement mechanism.
21. Authority may impose penalty upon admission of guilt.
22. Transitional provisions.

SCHEDULES

FIRST SCHEDULE —	MARITIME SERVICE PROVIDERS AND THEIR SCOPE OF SERVICE
SECOND SCHEDULE —	APPLICATION FOR A LICENCE AS A MARITIME SERVICE PROVIDER
THIRD SCHEDULE —	LICENCE TO PRACTISE AS A MARITIME SERVICE PROVIDER KENYA MARITIME AUTHORITY
FOURTH SCHEDULE —	MINIMUM TERMS FOR SERVICE LEVEL AGREEMENTS

MERCHANT SHIPPING (MARITIME SERVICE PROVIDERS) REGULATIONS, 2011

[L.N. 112/2011.]

PART I – PRELIMINARY**1. Citation**

These Regulations may be cited as the Merchant Shipping (Maritime Service Providers) Regulations, 2011.

2. Application

(1) These Regulations shall apply to—

- (a) the maritime service providers specified in the First Schedule whilst performing any of the services set out in that Schedule; and
- (b) such other maritime service providers as the Minister may *gazette* under section 2 of the Act.

(2) A licence granted to a clearing and forwarding agent under section 145 of the East African Customs Community Management Act, 2004, shall, in so far as it provides services in respect of maritime cargo, be deemed to be a licence under these Regulations and the provisions of regulations 5, 6, 8, 9 and 10 shall not apply to clearing and forwarding agents.

3. Interpretation

In these Regulations, except where the context otherwise requires—

“**bill of lading**” means a document signed by an ocean carrier or his representative and issued to a shipper that evidences the receipt of goods for shipment, contract of carriage and ownership or title of goods;

“**cargo consolidator**” means a person who accepts less than container load shipments from individual shippers, and then combines them for delivery to the carrier as a full container load container for shipment;

“**cargo manifest**” means a document that lists in detail all the bills of lading issued by a carrier or its agent or master for a specific voyage or a detailed summary of total cargo loaded on board a vessel;

“**charterer**” means a person, firm or company hiring a vessel for the carriage of goods or other purposes;

“**clearing and forwarding agent**” means any person licensed to act as an agent under section 145(1) of the East African Community Customs Management Act, 2004;

“**Commissioner**” has the same meaning as in the East African Community Customs Management Act, 2004;

“**consignee**” means an agent, company or person receiving an import consignment;

“**consignor**” means an agent, company or person sending or exporting a consignment;

“**container**” means a metallic container for stuffing cargo in transit and which conforms to standards set by the International Standards Organization;

“**container freight station**” means a common user facility with cargo handling facilities licensed to offer services for handling and temporary storage of import laden containers, and motor vehicles under customs control;

“**container handling facility**” means a container freight station or an empty container handling and storage depot;

“**freight manifest**” means a manifest which shows particulars of freight and charges;

“**goods**” includes all kinds of articles, wares, merchandise, livestock and currency;

“**licence**” means a licence issued under these Regulations;

“**pad**” means the addition by a ship's agent of extra charges to an invoice to make it higher than the appropriate charge;

“**port service provider**” means a person, in Kenya, engaged in the business of providing services of port facility, quay side, warehouse or other terminal facilities in connection with a common carrier or a water carrier;

“**principal**” means a person on whose behalf, another person acts as an agent in the business of maritime service provision;

“**register**” means the register maintained by the Authority under regulation 4(e);

“**restrictive trade practices**” means the restrictive trade practices described under the Competition Act, 2010 or any other law for the time being in force in Kenya;

“**service level agreement**” means an agreement made in writing between a maritime service provider and a party which formally defines the level of service, performance and commitment by the parties to the terms thereof;

“**shipper**” means a consignor, exporter, or seller using shipping services to transport and deliver goods, or a non vessel owning common carrier that accepts responsibility for payment of all applicable charges under the service level agreement;

“**shipping line**” means any person who provides sea transport using his own or chartered vessels or hires slots or space from other vessels in operation or managing the business of shipping;

“**ship's agent**” means a person licensed by the Authority and appointed by a ship operator, including a ship owner or charterer, to act as its agent in Kenya in providing any of the services specified under regulation 2;

“**tariff**” means the actual rates, charges and surcharges applied by a maritime service provider in providing the transportation service.

PART II – LICENSING

4. Role of the Authority

The functions of the Authority shall be to—

- (a) license maritime service providers;
- (b) promote fair competition among maritime service providers;
- (c) promote and enforce high standards of professional and ethical conduct;
- (d) formulate and promote the attainment of the highest standards of competence, and qualifications among respective maritime service providers;
- (e) maintain a register for persons licensed to practice as maritime service providers, the various categories of maritime service providers and to publish from time to time information relating to such register;
- (f) provide for a framework for consultations on the cost and quality of maritime transport services;
- (g) monitor the standards of infrastructure, equipment, facilities and services as the Authority may specify by notice in the *Gazette*, and

perform such other functions as specified under section 8(2)(h) of the Act.

5. Qualifications for licensing

(1) A person shall be eligible to be licensed as a maritime service provider if such person is a citizen of Kenya, or is a company incorporated under the Companies Act Cap. 486) in which not less than fifty-one per cent of the share capital is held directly by a citizen of Kenya.

(2) Notwithstanding paragraph (1) any company which holds a licence to operate as a maritime service provider shall within eighteen months from the date of commencement of these Regulations, comply with the provisions of that paragraph.

(3) The maritime service provider referred to in paragraph (2) may, at any time within eighteen months from the date of commencement of these Regulations, apply for, and upon satisfying the requirements of regulation 11, be entitled to the grant of a licence under these Regulations.

(4) A ship's agent or cargo consolidator shall be eligible to be licensed under these Regulations if such agent or consolidator, is of good standing and its reputation as evidenced by a letter of recommendation from the principal.

(5) A container handling facility shall be eligible for licensing if it is located in an area where it does not inhibit accessibility to other users.

(6) A person shall in addition to the foregoing paragraphs, be eligible for licensing if the person—

- (a) has complied with the requirements of regulations 7 and 11; and
- (b) is financially sound evidenced by—
 - (i) financial resources adequate to its business evidenced by references from banks, financial institutes, auditors and reputable credit reference companies, to the satisfaction of the Authority; and
 - (ii) a minimum paid-up share capital as may be specified under paragraph (7).

(7) The Authority shall specify by notice in the *Gazette*, the minimum paid-up share capital to be maintained by a maritime service provider that is a body corporate.

(8) A maritime service provider shall, whenever requested to do so by the Authority, demonstrate that it has complied with paragraph (1).

(9) A person shall be not eligible for a licence or any renewal thereof if such person—

- (a) has been convicted of corruption, an economic crime or other criminal offence that amounts to a felony under the law of Kenya; or
- (b) has not complied with any of the provisions of this Act or any other law.

(10) Paragraphs (1), (5), (6), (7) and (8) shall not apply to shipping lines.

6. Application for licence

(1) An application for a licence as a maritime service provider shall be made to the Authority in the form set out in the Second Schedule.

(2) The Authority may approve or reject an application and shall notify the applicant of its decision together with reasons within sixty days from the date of receipt of the application.

(3) Where the Authority approves an application for a licence or the renewal of a licence, the Authority shall, upon payment of such standard fee as it may determine, issue to the applicant the appropriate licence or renewal of the licence.

(4) A licence issued under these Regulations shall—

- (a) be in the form set out in the Third Schedule;
- (b) be valid for one year and shall, in any case, expire on the 31st of December, of each year;
- (c) be limited exclusively to use by the named licensee and shall not be transferred to any other person without prior approval of the Authority; and
- (d) be issued upon such other conditions as may be specified by the Authority in the license.

(5) Any person who carries on the business of a maritime service provider without a valid licence commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding three years, or both such fine and imprisonment.

[Subsidiary]**7. Membership to registered associations**

(1) A maritime service provider, other than a shipping line, who is licensed under Regulation 6 shall within sixty days of the issuance of the licence apply to join an association.

(2) For purposes of paragraph (1), an association shall be approved by the Authority if such association has filed with the Authority certified copies of its—

- (a) constitution;
- (b) certificate of registration;
- (c) register of members;
- (d) disciplinary procedures; and
- (e) details of registered office.

(3) An Association shall have the primary responsibility of providing and monitoring a code of conduct and standards of competence for the particular category of maritime service providers through service level agreements and the Authority may revoke its recognition if in its opinion the Association is not carrying out its primary responsibility.

(4) This regulation shall come into operation after the expiration of twelve months after the commencement of these Regulations.

8. Renewal of licence

(1) Any person who holds a licence may apply for its renewal subject to the requirements set out under this regulation.

(2) The application under paragraph (1) shall—

- (a) be made not later than sixty days before the date of expiry of the licence;
- (b) be accompanied by a non-refundable application fee as may, by notice in the *Gazette*, be specified by the Authority; and
- (c) be in the form set out in the Second Schedule.

(3) The Authority may approve or reject the application for the renewal of a license and shall notify the licensee of its decision before the expiry of sixty days from the date of lodging the application.

9. Fine, suspension or revocation of licence

(1) A maritime service provider who—

- (a) fails to comply with the terms and conditions of the grant of the licence;
- (b) ceases to hold any of the qualifications specified in these Regulations;
- (c) fails to renew the licence within the period specified under regulation 8; or
- (d) fails to meet any of the standards specified in these Regulations,

commits an offence and shall be liable on conviction to a fine of not more than three million shillings.

(2) If despite the fine imposed under paragraph (1), a maritime service provider continues committing the offences mentioned in paragraph (1), the Authority may, subject to these Regulations, suspend or revoke the licence.

(3) Where the Authority suspends or revokes a licence issued under these Regulations, the Director-General shall notify the licensee of the decision of the Authority within fourteen days of the date of the decision.

10. Appeals

(1) Any person whose application for a licence or renewal has been denied or whose licence has been suspended or revoked may, within twenty one days of receipt of the notice of such refusal, suspension or revocation, appeal to the Minister.

(2) Any person aggrieved by the Minister's decision may within fourteen days of such decision, make a further appeal to the High Court.

11. Professional staff

(1) A maritime service provider other than a shipping line shall have among its staff professionals qualified in accordance with paragraph (2).

(2) A person shall be deemed to be professionally qualified, if such person—

- (a) demonstrates competence in executing the tasks related to their area of maritime service; and
- (b) has passed such professional examinations relevant to the maritime service as offered by a professional institution of national or international repute as the Authority may from time to time publish in the *Gazette*.

(3) A maritime service provider shall, within five years from the date of its first licensing under these Regulations, ensure that at least sixty per cent of its management staff have successfully sat and passed the professional examinations referred to in paragraph (2).

PART III – DISCIPLINE**12. Professional misconduct**

(1) It shall be professional misconduct for any maritime service provider—

- (a) to fail to abide by a code of conduct set out by the recognized association;
- (b) to fail to apply a standard of competence set by the maritime providers association and approved by the Authority;
- (c) to fail to observe all laws and other regulations relevant to his duties;
- (d) to fail to exercise due diligence to guard against fraudulent and corrupt practices;
- (e) to engage in restrictive trade practices;
- (f) to fail to discharge his duties to his clients or customers with honesty, integrity and impartiality;
- (g) to fail to exercise due care when handling cargo on behalf of the customers or shippers;
- (h) to fail to exercise due care when handling monies on behalf of his principal;
- (i) to attempt to influence the conduct of any official of the port, customs or any other person in any matter pending before such official or person or his subordinates by the use of threat, false accusation, duress or the offer of any inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;
- (j) to attempt to bribe or provide other illegal benefits to influence the behaviour of port, container freight station, customs personnel or functions of customs officers;
- (k) to fail to observe any other professional conduct as may be prescribed by the Authority.

(2) The Authority may, where it deems appropriate, suspend the licence of any person charged with a criminal offence pending the outcome of the proceedings.

13. Changes in companies

(1) Whenever a company holding a licence undergoes any change in its directors, company name, location or its shareholding, such a change shall be communicated by the company to the Authority within fourteen days of such change:

Provided that any change in shareholding shall be subject to regulation 5(1).

(2) The provisions of this regulation shall not apply to a shipping line.

(3) A person who contravenes the provisions of this regulation commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

[Subsidiary]

(1) A service level agreement for a maritime service provider under these Regulations shall contain the minimum standard terms specified in the Fourth Schedule.

(2) A service level agreement may, where necessary, in addition to the matters specified in paragraph (1), contain an undertaking as to the minimum facilities and equipment necessary for the delivery of maritime services in line with the service provider's operations.

15. Obligations of maritime service providers

(1) A maritime service provider shall—

- (a) provide its services in accordance with the relevant written laws and international standards pertaining to the maritime service;
- (b) observe business ethics and professional integrity;
- (c) inform the Authority in writing of any changes in the information provided in the application form, annexes thereto or authorization certificates within thirty days of the date of such change; and
- (d) have in place adequate liability insurance to cover all its professional liabilities.

(2) A person who contravenes the provisions of this regulation commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

16. Disciplinary proceedings

(1) Whenever the Authority—

- (a) is of the opinion that a marine service provider has committed a professional misconduct; or
- (b) receives a complaint or allegation that a marine service provider has committed an act of misconduct,
- (c) the Authority shall commence an inquiry by issuing a notice in writing to that maritime service provider.

(2) The notice issued by the Authority under paragraph (1) shall—

- (a) state the Authority's opinion, or the complaint or allegation of misconduct received, as the case may be; and
- (b) require the maritime service provider to submit, within such time not being longer than thirty days, as may be specified in the notice, a response in writing.

(3) Upon receipt of the written response, or where no such a response has been received, within the time limit set out under paragraph (2)(b), the Authority shall inquire into the grounds set out in its notice under paragraph (1) or such of the grounds not admitted, as the case may be.

(4) The Authority may, in the course of the inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry, and may put any questions to any person tendering evidence for or against the maritime service provider.

(5) The maritime service provider shall be entitled to cross examine any person on the grounds forming the basis of the proceedings but where the Authority declines to examine any person on the ground that his or her evidence is irrelevant or immaterial, it shall record its reasons in writing.

(6) At the conclusion of the inquiry, the Authority shall prepare a report of its findings with appropriate orders.

(7) The Authority shall subject to paragraph (9) furnish the maritime service provider with a copy of its report and the maritime service provider shall within a period of not more than thirty days from the date of receipt of the report, submit, in writing, any representations which it may have against the findings.

(8) The Authority, in making the report under paragraph (6), may—

- (a) caution the maritime service provider; or
- (b) suspend the licence of the maritime service provider; or

[Issue 3]

- (c) revoke the licence of the maritime service provider; or
- (d) if there is a finding of an offence as provided in regulation 9(2), apply the sanctions provided thereunder.

(9) Where the maritime service provider is a clearing and forwarding agent, the Authority shall make such recommendations as may be appropriate to the Commissioner.

(10) The Authority may make any such order as to payment by any party of any costs or witness expenses and of the expenses of the Authority or the members thereof in connection with the hearing of any complaint as it may think fit.

(11) Any maritime service provider aggrieved by any decision or order of the Authority, may appeal to the Minister, with a further appeal to the High Court.

PART IV – MISCELLANEOUS PROVISIONS

17. Tariffs

(1) The Authority may require a maritime service provider to file with the Authority its tariffs showing the actual rates, charges and surcharges applied in providing all services rendered and the maritime service provider shall comply with such requirement within seven days of such requirement being made.

(2) A maritime service provider shall not amend the tariff as provided under paragraph (1) without notifying the Authority.

(3) No maritime service provider shall pad customs or other statutory fees charged to customers.

(4) Charges for services delivered locally shall be raised and paid for in Kenyan currency.

(5) Any person who contravenes the provisions of this regulation commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

18. Submission of information

(1) The Authority may require or order any maritime service provider to file with it any report, cargo manifest, freight manifest, answers to questions, documentary material or other information that the Authority finds appropriate; and may require the response to such order to be made in such form and within such time as may be specified by the Authority.

(2) A maritime service provider shall submit copies of annual returns to the Authority within one month after the deadline for the filing of the annual reports.

(3) A maritime service provider who fails to file a report or document when required to do so by the Authority under paragraph (1) or who contravenes paragraph (2) commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding three years, or both.

19. Inspection of premises

(1) The Authority may inspect the premises of a maritime service provider for the purposes of promoting commitment to the advancement of excellence, professionalism as well as ethical standards of trade in all aspects of the business of the maritime service provider.

(2) Such visits shall focus on standards of customer care, complaints handling, supervision and management of the maritime service provider's facility.

(3) The maritime service provider shall allow free entry and exit to the premises of the maritime service provider and access to all records pertinent to the handling of cargo, ledgers, details of complaints received, copies of the maritime service provider's complaints procedure, terms of business, details of any risk management measures, contract documents and any other details which may be relevant for the visit.

(4) At the end of every visit, the Authority shall meet with the maritime service provider and summarize its findings.

[Subsidiary]

(5) The Authority shall keep records of each visit undertaken under this regulation, which shall include the particulars, description and recommendations made after each visit.

(6) Where any recommendations are made under this regulation, the Authority may within such time and in such manner as it shall specify, require the maritime service provider concerned to implement or cause to be implemented the recommendations contained in the record of visit.

(7) The Authority may suspend a maritime service provider's licence for any failure to implement a requirement as contained in paragraph (6) above.

(8) Any person who—

- (a) obstructs or hinders the Authority in the exercise of its powers or performance of its duties under this regulation; or
- (b) furnishes information or makes a statement to the Authority which he or she knows to be false or misleading; or
- (c) without good and reasonable excuse fails to implement the recommendations made pursuant to this regulation,

commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or both.

20. Marine cargo movement mechanism

(1) The movement of cargo into any container freight station shall, subject to paragraph (2), be in accordance with the instructions of the shipper as contained in the bill of lading.

(2) The relevant port authority shall nominate the container freight station for movement of cargo where the bill of lading does not contain the instructions of the shipper.

(3) The nomination under paragraph (2) shall have due regard to an equitable, transparent and fair distribution of cargo, and the port authority shall, before making the nomination, take steps to ensure that the receiving container freight station has the capacity to receive the cargo having regard to space, personnel and equipment.

(4) Any person who contravenes this regulation commits an offence and is liable, on conviction, to a fine not exceeding five million shillings and shall in addition be liable to the affected cargo owners for all losses, fines, penalties, demurrage, storage charges or any other charges arising from such failure to comply.

21. Authority may impose penalty upon admission of guilt

If a maritime service provider—

- (a) admits to the Authority that he has contravened any provisions of these Regulations or the Act, or that he has failed to comply with any provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

the Authority may, after such enquiry as it deems necessary, determine the matter upon such enquiry and may, without legal proceedings, order by way of a penalty the whole or any part of the said deposit to be forfeited.

22. Transitional provisions

(1) Any action or thing done in respect of licensing of a maritime service provider immediately before the coming into force of these Regulations, shall be deemed to have been done under the corresponding provisions of these Regulations.

(2) Every person who immediately before the commencement of these Regulations, was a holder of a licence authorizing him to carry on the business of a maritime service provider

shall, upon payment of the prescribed licence fees, continue carrying on such business for a period of six months from the date of commencement of these Regulations.

(3) The maritime service provider referred to in paragraph (2) may, any time within six months from the date of commencement of these Regulations, apply for, and upon satisfying the requirements of regulation 5 be entitled to the grant of a licence under these Regulations.

(4) Any person carrying on the business of a maritime service provider pursuant to paragraph (1) who elects not to apply for a licence or having applied for a licence has not satisfied the requirements of regulation 5 shall cease to carry on the business of a maritime service provider on the expiration of the period referred to in paragraph (2).

FIRST SCHEDULE

[Regulation 2(1)(a).]

MARITIME SERVICE PROVIDERS AND THEIR SCOPE OF SERVICE

1. Ships agent services shall include—

- (a) all procedures relating to a vessel's entry and departure, pilotage and berthing;
- (b) the provision of port services through port operators, customs and other government agencies, firms or private individuals;
- (c) the procurement and processing of documents and activities required for the dispatch of cargo;
- (d) marine surveys, provision of ship stores, supplies, fresh water, cleaning of cargo holds, fumigation, supply of bunkers, ship repairs and other related services;
- (e) import and export shipments;
- (f) signing bills of lading, contracts of affreightment and issuing documents relevant to handling of cargo;
- (g) booking international sea passages and formalities for passenger's or tourist's embarkation or disembarkation;
- (h) attendance to marine casualties and arranging for salvage;
- (i) purchasing or forwarding ship's spare parts and stores;
- (j) collecting freight or charter hire where appropriate and all related financial matters;
- (k) customs and cargo documentation and forwarding of cargo;
- (l) procuring, processing the documentation and performing all activities required related to dispatch of cargo;
- (m) supply of services to a ship while in port; and
- (n) such other services as the Authority may from time to time specify.

2. Cargo consolidator services shall include—

- (a) the purchasing of transportation services from a carrier and offering such services for resale to other persons;
- (b) the paying of port-to-port or multimodal transportation charges;
- (c) entering into affreightment agreements with underlying shippers;
- (d) the issuing bills of lading or equivalent documents;
- (e) arranging for inland transportation and paying for inland freight charges on through transportation movements;
- (f) the paying of lawful compensation to ocean freight forwarders;
- (g) the leasing of containers; or

Merchant Shipping

[Subsidiary]

- (h) entering into arrangements with origin or destination agents.

3. Container freight station services shall include—

- (a) the storage of containerized and non-containerized cargo, empty containers, imported motor vehicles;
- (b) the stuffing and stripping of containers;
- (c) the loading and unloading of containers onto and off trailers;
- (d) the receiving and delivering of containers; and
- (e) any other operations relevant to the activities of a container freight station, as may be approved by the Authority.

4. Shipping line services shall include—

- (a) the offering of scheduled liner services for cargo carriage;
- (b) availing of containers for export of cargo;
- (c) the delivery of shipments to designated consignees, in as good condition as when received;
- (d) ensuring of the issuance of bills of lading to all cargo shipped on board his vessel;
- (e) offering of seaworthy and well manned vessel at any given time of ship's voyage.

5. Empty container depot services shall include the—

- (a) receipt and temporary storage of empty containers;
- (b) issuance and delivery of empty containers;
- (c) inspection of returned containers' conditions;
- (d) estimation of container damage costs;
- (e) issuing of interchanges for containers received and issued; and
- (f) submission of daily reports of container movement to respective shipping lines through their agents.

6. Port facility operator services shall include—

- (a) vessel traffic service;
- (b) provision of pilotage;
- (c) provision of navigational aids along the coast of the Republic and within ports;
- (d) provision of tug boat services;
- (e) provision of berthing facilities;
- (f) stevedoring;
- (g) cargo handling;
- (h) terminal operations;
- (i) storage of cargo within a port;
- (j) tug services;
- (k) floating crane services;
- (l) berthing services;
- (m) fire fighting;
- (n) security;
- (o) radio and radar services;
- (p) waste disposal;
- (q) vessel repairs;
- (r) any other services provided within a port which are designated as such by the Authority by notice in the *Gazette*.

[Issue 3]

7. Clearing and forwarding agent services shall include—

- (a) receiving advance notification of shipments, or other documents to banks, shippers or consignees as required;
 - (b) preparing and processing of import and export declarations;
 - (c) clearance and handling of shipments in accordance with the Kenya government import and export regulations;
 - (d) arranging for warehousing of the goods;
 - (e) arranging dispatch of goods as per the directions of the customer; and
 - (f) handling freight and other monies advanced by customers for purposes of clearance of the shipments.
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MERCHANT SHIPPING (PORT STATE CONTROL) REGULATIONS, 2011

ARRANGEMENT OF REGULATIONS

PART I – GENERAL

Regulation

1. Citation.
2. Interpretation.

PART II – PROCEDURES FOR PORT STATE CONTROL

3. Application.
4. Competent authority.
5. Inspection commitments.
6. Inspection procedure.
7. Expanded inspection of certain ships.
8. Report of inspection to the master.
9. Rectification and detention.
10. Procedure applicable in the absence of ISM Code.
11. Detention procedure.
12. Arbitration.
13. Compensation.
14. Follow-up to inspections and detentions.
15. Professional profile of inspectors.
16. Reports from pilots and port authorities.
17. Publication of detentions.
18. Reimbursement of costs.
19. Offences.

PART III – INSPECTION OF FAMILIARITY OF
CREW WITH OPERATIONAL PROCEDURES

20. Authority may impose penalty upon admission of guilt.
21. Inspection of operational procedures.

SCHEDULES

FIRST SCHEDULE—	EXAMPLES OF “CLEAR GROUNDS” FOR A MORE DETAILED INSPECTION
SECOND SCHEDULE—	SHIPS TO BE CONSIDERED FOR PRIORITY INSPECTION
THIRD SCHEDULE—	LIST OF CERTIFICATES AND DOCUMENTS
FOURTH SCHEDULE—	PROCEDURES FOR THE CONTROL OF SHIPS
SIXTH SCHEDULE—	CRITERIA FOR DETENTION OF A SHIP
SEVENTH SCHEDULE—	MINIMUM CRITERIA FOR INSPECTORS

MERCHANT SHIPPING (PORT STATE CONTROL) REGULATIONS, 2011

[L.N. 191/2011.]

PART I – GENERAL**1. Citation**

These Regulations may be cited as the Merchant Shipping (Port State Control) Regulations, 2011, and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“Authority” has the same meaning under these Regulations as in section 2 of the Kenya Maritime Authority, 2006;

“clear grounds” means evidence which in the professional judgement of an inspector warrants a more detailed inspection of a ship, its equipment or its crew including in particular criteria listed in the First Schedule;

“Conventions” includes—

- (a) the International Convention on Load Lines, 1966 (LL 66);
- (b) the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- (c) the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (MARPOL 73/78);
- (d) the International Convention on Standards of Training, Certification and Watch keeping for Seafarers, 1978 (STCW);
- (e) the Convention on the International Regulations for Preventing Collision at Sea, 1972 (COLREG 72);
- (f) the International Convention on Tonnage Measurement of Ships, 1969;
- (g) the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No. 147); and
- (h) the Maritime Labour Convention, 2006 (“MLC”), and with the Protocols and amendments to these Conventions and related Codes of mandatory status, in force;

“Convention enactments” means the Act and Regulations made, under the Act, which implement the Conventions;

“expanded inspection” means an inspection as specified in regulation 7;

“fishing vessel” has the meaning given by section 2 of the Act;

“flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly;

“inspector” means a person duly authorised by the Authority to carry out inspections required by these Regulations;

“Kenyan ship” has the meaning given by section 2 of the Act;

“member state” means a State or Territory the maritime authority of which is a party to a Memorandum of Understanding;

“more detailed inspection” means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in regulation 6(3) to an in depth inspection covering the ship’s construction, equipment, manning, living and working conditions and compliance with on-board operational procedures;

“**Memorandum of Understanding**” means the Memorandum of Understanding on Port State Control in the Indian Ocean Region, signed in South Africa on 8 June, 1998;

“**offshore installation**” means a fixed or floating platform operating in the territorial waters or the Exclusive Economic Zone of Kenya;

“**owner**” includes, in relation to a ship, any operator, manager, charterer or agent of the ship;

“**port authority**” has the same meaning as in section 2 of the Act;

“**ship**” includes hovercraft;

“**stoppage of an operation**” means a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous.

PART II — PROCEDURE FOR PORT STATE CONTROL

3. Application

(1) Subject to subregulation (2), this Part applies to any seagoing ship—

- (a) in a port in Kenya or at an offshore installation; or
- (b) anchored off such a port or such an installation; and
- (c) the crew of a ship referred to in paragraph (a) or (b).

(2) This Part shall not apply to—

- (a) a Kenyan ship;
- (b) a fishing vessel;
- (c) a ship of war;
- (d) a naval auxiliary;
- (e) a wooden ship of a traditional build;
- (f) a Government ship used for non-commercial purposes; or
- (g) pleasure craft not engaged in trade.

(3) In the case of a ship below 500 gross tonnage, to the extent to which a Convention does not apply, an inspector shall, without prejudice to any other powers under any Convention enactment, take such action as may be necessary to ensure that the ship is not clearly hazardous to safety, health or the environment, and shall in applying of this subregulation be guided by 1B to the Memorandum of Understanding.

(4) When inspecting a ship pursuant to regulation 5 to 8 no favourable treatment shall be given to a ship flying the flag of a State which is not a party to a Convention or to the crew of such a ship than that given to a ship flying the flag of a State which is a party to that Convention or to the crew of such a ship.

(5) A power of inspection or detention conferred by a Convention enactment shall in addition to its effect as stated, be exercisable in relation to a ship which—

- (a) is at an offshore installation; or
- (b) is anchored off an offshore installation or a port in Kenya where the ship is one to which this Part applies.

(6) Where—

- (a) a ship to which this Part applies is detained under a Convention enactment; or
- (b) the master of such a ship is served with a detention notice under such an enactment, section 435 of the Act shall apply in relation to the ship as if any reference to proceeding to sea were a reference to proceeding contrary to the detention notice and references to sending or taking to sea were construed accordingly.

(7) In this Regulation “**Kenyan waters**” has the meaning given by section 2 of the Act.

4. Competent authority

(1) The Kenya Maritime Authority is designated the competent authority for Kenya for the purposes of this Part.

(2) In relation to a member state “**competent authority**” means the national maritime administration maintained by that State for the inspection of ships.

(3) In relation to a State other than a member State “**competent authority**” means any authority designated as such by that State.

5. Inspection commitments

(1) The Authority shall carry out an annual total number of inspections corresponding to at least 25% of the number of individual ships to which this Part applies and which entered its ports during a representative calendar year.

(2) In selecting ships for inspection the Authority shall give priority to the ships referred to in the Second Schedule.

(3) The Authority shall refrain from inspecting a ship which has been inspected by the competent authority of any member State within the previous six months:

Provided that this subregulation shall only apply where—

- (a) the ship is not in a category listed in the Second Schedule;
- (b) no deficiencies have been reported, following a previous inspection; and
- (c) no clear grounds exist for carrying out an inspection;

(4) The provisions of subregulation (3) shall not apply to any of the operational controls specifically provided for in the Convention enactments.

6. Inspection procedure

(1) In carrying out an inspection referred to in regulation 5 the inspector shall as a minimum—

- (a) check the certificates and documents listed in the Third Schedule;
- (b) satisfy himself of the overall condition of the ship, including the engine room accommodation and hygiene conditions.

(2) The inspector may examine all relevant certificates and documents, other than those listed in the Third Schedule, which are required to be carried on board in accordance with the Convention enactments.

(3) Whenever there are clear grounds for believing, after the inspection referred to in subregulations (1) and (2), that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention enactment, a more detailed inspection shall be carried out, including further checking of compliance with on board operational requirements.

(4) The inspector shall observe the relevant procedures and guidelines for the control of ships specified in the Fourth Schedule.

7. Expanded inspection of certain ships

(1) Where there are clear grounds for a more detailed inspection of a ship belonging to the categories listed in Section A of the Fifth Schedule an expanded inspection shall be carried out taking into account the guidelines in section B of the Fifth schedule.

(2) A ship referred to in subregulation (1) shall be subject to an expanded inspection by any of the competent authorities of the member States only once during a period of 12 months, but the ship may be subject to the inspection provided for in regulation 6(1) and (2).

(3) Subject to subregulation (2), in the case of a passenger ship operating on a regular schedule in or out of a port in Kenya an expanded inspection of the ship shall be carried out before the ship starts operating, and every 12 months thereafter by the Authority subject to consultation with the competent authority of a member State, where the ship operates to ports in that member State.

8. Report of inspection to the master

(1) On completion of an inspection, a more detailed inspection, or an expanded inspection, the master of the ship shall be provided by the inspector with a document in the form specified in Annex 3 to the Memorandum of Understanding, giving the results of the inspection and details of any decisions taken by the inspector, and of corrective action to be taken by the master, owner or operator.

(2) In the case of deficiencies warranting the detention of a ship, the document to be given to the master in accordance with subregulation (1) shall include information about the future publication of information concerning the detention in accordance with regulation 16.

9. Rectification and detention

(1) The owner shall satisfy the Authority that any deficiencies confirmed or revealed by an inspection referred to in regulation 6 or 7 are or will be rectified in accordance with the Conventions.

- (a) In case of deficiencies which are clearly hazardous to safety, health or the environment, the inspector shall detain the ship, or require the stoppage of the operation in the course of which the deficiencies have been revealed, using powers of detention in the Convention enactments as appropriate, or issuing a prohibition notice under section 435 of the Act, as the case may be.
- (b) A detention notice may—
 - (i) include a direction that a ship shall remain in a particular place, or shall move to a particular anchorage or berth; and
 - (ii) specify circumstances when the master of the ship may move his ship from a specified place for reasons of safety or prevention of pollution.

(3) The detention notice or stoppage of an operation shall not be lifted until the Authority establishes that the ship can, subject to any necessary conditions, proceed to sea or the operation be resumed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat to or harm to the marine environment.

(4) Without prejudice to any other requirement in the Convention enactments, when exercising his professional judgement as to whether or not a ship should be detained the inspector shall apply the criteria set out in the Sixth Schedule.

(5) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the inspector may, in addition to detaining the ship, suspend the inspection of the ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

(6) Without prejudice to any other requirement in the Convention enactments, in the event that an inspection referred to in regulation 7 or 8 gives rise to detention, the Authority shall immediately inform, in writing, the flag administration or the Consul or, in his absence, the nearest diplomatic representative of the State of the flag administration, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognized organizations responsible for the issue of the ship's certificates shall also be notified where relevant.

(7) The provisions of these Regulations shall be without prejudice to the additional requirements of the Conventions concerning notification and reporting procedures related to port State control.

(8) When carrying out inspections under these Regulations, the inspector shall make all possible efforts to avoid undue detention or delay of a ship.

10. Procedure applicable in the absence of ISM Code

(1) Where an inspection reveals that a copy of the document of compliance or the safety management certificate required by the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) are not on board a vessel to which the ISM Code is applicable at the date of inspection, the inspector shall detain the ship.

(2) Notwithstanding the absence of the documentation referred to in subregulation (1)—

- (a) where the inspection reveals no other deficiencies warranting detention of a ship, the Authority may lift the detention order for the purpose of avoiding port congestion, and shall immediately inform the competent authorities of the member States accordingly; and
- (b) where deficiencies referred to in regulation 9(2) are found and cannot be rectified in the port of detention, the relevant provisions of regulation 4 shall apply.

(3) A ship which proceeds to sea from any port in any member State following release in order to avoid port congestion under subregulation (2) shall not enter any port in Kenya until the owner provides evidence to the satisfaction of the competent authority of the member State where the ship was detained that the ship fully complies with the requirements of the ISM Code.

(4) Notwithstanding the provisions of subregulation (3), access to a specific port may be permitted in situations referred to in regulation 14(8).

11. Detention procedure

Regulations 12 and 13 shall apply in relation to the exercise of the power of detention in any Convention enactment.

12. Arbitration

(1) Any question as to whether any of the matters specified in relation to a ship in a detention notice in pursuance of a power of detention to which this Regulation applies in connection with any opinion formed by the inspector constituted a valid basis for that opinion shall, where the master or owner of the ship so requires by a notice given to the inspector within 21 days from the service of the detention notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.

(2) Where a notice is given by the master or owner of the ship in accordance with subregulation (1), the giving of the notice shall not have the effect of suspending the operation of the detention notice.

(3) The arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention notice which appears to him to be relevant as to whether the ship was or was not liable to be detained.

(4) Where on a reference under this Regulation the arbitrator decides as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion the arbitrator shall either cancel the detention notice or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the notice in its original form.

(5) The arbitrator shall include in his decision a finding as to whether or there was not a valid basis for the detention of the ship.

(6) A person shall not be qualified for appointment as an arbitrator under this Regulation unless the person—

- (a) holds a certificate of competence as a master mariner or as a marine engineer officer Class 1, or its equivalent;
- (b) is a naval architect;
- (c) is an Advocate of the High Court of Kenya of at least 10 years' standing and holds a post-graduate qualification in maritime law; or
- (d) has special experience in matters related to shipping, or the fishing industry, or port activities.

(7) In connection with his functions under this Regulation an arbitrator shall have the powers conferred on a surveyor by the Act.

13. Compensation

[Subsidiary]

- (1) Where on a reference under regulation 12 relating to a detention notice—
 - (a) the arbitrator decides that the owner of the ship has proved that any matter therein did not constitute a valid basis for the inspector's opinion; and
 - (b) it appears to him that the owner has proved that there were no reasonable grounds for the inspector to form that opinion, the arbitrator shall award the owner of the ship such compensation in respect of any loss suffered in consequence of the detention of the ship as the arbitrator may deem fit.
- (2) Any compensation awarded under this Regulation shall be payable by the Authority.

14. Follow-up to inspections and detentions

(1) Where deficiencies referred to in regulation 9(2) cannot be rectified in the port of inspection, the Authority may allow the ship to proceed to the nearest appropriate repair yard available as chosen by the master and the responsible parties, provided that the conditions determined by the competent authority of the flag state and agreed by the Authority are complied with, to ensure that the ship proceeds without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(2) In the circumstances referred to in subregulation (1), the Authority shall notify the competent Authority of the State where the repair yard is situated, the parties referred to in regulation 9(5) and any other authority as appropriate, of all the conditions for the voyage.

(3) The notification of the parties referred to in subregulation (2) shall be in accordance with Annex 2 to the Memorandum of Understanding.

(4) Where the Authority receives notification from the competent authority of another member State ("the notifying authority") in respect of a ship which the Authority allows to proceed to a repair yard in Kenya the Authority shall inform the notifying authority of the action it has taken.

(5) A ship to which this Regulation applies which proceeds to sea from any port in any member State—

- (a) without complying with the conditions determined by the competent authority of the member state in the port of inspection; or
- (b) which fails to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard; shall not enter any port within Kenya until the owner provides evidence to the satisfaction of the competent authority of the member State where the ship was found defective that the ship fully complies with all applicable requirements of the Conventions.

(6) The subregulation (5) applies to a ship, detained in a port in a member State after inspection, which reveals deficiencies which are clearly hazardous to safety, health or the environment, and which has been allowed by the competent authority to proceed to the nearest appropriate repair yard.

(7) Where a ship proceeds to sea from a port in Kenya without complying with the conditions determined by the Authority in accordance with subregulation (1), the Authority shall immediately alert the competent authorities of all the other member states.

(8) Where a ship to which subregulation (5) applies is to proceed to a repair yard in Kenya but fails to call into the repair yard indicated, the Authority shall immediately alert the competent authorities of all the other member States.

(9) Notwithstanding the provisions of subregulation (5), access to a specific port may be permitted by the Authority in the event of force majeure or overriding safety considerations, or to reduce or minimize the risk of pollution or to have deficiencies rectified, provided adequate measures to the satisfaction of the Authority are implemented by the owner or the master of the ship to ensure safe entry.

15. Professional profile of inspectors

[Issue 3]

(1) Inspections under these Regulations shall be carried out only by inspectors who fulfil the criteria specified in the Seventh Schedule.

(2) Where an inspector does not possess the required professional expertise he shall be assisted by any person with the required professional expertise.

(3) An inspector and any person assisting him shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall an inspector be employed by or undertake work on behalf of non-governmental organisations which issue statutory and classification certificates or which carry out the surveys necessary for the issuance of those certificates to ships.

(4) An inspector shall carry a personal document in the form of an identity card issued by the Authority, which shall include the following information—

- (a) name of the issuing authority;
- (b) full name of the holder of the identity card;
- (c) an up-to-date picture of the holder of the identity card;
- (d) the signature of the holder of the identity card; and
- (e) a statement to the effect that the holder of the identity card is authorised to carry out inspections in accordance with shipping Convention enactments.

16. Reports from pilots and port authorities

(1) A Kenyan pilot, engaged in the berthing or unberthing of a ship to which this Part applies in Kenya or engaged on such a ship bound for a port within a member state, shall immediately inform the port authority or the Authority, whenever they learn in the course of their normal duties that there are deficiencies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

(2) In subregulation (1), “**Kenyan pilot**” means a pilot authorised by a port authority.

(3) Where a port authority, when exercising its normal duties, learns that such a ship within its port has deficiencies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, that port authority shall immediately inform the Authority.

17. Publication of detentions

(1) The Authority shall, as a minimum, publish on a quarterly basis information concerning ships to which this Part applies detained during the previous 3-month period and which have been detained more than once during the past 24 months.

(2) The information required under subregulation (1) shall include the following—

- (a) the name of the ship;
- (b) the name of the ship owner or the operator of the ship;
- (c) the International Maritime Organization number;
- (d) the flag state;
- (e) the classification society, where relevant;
- (f) where applicable, any other Party which has issued certificates to such ship in accordance with the Conventions on behalf of the flag State;
- (g) the reason for detention; and
- (h) port and date of detention.

18. Reimbursement of costs

(1) The costs of any inspection which results in the detention of a ship to which Part I applies, and any subsequent inspection relating to the deficiencies which led to the detention and all costs relating to any inspection carried out by the Authority for the purposes of, or in connection with regulation 14(5) shall be charged to the owner or his representative in Kenya.

[Subsidiary]

(2) Any detention made pursuant to these Regulations shall not be lifted until any fees payable in respect of any inspection leading to it or arising from it have been paid, or the Authority has been provided with sufficient security for the fees.

19. Offences

(1) Where there is any contravention of a direction made pursuant to regulation 9(2) in respect of a ship, the owner and master of the ship commits an offence, and upon conviction, is liable to a fine not exceeding one hundred thousand shillings or to imprisonment of a period not exceeding twelve months, or to both such fine and imprisonment.

(2) Where a ship—

- (a) fails to proceed to the yard specified in regulation 14(1); or
- (b) enters a port in contravention of regulation 14(5);

the owner and master commits an offence, and upon conviction, is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(3) Where a person obstructs an inspector or any person assisting the inspector he commits an offence and upon conviction, is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(4) Any pilot who contravenes regulation 16(1) commits an offence and upon conviction, is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(5) Any port authority official who contravenes regulation 16(1) or 16(3) commits an offence and upon conviction, is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

(6) It shall be a defence for a person charged under this Regulation to prove that the person charged took all reasonable steps to avoid committing the offence.

PART III — INSPECTION OF FAMILIARITY OF CREW WITH OPERATIONAL PROCEDURES

20. Authority may impose penalty upon admission of guilt

(1) If any person—

- (a) admits to the Authority that he or she has failed to comply with any provision of these Regulations or Act, or that he or she has failed to comply with any such provision with which it was his or her duty to comply;
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him/her, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question, the Authority may, after such an enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by the way of a penalty the whole or any part of the said deposit to be forfeited.

(2) There shall be the right of appeal to the Cabinet Secretary from a determination or order by the Authority under subregulation (1) whereby a penalty exceeding five hundred thousand shillings is imposed, provided that such right is exercised within a period of three months from the date of such determination or order.

(3) The imposition of a penalty under subregulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the same offence shall thereafter be competent.

(4) Nothing in this Regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

[Issue 3]

21. Inspection of operational procedures

(1) Ships when in ports in Kenya and also in the case of Kenyan ships when elsewhere shall be subject to inspection for the purpose of checking that the master and crew are familiar with essential procedures and operations relating to the safety of the ship.

(2) Section 230 of the Act shall apply in relation to a ship in a port in Kenya as if, in subsection (1), after “articles on board” there were inserted “the familiarity of the crew with essential procedures and operations relating to the safety of their ship”.

FIRST SCHEDULE

[Regulation 2.]

EXAMPLES OF “CLEAR GROUNDS” FOR A MORE DETAILED INSPECTION

1. Ships identified in the Second Schedule with the exception of paragraph 1.
2. A report or notification by another member state.
3. A report or complaint by the master, a crew member, or any person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Authority deems the report or complaint to be manifestly unfounded; the identity of the person lodging the report or the complaint must not be revealed to the master or the shipowner of the ship concerned.
4. The ship has been involved in a collision on its way to the port.
5. The Oil Record Book has not been properly kept.
6. The ship has been accused of an alleged violation of the provisions on discharge of harmful substances or effluents.
7. During examination of the certificates and other documentation, (see regulation 6(1)(a) and (2)), inaccuracies have been revealed.
8. Indications that the crew members are unable to comply with the requirements of the Conventions on the minimum level of training of seafarers.
9. Evidence of cargo and other operations not being conducted safely, or in accordance with International maritime Organization guidelines, e.g. the content of oxygen in the inert-gas mains supply to the cargo tanks is above the prescribed maximum level.
10. Failure of the master on an oil tanker to produce the record of the oil discharge monitoring and control system for the last ballast voyage.
11. Absence of an up-to-date muster list, or crew members not aware of their duties in the event of fire or an order to abandon ship.

SECOND SCHEDULE

[Regulations 5(2), 6(1).]

SHIPS TO BE CONSIDERED FOR PRIORITY INSPECTION

1. Ships visiting a port in the Memorandum of Understanding region for the first time or after an absence of 12 months or more from a port in the Memorandum of Understanding region.
2. Ships which have been permitted to leave the port of a member state on condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period.
3. Ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation pursuant to regulation 16.

[Subsidiary]

4. Ships which are in a category for which an expanded inspection is required by regulation 7.
5. Ships which have been suspended from their class for safety reasons in the course of the preceding six months.

THIRD SCHEDULE

[Regulation 6(1).]

LIST OF CERTIFICATES AND DOCUMENTS

1. International Tonnage Certificate (1969).
2. Passenger Ship Safety Certificate.
3. Cargo Ship Safety Construction Certificate.
4. Cargo Ship Safety Equipment Certificate.
5. Cargo Ship Safety Radiotelegraphy Certificate.
6. Cargo Ship Safety Radio Certificate.
7. Exemption Certificate.
8. Cargo Ship Safety Certificate.
9. Document of Compliance (SOLAS 74, regulation 11-2/54).
10. International Certificate of Fitness for Carriage of Liquefied Gases in Bulk.
11. International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.
12. International Oil Pollution Prevention Certificate.
13. International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.
14. International Load Line Certificate (1966).
15. International Load Line Exemption Certificate.
16. Oil Record Book, Parts I and II.
17. Shipboard Oil Pollution Emergency Plan.
18. Cargo Record Book.
19. Minimum Safe Manning Document.
20. Certificates of Competency including dangerous goods endorsement.
21. Medical Certificates, (see, Maritime Labour Convention, 2006, Appendix A5 concerning Medical Examination of Seafarers).
22. Stability information including grain loading information and document of authorisation.
23. Safety Management Certificate and Document of Compliance issued in accordance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Maritime Organization Resolution A.741 (18)).
24. Certificates as to the ship's hull strength and machinery installations issued by the classification society in question, only to be required where the ship maintains its class with a classification society.
25. Survey report files (in case of bulk carriers or oil tankers in accordance with resolution A. 744 (18)).
26. For ro-ro passenger ships, information on the A/A max ratio.

[Issue 3]

27. Document of authorization for the carriage of grain.
28. Special Purpose Ship Safety Certificate.
29. High-Speed Craft Safety Certificate and permit to operate High-speed Craft.
30. Mobile offshore Drilling Unit Safety Certificate.
31. For oil tankers, the record of the oil discharge monitoring and control system for the last ballast voyage.
32. The muster list, fire control plan, and, for passenger ships, a damage control plan.
33. Ship's log-book with respect to the records of tests and drills and the log for records of inspection and maintenance of life-saving appliances and arrangements.
34. Procedures and Arrangements Manual (chemical tankers).
35. Cargo Securing Manual.
36. Certificate of Registry or other document of nationality.
37. Garbage Management Plan.
38. Garbage Record Book.
39. Bulk Carrier Booklet (SOLAS Chapter VI, regulation 7).
40. Reports of previous port state control inspection.
41. Maritime Labour Certificate; and
42. Declaration of Maritime Labour Compliance.

FOURTH SCHEDULE

[Regulation 6(4).]

PROCEDURES FOR THE CONTROL OF SHIPS

1. Procedures for Port State Control (International Maritime Organization Resolution A. 787(19), as amended.
2. Principles of Safe Manning (International Maritime Organization Resolution A.481 (X11)) and Annexes which are Contents of Minimum Safe Manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2).
3. Procedures for the Control of Ships and Discharges under Annex 11 to MARPOL 73/78 (International Maritime Organization Resolution MEPC 26 (23)).
4. The Provisions of the International Maritime Dangerous Goods Code.
5. International Labour Organization (ILO) publication "Inspection of Labour Conditions on Board Ship: Guidelines for Procedure".
6. Annex 1 to the IOMOU Guidelines for Surveyors.

FIFTH SCHEDULE

[Regulation 7(1).]

A. CATEGORIES OF SHIPS SUBJECT TO EXPANDED INSPECTION

1. Oil tankers, 5 years or less from the date of phasing out in accordance with MARPOL 73/78, Annex 1, regulation 13G, i.e.—
 - (a) a crude oil tanker of 20,000 tonnes deadweight and above or a product carrier of 30,000 tonnes deadweight and above, not meeting the requirements of a

[Subsidiary]

new oil tanker as defined in regulation 1(26) of Annex I to MARPOL 73/78, will be subject to expanded inspection 20 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, or 25 years that date, if the ship's wing tanks or double-bottom spaces not used for the carriage of oil meet the requirements of regulation 13G(4) of the Annex, unless it has been reconstructed to comply with regulation 13F of the same Annex;

- (b) an oil tanker as mentioned above meeting the requirements of a new oil tanker as defined in regulation 1(26) of Annex I to MARPOL 73/78 will be subject to expanded inspection 25 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, unless it complies with or has been reconstructed to comply with Regulation 13F of that Annex.

2. Bulk carriers, of over 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

3. Passenger ships.

4. Gas and chemical tankers older than 10 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

B. NON-MANDATORY GUIDELINES FOR EXPANDED INSPECTION OF CERTAIN CATEGORIES OF SHIPS

To the extent applicable the following items may be considered as part of an expanded inspection. Inspectors must be aware that it may jeopardize the safe execution of certain on-board operations, e.g. cargo operation, if tests having a direct effect thereon, are required to be carried out during such operations.

1. SHIPS IN GENERAL (CATEGORIES IN SECTION A)—

- black-out and start of emergency generator;
- inspection of emergency lighting;
- operation of emergency fire-pump with two fire hoses connected to the fire main-line;
- operation of bilge pumps;
- closing of watertight doors;
- lowering of one seaside lifeboat to the water;
- test of remote emergency stop for e.g. boilers, ventilation and fuel pumps;
- test of steering gear including auxiliary steering gear;
- inspection of emergency source of power to radio installations;
- inspection and, to the extent possible, test of engine-room separator.

2. OIL TANKERS

In addition to the items listed under section B(1), the following items may also be considered as part of the expanded inspection for oil tankers—

- fixed-deck foam system;
- fire-fighting equipment in general;
- inspection of fire dampers to engine room, pump room and accommodation;
- control of pressure of inert gas and oxygen content thereof;
- check of the Survey Report to identify possible suspect areas requiring inspection.

3. BULK CARRIERS

In addition to the items listed under section B(1), the following items may also be considered as part of the expanded inspection for bulk carriers—

- possible corrosion of deck machinery foundations;
- possible deformation or corrosion of hatch covers;
- possible cracks or local corrosion in transverse bulkheads;

[Issue 3]

- access to cargo holds;
- check of the Survey Report File to identify possible suspect areas requiring inspection.

4. GAS AND CHEMICAL TANKERS

In addition to the items listed under section B(1), the following items may also be considered as part of the expanded inspection for gas and chemical tankers—

- cargo tank monitoring and safety devices relating to temperature, pressure and hullage;
- oxygen analysing and explosimeter devices, including their calibration; availability of chemical detection equipment (bellows) with an appropriate number of suitable gas detection tubes for the specific cargo being carried;
- cabin escape sets giving suitable respiratory and eye protection, for every person on board (if required by the products listed on the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable);
- check that the product being carried is listed in the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable;
- the fixed fire-fighting installations on deck, whether they be foam or dry chemical or other as required by the product carried.

5. PASSENGER SHIPS

In addition to the items listed under section B(1), the following items may also be considered as part of the expanded inspection for passenger ships—

- testing of fire detection and alarm system;
- testing of proper closing of fire doors;
- test of public address system;
- fire drill where, as a minimum, all sets of fireman's outfits must be demonstrated and part of the catering crew take part;
- demonstration that key crew members are acquainted with the damage control plan.

Where deemed appropriate the inspection may be continued while the ship is on passage to or from the port in Kenya, with the consent of the shipmaster or the operator.

Inspectors must not obstruct the operation of the ship, nor must they induce situations that, in the master's judgement could endanger the safety of the passengers, the crews and the

SIXTH SCHEDULE

[Regulation 9(4).]

CRITERIA FOR DETENTION OF A SHIP

1. Introduction

Before determining whether deficiencies found during an inspection warrant detention of the ship involved, the inspector shall apply the criteria mentioned below in items 1 and 2.

Section 3 includes examples of deficiencies that may for themselves warrant detention of the ship involved.

Main Criteria when exercising his professional judgement as to whether or not a ship should be detained the inspector must apply the following criteria:

Timing—

[Subsidiary]

Ships which are unsafe to proceed to sea must be detained upon the first inspection irrespective of how much time the ship will stay in port.

Criterion—

The ship is detained if its deficiencies are sufficiently serious to merit an inspector returning to satisfy himself that they have been rectified before the ship sails.

The need for the inspector to return to the ship is a measure of the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the Authority must verify one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

2. Application of main criteria

(1) When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention the inspector must assess whether—

- (a) the ship has relevant, valid documentation;
- (b) the ship has the crew required in the Minimum Safe Manning Document.

(2) During inspection the inspector must further assess whether the ship or crew is able to—

- (a) navigate safely throughout the forthcoming voyage;
- (b) safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage;
- (c) operate the engine room safely throughout the forthcoming voyage;
- (d) maintain proper propulsion and steering throughout the forthcoming voyage;
- (e) fight fires effectively in any part of the ship if necessary during the forthcoming voyage;
- (f) abandon ship speedily and safely and effect rescue if necessary during the forthcoming voyage;
- (g) prevent pollution of the environment throughout the forthcoming voyage;
- (h) maintain adequate stability throughout the forthcoming voyage;
- (i) maintain adequate watertight integrity throughout the forthcoming voyage;
- (j) communicate in distress situations if necessary during the forthcoming voyage;
- (k) provide safe and healthy conditions on board throughout the forthcoming voyage.

(3) Where the answer to any of these assessments is negative, taking into account all deficiencies found, the ship shall be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

(4) To assist the inspector in the use of these guidelines, there follows a list of deficiencies, grouped under relevant conventions or Codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not intended to be exhaustive.

3. General

(1) Ships flying the flag of States not party to a Convention or not having implemented another relevant instrument are not entitled to carry the certificates provided for by the Convention or other relevant instrument.

(2) However, absence of the required certificates should not by itself constitute reason to detain these ships, but, in applying the “no more favourable treatment” clause, substantial compliance with the provisions is required before the ship sails.

4. Areas under the SOLAS Convention

[Issue 3]

(1) Failure of the proper operation of propulsion and other essential machinery, as well as electrical installations.

(2) Insufficient cleanliness of engine room, excess amount of oily-water mixtures in bilges, insulation of piping including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements.

(3) Failure of the proper operation of emergency generator, lighting, batteries and switches.

(4) Failure of the proper operation of the main and auxiliary steering gear.

(5) Absence, insufficient capacity or serious deterioration of personal lifesaving appliances, survival craft and launching arrangements.

(6) Absence, non-compliance or substantial deterioration of fire detection system, fire alarms, fire-fighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use.

(7) Absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers.

(8) Absence, non-compliance or serious deterioration of lights, shapes or sound signals.

(9) Absence or failure of the proper operation of the radio equipment for distress and safety communication.

(10) Absence or failure of the proper operation of navigation equipment, taking the provisions of SOLAS regulation V/12(o) into account.

(11) Absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that electronic charts may be used as a substitute for the charts.

(12) Absence of non-sparking exhaust ventilation for cargo pump rooms.

5. Areas under the IBC Code

(1) Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information.

(2) Missing or damaged high-pressure safety device.

(3) Electrical installations not intrinsically safe or not corresponding to code requirements.

(4) Sources of ignition in hazardous locations.

(5) Contraventions of special requirements.

(6) Exceeding of maximum allowable cargo quantity per tank.

(7) Insufficient heat protection for sensitive products (16.6).

6. Areas under the IGC Code

(1) Transport of a substance not mentioned in the Certificate of Fitness or missing cargo information.

(2) Missing closing devices for accommodations or service spaces.

(3) Bulkhead not gastight.

(4) Defective air locks.

(5) Missing or defective quick-closing valves.

(6) Missing or defective safety valves.

(7) Electrical installations not intrinsically safe or not corresponding to code requirements.

(8) Ventilators in cargo area not operable.

(9) Pressure alarms for cargo tanks not operable.

(10) Gas detection plan and/or toxic gas detection plant defective.

[Subsidiary]

- (11) Transport of substances to be inhibited without valid inhibitor certificate.

7. Areas under the LOAD LINES Convention

(1) Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out.

- (2) A recognized case of insufficient stability.

(3) The absence of sufficient and reliable information, in an approved form, which by rapid and simple means, enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided.

(4) Absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors.

- (5) Overloading.

- (6) Absence of draft mark or draft mark impossible to read.

8. Areas under the MARPOL Convention, Annex I

(1) Absence, serious deterioration or failure of proper operation of the oilywater filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements.

- (2) Remaining capacity of slop and/or sludge tank insufficient for the intended voyage.

- (3) Oil Record Book not available.

- (4) Unauthorized discharge bypass fitted.

9. Areas under the MARPOL Convention, Annex II

- (1) Absence of the P & A Manual.

- (2) Cargo is not categorized.

- (3) No cargo record book available.

(4) Transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate.

- (5) Unauthorized discharge by-pass fitted.

10. Areas under the STCW Convention

Number, composition or certificate of crew not corresponding with safe manning document.

11. Areas under the ILO Conventions

- (1) Insufficient food for voyage to next port.

- (2) Insufficiency portable water for voyage to next port.

- (3) Excessively unsanitary conditions on board.

(4) No heating in accommodation of a ship operating in areas where temperatures may be excessively low.

(5) Excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways/accommodations.

(6) Areas which may not warrant a detention, but where cargo operation may be suspended.

(7) Failure of the proper operation or maintenance of inert gas system, cargorelated gear or machinery are considered sufficient grounds for stopping cargo operation.

SEVENTH SCHEDULE

[Regulation 15(1).]

MINIMUM CRITERIA FOR INSPECTORS

1. The inspector shall be authorised to carry out port state control by the Authority.
 3. A person shall be qualified to be an inspector if the person has completed a minimum of one year's service as flag State an inspector dealing with surveys and certification in accordance with the Conventions and—
 - (a) holds—
 - (i) a certificate of competency as a master, enabling that person to take command of a ship of 1,600 GT or more;
 - (ii) a certificate of competency as chief engineer, enabling him to take up that task on board a ship whose main power plant has a power equal or superior to 3,000 KW;
 - (b) has passed an examination as a naval architect, mechanical engineer or an engineer to any maritime fields and worked in that capacity for at least five years;
 - (c) has served for a period of not less than five years at sea as officer in the deck or engine-department respectively; or
 - (d) holds a relevant university degree or an equivalent training, and—
 - (i) has been trained and qualified at a school for ship safety inspectors; and
 - (ii) has served at least two years as a flag State inspector dealing with surveys and certification in accordance with the Conventions; or
 - (e) where the class or classes of ship are specified, has successfully completed an approved course for ship safety and port state control inspectors; and
 - (f) is able to communicate orally and in writing with seafarers in the language most commonly spoken at sea; and
 - (g) has appropriate knowledge of the provisions of the international conventions, Memorandum of Understanding, national legislation and of the relevant procedures on port state control.
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MERCHANT SHIPPING (FEES) REGULATIONS, 2011

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
2. Interpretation.
3. Application.
4. Payment of fees.
5. Variable fees.
6. Fees for waiting time.
7. Fees for cancellation.
8. Relocation fees.
9. Time of payment.
10. Recovery of fees.
11. Penalty for non-payment.
12. Revocation of L.N. 150/1994.

SCHEDULES

FIRST SCHEDULE —	SURVEY FEES
SECOND SCHEDULE —	SURVEYORS' EXPENSES AND SPECIAL FEES
THIRD SCHEDULE —	FEES FOR MISCELLANEOUS SERVICES
FOURTH SCHEDULE —	OVERSIGHT AND MONITORING FEES

MERCHANT SHIPPING (FEES) REGULATIONS, 2011

[L.N. 192/2011.]

1. Citation

These Regulations may be cited as the Merchant Shipping (Fees) Regulations, 2011 and shall come into force on the date of publication.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Act**” means the Merchant Shipping Act, 2009;

“**dead weight**” means the total mass of cargo, fuel, fresh water, etc. that a vessel can carry when she is floating in salt water with her summer load line at the water surface;

“**deck officer**” means an officer whose duties are connected with the deck department;

“**dry dock**” means excavated dock fitted with watertight entrance, from which water can be pumped to allow work to be done on the underwater portion of a docked vessel;

“**DWT**” means dead weight;

“**GT**” means gross tonnage;

“**Inspector**” means the person appointed as such under section 409 of the Act;

“**ISM**” code means the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention;

“**KOPP Certificate**” means a Kenya oil pollution certificate issued pursuant to regulation 23;

“**SOLAS**” means the International Convention for the Safety of life at Sea, 1974, as amended from time to time;

“**survey**” means a visit on board a vessel to make a detailed examination, inspection or investigation to determine the validity of the relevant certificates and other documents, and the condition of the hull, equipment and machinery of the vessel and the members of the crew of the vessel;

“**tonnage convention**” means the International Convention on Tonnage Measurement of Ships, 1969;

“**tons**” means the gross tons, and the tonnage of a vessel with alternative gross tonnages shall be taken to be the larger of those tonnages; and

“**Vessel**” includes any vessel, boat, sailing vessel, or other vessel of any description used in navigation.

3. Application

The fees specified in the Schedules shall be payable for the services provided or things done by the Authority as respectively specified upon request by any person under or for the purposes of the Act.

4. Payment of fees

(1) A person who requests to have a thing done or service rendered by the Authority under the Act, or, where there is no such request, the person for whose benefit the service is provided or thing done, shall pay the fees specified in these Regulations.

(2) Notwithstanding paragraph (1), in the case of a survey, a master, operator, owner, or agent of a ship shall be deemed to be the person for whose benefit the service is provided.

5. Variable fees

[Subsidiary]

(1) Where the fees for a particular service is not specified in these Regulations, the fee payable shall be determined on an hourly rate exclusive of the expenses incurred in the performance of the service.

(2) Where an amount payable to the Authority is based on the hourly rate, that rate shall be the sum of two hundred United States dollars, except outside office hours and on public holidays.

(3) A service taking less than an hour shall be charged for as one hour according to the scale.

(4) For services exceeding one hour, a half fee shall be charged for every half hour, or part thereof, according to the scale.

(5) Any person who wishes to have any service performed may prior to the commencement of the service, request the Authority to provide an estimate of the total fees payable, provided that such person pays for the expenses incurred in the provision of such estimates.

(6) Notwithstanding paragraph (5), if the Authority considers that the complexity of the service requested is such that it is not initially possible to make a reasonable estimate of the fees payable, the Authority may, with the agreement of the person requesting the service, undertake a provisional assessment of the service for the purposes of determining the total cost in question, which assessment shall be carried out at the hourly rate of fee.

6. Fees for waiting time

Where an officer—

- (a) is available at the time and place appointed for the performance of a service, but is compelled to wait for a period in excess of half an hour after the appointed time before the service can be commenced; or
- (b) is providing a service and the service is interrupted on one or more occasions, for any reason attributable to the person requesting the service, the officer is compelled to wait for a total period in excess of half an hour before the service can be continued; or
- (c) has provided a service and is compelled, for any reason attributable to the person requesting the service, to wait for a period in excess of half an hour at the place where the service was provided,

the waiting time shall be paid for at the hourly rate for every ten minutes or part thereof.

7. Fees for cancellation

Where a service is cancelled before completion, the person making the request for that service shall pay an amount of one hundred and twenty five United States dollars, in addition to the fee calculated in accordance with these Regulations.

8. Relocation fees

(1) If, in the performance of a service under these Regulations, an officer relocates to a place other than the normal station, an additional fee shall be payable for the expenses incurred by that officer for such relocation.

(2) Where a vessel in relation to which a service is to be provided is berthed, the travel time taken to and from the vessel shall be payable at an hourly rate.

9. Time of payment

(1) Fees for services provided under these Regulations shall be paid within seven days after completion of the service.

(2) Where the fee payable is a fixed amount or is determined by a fixed rate of charge, the Authority may demand payment in advance of the performance of the service in question.

(3) Where a fee is payable at the hourly rate of charge, the Authority may demand a reasonable deposit thereof before commencement of the service, the balance to be paid in the manner provided under regulation 3 on the completion of the service.

10. Recovery of fees

Where a fee due under these Regulations is not paid within seven days, the Authority may recover the same as a summary debt.

11. Penalty for non-payment

Without prejudice to any provision herein, where the amount owed to the Authority is not fully paid within one month from the day when it is due, the Authority shall impose a penalty of two per cent per month for each month or part thereof that the amount remains unpaid.

12. Revocation of L.N. 150/1994

The Merchant Shipping (Fees) Regulations, 1994, are revoked.

FIRST SCHEDULE

SURVEY FEES

PART I — PASSENGER SHIPS

1.

Fees for vessels and Safety Certificate:

GROUP 1 SHIPS (0 -100 tons)

<i>From — To (tons)</i>	<i>.</i>	<i>Fee (USD.)</i>
0	100	\$150 plus \$0.5 per GT

GROUP 2 SHIPS (101 -500 tons)

<i>From — To (tons)</i>	<i>.</i>	<i>Fee (USD.)</i>
0	500	\$150 plus \$0.5 per GT

GROUP 3 SHIPS (501 — 50,000 tons)

<i>From — To (tons)</i>	<i>.</i>	<i>Fee (USD.)</i>
501	1,000	\$100 plus \$5 per GT
1,001	3,000	\$150 plus \$0.25 per GT
3,001	6,000	\$200 plus \$0.10 per GT
6,001	8,000	\$250 plus \$0.10 per GT
8,001	10,000	\$300 plus \$0.10 per GT
10,001	20,000	\$350 plus \$0.10 per GT
20,001	50,000	\$400 plus \$0.10 per GT

And in respect of a vessel whose tonnage exceeds 50,000 tons the fee shall be \$ 500 for the first 50,000 tons plus \$0.10 per GT ton or part thereof above 50,000 tons.

PART II: CARGO SHIP SAFETY CERTIFICATES

1.

For fees for Safety Construction Certificates

GROUP 1 SHIPS (0 — 100 tons)

<i>From — To (tons)</i>	<i>.</i>	<i>Fee (USD.)</i>
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Merchant Shipping

[Subsidiary]

0	100	\$125 plus \$0.25 per GT
<i>From — To (tons)</i>	.	<i>Fee (USD.)</i>
101	500	\$175 plus \$0.5 per GT
<i>From — To (tons)</i>	.	<i>Fee (USD.)</i>
501	1,000	\$75 plus \$0.5 per GT
1,001	3,000	\$125 plus \$0.25 per GT
3,001	6,000	\$175 plus \$0.10 per GT
6,001	8,000	\$225 plus \$0.10 per GT
8,001	10,000	\$275 plus \$0.10 per GT
10,001	20,000	\$325 plus \$0.10 per GT
20,001	50,000	\$375 plus \$0.10 per GT

In respect of a vessel whose tonnage exceeds 50,000 tons the fee shall be \$ 475 for the first 50,000 tons plus \$ 0.10 per GT ton or part thereof above 50,000 tons.

PART III: SAFETY EQUIPMENT

1. Fees for Safety Equipment Certificate:

(a) Safety equipment certificate: Per Tonnage

<i>From – To (tons)</i>	.	<i>Fee (USD)</i>
0	500	\$240
501	1,000	\$300
1,001	2,000	\$360

In respect of a vessel whose tonnage exceeds 2000 tons the fee shall be \$ 10 for the first 2000 tons plus \$ 0.25 per GT ton or part thereof above 2000 tons.

- (b) For a certified copy of certificate
USD 20
- (c) For a partial inspection of the safety equipment of a cargo ship required to hold a safety equipment certificate - for each visit made to the ship on the application of the owner, and for each visit made where the equipment is found to be defective USD 200 per hour.

Maximum fee: appropriate to a full survey for safety equipment certificate prescribed under item 1(a) of these Regulations.

Note.- 1. The fees prescribed by paragraph (a) includes the survey of life-saving appliances, fire appliances, pilot ladders and the lights and sound signal apparatus, and issue of the certificate.

2.

Fees for Inspection of safety equipment, including, life-saving appliances, fire appliances and ladders on board ships not required to hold safety equipment certificates including ships not registered in Kenya and pleasure vessels)

- (a) For a complete inspection on the application of the owner of the safety equipment and for the issue of a record of safety equipment for

GROUP 1 SHIPS (0 – 100 tons)

<i>From – To (tons)</i>	.	<i>For safety certificate USD</i>
0	10	40
11	20	80
21	30	120
31	40	160
41	50	200

[Issue 3]

Merchant Shipping

[Subsidiary]

51	60	240
61	70	280
71	80	320
81	90	360
91	100	400

GROUP 2 SHIPS (101 — 500 tons)

<i>From — To (tons)</i>	.	<i>For safety certificate USD</i>
1010	200	440
201	300	480
301	400	520
401	500	560

GROUP 3 SHIPS (501 — 50,000 tons)

<i>From — To (tons)</i>	.	<i>For safety certificate USD</i>
501	1,000	600
1,001	3,000	640
3,001	6,000	680
6,001	8,000	720
8,001	10,000	760
10,001	20,000	800
20,001	50,000	840

And in respect of a vessel whose tonnage exceeds 50,000 tons the fee shall be \$840 for the first 50,000 tons plus \$ 0.10 per GT ton or part thereof above 50,000 tons

- (b) For a partial inspection on the application of the owner, or for the inspection of the ship where the equipment is found to be defective, or as a result of changes or modification in the equipment—
 - (i) For each visit made to the ship USD 100
 - (ii) Maximum fees the total fees payable under paragraph (a) appropriate to the ships tonnage.
- (c) For an additional copy of the record of safety equipment USD 20

3. Radio: fees for safety radio certificate and safety radio exemption certificate.

- (a) For a safety radio certificate, or qualified safety radio certificate, together with exemption certificate, but not including Radio Surveyor' fee:
 - (i) For ships whose tonnage does not exceed 500 tons USD 50
 - (ii) For ships whose tonnage exceeds 500 tons USD 50 and an additional \$0.25 for every ton above 500.
- (b) For an exemption safety radio certificate onlyUSD 125.
- (c) For a copy of a safety radio certificate USD 25

4. Load line and seaworthiness

- (a) Fees for Load Line Certificates
 - (i) For classed ships—

<i>From — To (tons)</i>	.	.	.	<i>Fees (USD.)</i>
.	.	Issue of Certificate	Renewal of Certificate*	Annual Survey
0	50	30	15	15
51	100	105	40	40

[Issue 3]

Merchant Shipping

[Subsidiary]

101	500	150	65	65
501	1,000	180	90	90
1,001	3,000	225	115	115
3,001	6,000	315	140	140
6,001	8,000	360	165	165
8,001	10,000	405	190	190
10,001	20,000	450	215	215
20,001	50,000	495	240	240
50,001 and above	.	600	265	265

*If Survey is carried out concurrently with Classification Survey.

(ii) For un-classed ships—

From — To (tons).		.	.	Fees (USD.)
.	.	Issue of Certificate	Renewal of Certificate*	Annual Survey
0	50	30	15	15
51	100	105	40	40
101	500	150	65	65
501	1,000	180	90	90
1,001	3,000	225	115	115
3,001	6,000	315	140	140
6,001	8,000	360	165	165
8,001	10,000	405	190	190
10,001	20,000	450	215	215
20,001	50,000	495	240	240
50,001	.	600	265	265

*If Survey is carried out concurrently with Classification Survey.

(iii) Fees relating to other surveys

.	Service	Fee (USD)
1.	Annual survey of a ship over 300 tons (classed or un-classed) which is carried through in one operation:-	.
.	(i) When only one visit is necessary service	The standard fee in paragraph (a).
.	(ii) When more than one visit is necessary	The standard fee in paragraph (a) plus USD 125
2.	Annual survey of a ship (classed or un- classed) which is not carried through in one operation	The standard fee in paragraph (a)(i) or (a)(ii) above plus the fee specified below
3.	Partial annual survey of a ship requiring one visit:-	.
.	i. For ships with a tonnage not exceeding 300 tons	USD 125
.	ii. For ships with a tonnage exceeding 300 tons	USD 165
4.	Partial annual survey of a ship requiring more than one visit:-	.
.	i. For ships with a tonnage not exceeding 300 tons	USD 25
.	ii. For ships with a tonnage exceeding 300 tons	USD 65

[Issue 3]

Merchant Shipping

[Subsidiary]

5.	Survey of a classed ship for renewal of the load line certificate, when the survey is not carried out at the same time as the classification survey	half the appropriate fee in column 1 of paragraph (a)
6.	Survey for the issue of renewal of the load line certificate if the survey is carried out at the same time as survey for passenger certificate	.
.	(i) Classed ship	No fee
.	(ii) Un-classed ship	half the fee in column 4 or 5 of paragraph (a)(ii)
7.	Annual load line survey if the survey is carried out at the same time as survey for a passenger certificate (for a classed or un-classed ship)	No fee
8.	Survey not being a full survey for a change of freeboard consequent upon minor alterations, classed or un-classed ship	the fee in column 2 of paragraph (a)
9.	In special cases, for a partial survey and the issue or renewal of a certificate for twelve months or less	one half of the appropriate fee in either column 1 or 4 of paragraphs (a)(i) and (a)(ii)
10.	Certified copy of a certificate of approval of load line	USD 25

5.

Fees for the survey of ships detained for unseaworthiness after a routine inspection or Port state control or complaint of the crew.

<i>From (tons) — To (tons)</i>	.	<i>Fee(USD)</i>
0	500	\$500
501	1,000	\$1250
1,001	1,500	\$2000

- (a) And in respect of a vessel whose tonnage exceeds 1,500 tons the fee shall be \$2000 for the first 1,500 tons plus \$0.25 per ton for each ton above 1,500 tons or part thereof.
- (b) For each visit to conduct a survey of a ship which is detained for being unmarked or improperly marked with load lines or for failure to deliver up an expired load line certificate USD 200
- (c) Closing a deficiency after Port State Control inspection USD 200 per hour

NOTE.-Item 2 of this Part applies when such a ship is detained or is found in a condition where she would normally be detained under section 302 of the Act.

6. Fees for Survey of Wrecks

(a) For the survey before re-registry of a ship

<i>From (tons) — To (tons)</i>	.	<i>Fees (USD)</i>
0	500	\$350

[Issue 3]

Merchant Shipping

[Subsidiary]

501	1,000	\$700
1,001	1,500	\$1000

And in respect of a vessel whose tonnage exceeds ,500 tons the fee shall be \$1000 for the first 1,500 tons plus \$ 0.25 per GT ton or-part thereof.

NOTES:

1. The fee includes the inspection of the crew accommodation and the inspection of lights and sound signal apparatus, but not the measurement of a ship's tonnage.

The fees also includes the survey for load line, if the load line survey is held at the same time as the survey for seaworthiness and if the fee for survey of load line is not more; if it is more, an extra fee must be paid to bring the total fee paid up to the amount of the fee for The appropriate load line survey.

7. Fees relating to vessel safety standards and survey

Fees relating to vessel safety standards and survey

(a) Design Approval

- (i) New vessel
5% of the Total cost.
- (ii) Existing vessel wishing to enter service after layoff USD 500
- (iii) Significant modification to existing vessel USD 500
- (iv) Variation to approved plans
USD 500

(b) Construction Surveys

- (i) New vessel
3% of the Total cost
- (ii) Existing vessel wishing to enter service after layoff USD 500
- (iii) Significant repairs to existing vessel USD 500
- (iv) Operation trials on vesselsUSD 500

(c) Stability test witnessing and assessment of stability presentation of vessel

- (i) New vessel
1.5% of the Total cost
- (ii) Existing vessel wishing to enter service after layoff USD 500
- (iii) Vessel undergoing significant modification..... USD 500
- (iv) Existing surveyed vessel undergoing revised USD 500
- (v) Stability assessmentUSD 500

8. Fees for inspection of explosives and grain cargo

	<i>Service</i>	<i>Fee (USD)</i>
1.	Inspection of explosive magazines	\$260

Merchant Shipping

[Subsidiary]

2.	Certificate stating that the magazines have been constructed in accordance with the recommendations of the (Report of the Committee on the Carriage of Dangerous Goods and Explosives in Ships)	\$260
3.	Inspection of stowage of explosives	\$260
4.	Certificate stating that the stowage is in accordance with the recommendations of the report of the committee on the carriage of dangerous goods and explosives in ships	\$260
5.	Inspection of compartments for suitability for the stowage of explosives	\$260
6.	Certificate stating that the compartment is satisfactory for the carriage of explosives	\$260
7.	Inspection before loading commences, of fittings for the carriage of grain cargo and for a certificate stating that the grain cargo has been loaded in accordance with the ship's plan for loading of grain cargoes	\$260
8.	Certified copy of inspection certificates	\$25

9.

(1) The following fees shall be payable for the survey of a vessel for an IOPP certificate:

- (a) Initial or renewal survey where the period of validity of the certificate is five years—
 - (i) Fishing vessel — USD 50;
 - (ii) Vessel (other than an oil tanker) of over 500 tons-USD 300 plus \$0.25 per ton
 - (iii) Oil tanker of over 150 tons, up to 5 000 DWT- USD 300 plus \$ 0.5 per ton;
 - (iv) Oil tanker of over 5 000 DWT - USD 400 plus \$0.5 per ton.
- (b) Annual survey - USD 150;
- (c) Intermediate or additional survey - USD 250

10. Verification of oil spill response capability and the suitability of an oil tanker to import or to export oil into/from Kenyan waters

(1) A fee of USD 250 shall be payable for the verification of evidence to show that the importer or exporter of oil subscribes to a national and international oil spill response organization and that the oil shall be carried in a sound oil tanker in all respects.

11. Fees for Survey of Ships in Dry Dock

[Issue 3]

Merchant Shipping

[Subsidiary]

For the survey of the hull in dry dock and for the issue of dry docking certificate-Ships holding passenger vessel certificate either issued by or recognized by the Minister for—

(a) GROUP 1 SHIPS in Dry Dock

From – To (tons)	.	Fee (USD)
0	100	\$ 75 plus \$0.5 per GT,

(b) GROUP 2 SHIPS in Dry Dock

From – To (tons)	.	Fee (USD)
101	500	\$ 125 plus \$0.25 per GT,

(c) GROUP 3 SHIPS in Dry Dock

From – To (tons)	.	Fee (USD.)
501	1,000	\$ 70 plus \$0.5 per GT
1,001	3,000	\$ 120 plus \$0.25 per GT
3,001	6,000	\$ 170 plus \$0.10 per GT
6,001	8,000	\$ 220 plus \$0.10 per GT
8,001	10,000	\$ 270 plus \$0.10 per GT
10,001	20,000	\$ 320 plus \$0.10 per GT
20,001	50,000	\$ 370 plus \$0.10 per GT

And in respect of a vessel whose tonnage exceeds 50,000 tons, the fee shall be \$370 for the first 50,000 tons plus \$0.10 for each 5,000 tons or part thereof above 50,000 tons.

- (d) Other ships One Quarter of the fees for 12 months' certificate prescribed in items 1(a) and 1(b) plus USD 20 for each.
- (e) For a copy of the dry docking certificate USD 25

NOTES:

- These fees cover any number of visits that a surveyor may require to make before granting his declaration, and the survey of the hull,- boilers and propelling machinery, and the inspection of the equipment of the ship including the lights and sound signals.
- In any case in which the duration has been limited by the surveyor's declaration, owing to special reasons rendering one or more surveys necessary during the ensuing twelve months, the total fees paid for certificates covering the period of twelve consecutive months shall not exceed that payable for a twelve months' certificate.
- The fees for vessels cover, in whole or in part, the fee for the survey of a ship for load line if the two surveys are carried out concurrently; but the fees do not, however, cover the inspection of the crew accommodation or the measurement for tonnage.

PART IV —CREW ACCOMMODATION

- (a) Fees for the inspection of crew accommodation-for each visit to the ship USD 160
- (b) Fees for the inspection of crew accommodation at the same time as a survey for tonnage measurement of seaworthiness prior to re-registry, or in consequence of an un-justified complaint from the crew No fee.

PART V — TONNAGE MEASUREMENT

Fees for Measurement of Ships' Tonnage

(a)

For measurement under Rule 1 of the First Schedule to the Act (which covers first measurement of a Kenya ship and re-measurement, including under deck tonnage) for—

[Issue 3]

Merchant Shipping

[Subsidiary]

<i>A ship which exceeds (tons)</i>	<i>A ship which does not exceed (tons)</i>	<i>Fee (USD)</i>
0	5	\$50
6	10	\$80
11	20	\$120
21	50	\$200
51	100	\$220

And in respect of a vessel whose tonnage exceeds 100 tons the fee shall be \$220 for the first 100 tons plus \$ 10 for each 50 tons or part thereof above 100 tons.

(b)

For measurement under Rule II of the First Schedule to the Act
half the fee in (a)

(c)

For measurement not involving under deck tonnage for one of the following re-measurements:-alterations on the upper deck; alterations in the engine room; spaces referred to in section 60(3) of the Act (light and air spaces) or spaces referred to in section 61(1) of the Act.

<i>A ship which exceeds (tons)</i>	<i>A ship which does not exceed (tons)</i>	<i>Fee (USD)</i>
0	5	\$50
6	10	\$80
11	20	\$120
21	50	\$200
51	100	\$220

And in respect of a vessel whose tonnage exceeds 100 tons, the fee shall be USD 220 for the first 100 tons plus USD 10 for each 50 tons or part thereof above 100 tons.

PART VI—REGISTRY AND MARKINGS

REGISTRATION, TRANSFER AND MORTGAGES

1. FEES FOR REGISTRATION AND LICENSING OF VESSELS**A. Registration for vessels of 50 GRT or more tonnage**

- (a) Initial registration of vessel irrespective of size - US\$ 500;
- (b) Change of name of a vessel - US \$ 50;
- (c) Fee of ownership of a vessel - US \$ 150;
- (d) Bill of sale - US\$ 100;
- (e) Discharge of mortgage - US\$ 250;
- (f) Registration a new as a result of alteration to vessel - US\$ 500;
- (g) Registration of alteration to vessel except registry a new as a result of such alteration - US \$250;
- (h) Provisional registration - US\$ 200;
- (i) Replacement of registration certificate US\$ 150;
- (j) Registration of initial and only mortgage - US\$ 350;
- (k) Transfer of mortgage – US\$ 350
- (l) Registration of second and each additional mortgage –US\$ 250;
- (m) The registration of a notice of intended mortgage - US\$ 100;
- (n) Licensing of unregistered vessel of 50 GT or more - US\$.500 ;
- (o) Witnessing of declaration before registrar of vessels - US\$.10

Merchant Shipping

[Subsidiary]

B. Unregistered vessels (vessels of less than 50 GT and vessels exempted from registration under section 14 (2) of the Act)

(1)(a) Sailing vessels and vessels propelled by oars or paddles—

- (i) of up to 4 meters in length - US\$ 0.5
- (ii) for every meter or part thereof, over 4 meters - US\$ 0.1

(2)(a) Fees for change of name of vessel – US\$. 20

- (b) fees for change of particulars of license – US\$.20;
- (c) fees for transfer of license – US\$.20;

(3) For initial registry, registry a new and transfer of registry for:

<i>From — To (tons)</i>	<i>.</i>	<i>Fee (USD)</i>
0	25	\$100
26	50	\$150
51	100	\$200
101	500	\$300
501	1,000	\$500

• And in respect of a vessel whose tonnage exceeds 1000 tons, the fee shall be USD 500 for the first 500 tons plus USD 40 for each 500 tons or part thereof above 100 tons.

• Annual vessel fee, US\$ 20 for initial 1,000 tons and for every 100 tons or part thereof, over 1,000 tons, \$0.25

(4) For transfer of mortgage, transfer by bill of sale, mortgage and discharge of mortgage for—

<i>From — To (tons)</i>	<i>.</i>	<i>Fee (USD)</i>
0	25	\$20
26	50	\$80
51	100	\$120
101	500	\$160
501	1,000	\$200

And in respect of a vessel whose tonnage exceeds 500 tons, the fee shall be USD 200 for the first 1,000 tons plus USD 40 for each 500 tons or part thereof above 1,000 tons.

(5) Additional Registry fees:

<i>.</i>	<i>Service</i>	<i>Fees (USD)</i>
1.	For issue of certificate of registry at first registry and on any subsequent occasion where a fresh certificate is issued	\$ 300
2.	For inspecting the register book (this should be interpreted as inspecting the register book as it relates to any one particular ship)	\$60
3.	For certified copy of the particulars entered on the registry of a ship together with a certified statement showing the ownership and any encumbrance at the time being	\$ 80
4.	Transcripts which are required to show the particulars of ownership	\$ 100

[Issue 3]

Merchant Shipping

[Subsidiary]

	at some particular date as distinct from date of issue and transcripts of a closed register (this fee is in addition to that charges in (3))	
5.	For the inspection of the Markings of ship	\$ 50
6.	For authorizing the change of name of a ship	\$ 20
7.	For change to particulars ship's Register	\$ 15
8.	Issue of endorsement certificate if sent by courier or abroad	\$ 20
9.	Issue of endorsement certificate if sent by other means than courier	\$15
10.	Addition or removal of or amendment to an endorsement	\$ 20
11.	Issue of an updated Continuous Synopsis Record (CSR) and new certificate of registry including change of particulars	\$ 100
12.	Supply of Prescribed Forms used in connection with Registry Bill of sale	\$ 10
13.	Supply of Prescribed Forms used in connection with Registry Declaration of ownership	\$ 15
14.	For a copy of license	\$ 25
15	Issuance of provisional registration	\$ 200

NOTE

This fee includes the inspection of markings, the change of name on the load line certificate, and in the case of ships holding passenger certificate, the issue of fresh declarations and passenger certificates showing the new name and any alterations in ownership and port of registry. The fee also covers the replacement or endorsement of safety certificates, safety equipment certificates, safety radio certificates or exemption certificates.

PART VII — MANUAL AND PLANS (ASSESSMENT AND APPROVAL)

The fees for the assessment and approval of manuals shall be charged in accordance with this part.

	<i>Service</i>	<i>Fees (USD)</i>
1.	Assessment and approval of any ship's security plan	USD 150
2.	Assessment and approval of any manual, operating plan or similar (other than ship's security plan)	USD 80
3.	Re-approval of any plan or manual above	USD 60

[Issue 3]

Merchant Shipping

[Subsidiary]

4.	Crew accommodation-Plan approval (including where requested the issue of a crew accommodation document of compliance)	USD 120
5.	Continuous synopsis record	USD 80
6.	Condition Assessment Scheme Statement of compliance, CAS Final Report and Review Records	USD 150
7.	Procedures and Arrangements Manual	USD 80
8.	Shipboard Marine Pollution Emergency plan for Noxious Liquid substances	USD 80
9.	Safe manning certificates 1. Passenger ship	USD 500
.	2. other ships	USD 500
10.	Document of Authorization for the Carriage of Grain	USD 130
11.	Document of Compliance with the Special Requirements for Ships Carrying Dangerous Goods	USD 130

PART VIII - CERTIFICATES OF COMPETENCY

.	<i>Service</i>	<i>Fees (USD)</i>
1.	For a certificate exempting a ship from carrying the prescribed certificate of competency during the currency of the agreement	USD 200
2.	For a license for the holder of a foreign certificate of competency to serve in a Kenya ship	USD 130
3.	Rating Certificate of Competency ("Certificate of Competency") STCW Certificates ANNEX 1	SEE ANNEX 1
4.	Amendment to and re-issue of an endorsement recognizing a non Kenyan Certificate of Competency if due to application error	USD 20
5.	Replacement of lost Certificate of Competency	USD 100
6.	Certification of officers on ships of 500GT or more (unlimited tonnage and area of operation)	.
.	o Master/Chief mate	USD 130
.	o 3rd mate	USD 60
7.	Certification of officers on ships of 500GT and below (limited tonnage and area of operation)	.

[Issue 3]

Merchant Shipping

[Subsidiary]

.	o Master/Chief mate	USD 100
.	o 3rd mate	USD 50
8.	Certification of officers on ships powered by means of propulsion of 3000kw or more	.
.	o Chief Eng./ 2nd Eng	USD 130
.	o 3rd Eng	USD 60
9.	Certification of officers on ships powered by means of propulsion of 3000kw and below	.
.	o Master/Chief mate	USD 100
.	o 3rd mate	USD 50

PART IX — ORAL EXAMINATIONS FEES

The fees payable are as follows:

.	<i>Examination</i>	<i>Fees (USD)</i>
1.	Re-sit of exams	USD 200
2.	Application for a letter of eligibility	USD 130
3.	Cancellation of exams before eligibility is issued	SEE ANNEX 1
4.	Cancellation of exams after eligibility is issued	USD 20
5.	Examination for officers on ships of 500GT or more (unlimited tonnage and area of operation)	.
.	o Master/Chief mate	USD 50
.	o 3rd mate	USD 30
6.	Examination for officers on ships of 500GT or below (unlimited tonnage and area of operation)	.
.	o Master/Chief mate	USD 30
.	o 3rd mate	USD 20
7.	Examination for officers on ships powered by means of propulsion of 3000kw or more	.
.	o Chief Eng./ 2nd Eng	USD 50
.	o 3rd Eng	USD 30
8.	Examination for officers on ships powered by means of propulsion of 3000kw and below	.
.	o Master/Chief mate	USD 30
.	o 3rd mate	USD 20

NOTE

Certification is in accordance with STCW 78 as amended.

PART X: ACCREDITATION OF MARITIME TRAINING INSTITUTIONS

1.

[Issue 3]

Merchant Shipping

[Subsidiary]

Fees for the accreditation of a maritime training institutions in the following levels

- (i) Certificate! Craftmanship USD 800 per biennium
- (ii) Diploma USD 1000 per triennium
- (iii) Undergraduate USD 2000 per quinquennial
- (iv) Postgraduate USD 2000 per twinnium

2. Fees for the assessment exams USD 100

3. Fees for issuance of professional certificates USD 60

4. Fees for licensing Seafarers recruitment agencies or ship representative placing seafarers on a shipUSD1000 p.a

Special Service: Special services will be charges at cost
USD 1000

SECOND SCHEDULE

SURVEYORS' EXPENSES AND SPECIAL FEES

PART I — SURVEYORS' EXPENSES

Except where otherwise stated, and apart from the overtime fees referred to in Part III. no separate fees shall be charged for surveyor's expenses in respect of surveys undertaken within the sixteen kilometers of the port where the surveyor is stationed. In cases where a surveyor is called for a survey or inspection by the owner, and is prepared to carry it out, but is prevented from doing so by circumstances which are within the control of the owner, his servants or agents to prevent, the surveyor's expenses must be paid.

PART II — SURVEYS AWAY FROM HOME STATION

When a survey is made at a distance of more than 16 kilometers from the port as which the surveyor is stationed, a special fee must be paid in addition to the surveyor's traveling expenses and subsistence. The special fee is USD 15 for every 24 hours or part of 24 hours during which the surveyor is absent from the port at which he is stationed.

PART III — OVERTIME CHARGES

Whenever surveyors are called upon to perform services out of office hours, application should be made by the owners, or their agents, to the Senior Surveyor of the port. The application must include an undertaking to pay the overtime charges.

Overtime Fees

Overtime is charged according to the following scale—

On weekdays—

From 6 am to 8 a.m. and 5 p.m to 6 p.m per hour USD 200
per hourBefore 6 a.m and after 6 p.m. per hour USD 200 per
hourOn Sundays and public holidays per hour USD 200 per
hour

A service taking less than an hour will be charged for as one hour according to the scale. For services exceeding one hour, a half fee will be charged for every half, or part thereof, according to the scale.

[Issue 3]

Merchant Shipping

[Subsidiary]

For inspections in connection with the illumination from the ship of the lifeboats in the process of an after dark launching, and for tests of lifeboat searchlights and lifebuoy lights, one-half of the above fees will be charged.

Office Hours

Office hours are from 8 a.m to 5 p.m and if reasonable notice of the survey and inspections has been given, and official arrangements have not allowed the work to be done within office hours, no overtime fees is payable.

THIRD SCHEDULE

FEES FOR MISCELLANEOUS SERVICES

PART I — SHIPPING OFFICE SERVICES

- (a) For the engagement or discharge of seamen before a shipping master or his duly appointed deputy
- (i) for each of the first hundred men engaged USD 10
 - (ii) for each man engaged in excess of 100 USD 5
 - (iii) for each man discharged in excess of 100..... USD 5
- (b) Additional fees for the engagement and discharge of seamen on board ship; the fees specified in this paragraph shall be charged in addition to those specified in paragraph (a) The fees charged for and visit of shipping master or his duly appointed deputy to a ship for the purpose of the engagement or discharge of such seamen, subject to a minimum fee of USD 20, shall be—
- (i) For each of the first 10 men engaged or discharged USD 5
 - (ii) Where more than 10 men but not more than 30 are engaged or discharged USD 2
 - (iii) For every 30 or fraction of 30 men engaged or discharged in excess of 50 USD 2
- Provided that if any seaman are engaged on board a ship immediately after they been discharge aboard that ship, the additional fee will be half that specified above.
- (c) For attendance .on board, by request, to render service independent of the number of seamen on board (e.g to attest the insertion of a new clause in the agreement) USD 15
 - (d) Attesting alterations in an agreement with seaman: for each alteration in respect of each seaman concerned USD 5
 - (e) Certifying the desertion of seamen (for each seaman) USD 5
 - (f) Receiving a return of the birth or death of any person on board a ship and endorsing the ship's agreement accordingly USD 5
 - (g) Taking custody of a ship's papers, making any necessary endorsement thereon and giving the certificate required by the Act USD 5
 - (h) Endorsement on bill of owner for payment of wages USD 5
 - (i) Rendering accounts of wages, etc., of seamen left behind or desertedUSD 5
 - (j) Attesting the execution of a seamen's will USD 5

Merchant Shipping

[Subsidiary]

- (k) Attesting any entry in the official log-book of a ship if entry is not required by law USD 5
- (l) Endorsing a memorandum of change of master upon the certificate of registry and witnessing his signature on the agreement with the crew..... USD 15
- (m) Every endorsement on ship's papers not otherwise provided for USD 15
- (n) Granting a certificate not otherwise provided for: for every 1000 words or fraction thereof USD 5
- (o) Inspection of provisions and water (to be paid by master if provisions or water are condemned otherwise by complainant USD 60
- (p) For seaman's Record Book and Identity Documents—
 - (i) Initial issue USD 20
 - (ii) Replacement, if book is lost other than by Shipwreck or fire onboard USD 25
 - (iii) Additional fee for each entry..... USD 2
- (q) Crew lists for vessels of under 125 tons where the number of the crew does not exceed 5 persons USD 40

PART II – OVERTIME FEES

- (a) Attendance outside during the usual office hours—

For attendance at the shipping office or on board ship (including time spent traveling to and from the ship) outside the usual office hours, the following special charges are made in addition to the ordinary fees.

Weekdays (per hour)USD 10

Sundays or public holidays (per hour) USD 15

Service occupying less than an hour will be charged for one hour, according to the scale.

- (i) If the period in excess of an exact number of hours is 30 minutes or less, half the appropriate fee for one hour;
 - (ii) If the period in excess is more than 30 minutes, the appropriate fee for 1 hour.
 - (iii) from unforeseen circumstances the duty cannot be started at the hour stated on the form of application or cannot be completed without interruption, the time during which the officers remain idle will be charged for at half the usual overtime rate.
- (b) Waiting time during office hours—

When the engagement or discharge of a crew takes place on board ship during office hours and is not started at the time stated on the form of application or cannot be completed without interruption, a charge at the rate of USD 5 per half an hour will be made if the waiting time amounts to a half hour or more. No charge will be made if waiting time is less than a half an hour.

Where, however, it amounts to, or exceeds half an hour the charge will be calculated to the nearest half an hour; thus, a charge of USD 5 will be made for a wait of from 30 to 45 minutes, USD 10 for a wait of from 45 to 75 minutes and so on. If the waiting time extends beyond office hours, a charge for that part of the waiting time will be calculated separately at the rate shown in Part III (a).

Notes:

[Issue 3]

Merchant Shipping

[Subsidiary]

1. Application for any surveys, tests, etc., mentioned in the First Schedule must be made in writing to the Authority.
2. Except where surveys are undertaken by the surveyor to any approved classification society, the appropriate fees must be paid before any survey, inspection or service can be undertaken. In cases where the exact fees cannot be calculated in advance (e.g. the for tonnage measurement), a substantial deposit based on the estimated fees must be paid. Any outstanding balance of fees or expenses must be paid before a certificate is issued or a service is completed.
3. Unless otherwise stated fees and expenses should be paid to the shipping master at the local shipping office. Fees and expenses should never be paid to surveyors or other officers.
4. An official receipt should be obtained for all payment. A copy of a receipt can be obtained for a charge of USD 10
5. Charges for copies of certificates supplied to consuls should be at the rate of USD 10
6. The expression "tons" whenever it is used in any of the Schedules means gross tons.

PART III — FEES FOR OTHER CERTIFICATES

1. Ship's Security Certificate USD 210
2. Safety Management Certificate USD 500
3. Company ISM document of compliance USD 500
4. Assessment and extension of any certificate under this part USD 100
5. Certificate of compliance (with ISPS Code) — Port facility USD 200
6. Offshore Research and Exploration Certificate USD 200
7. Voyage Date Recorder System — Certificate of compliance USD 100
8. Certificate of Insurance Or other Financial Security in respect of Civil Liabilities for Oil Pollution Damage USD 50 plus 0.25 per GT
9. Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk USD 200
10. Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk-USD USD 200
11. High Speed Craft Safety Certificate USD 130
12. Permit to Operate High Speed Craft USD 60
13. Certificate of Fitness for the Carriage of INF Cargo USD 60
14. Nuclear Cargo Ship Safety Certificate or Nuclear Passenger Ship Safety Certificate USD 60
15. Special Purpose Ship Safety Certificate USD 110
16. Certificate of Fitness for Offshore Support Vessels USD 130
17. Diving System Safety Certificate USD 150
18. Dynamically Supported Craft Construction and Equipment USD 150

[Issue 3]

Merchant Shipping

[Subsidiary]

19. Mobile offshore Drilling Unit Safety Certificate..... USD 150
20. Wing-in-Ground Craft Safety Certificate..... USD 130
21. Permit to Operate Wing-in-Ground Craft..... USD 60

FOURTH SCHEDULE

OVERSIGHT AND MONITORING FEES

(1) Shipping Line

- (a) Application fee USD 15
- (b) Registration US\$ 3000
- (c) Annual renewal fee US\$ 1000

(2) Shipping Agent or consolidator

- (a) Application fee USD 5
- (b) License fee USD 250 p.a

(3)

Shipper

		<i>Imports Rate per ton (USD)</i>	<i>Exports Rate per ton (USD)</i>
1.	Petroleum And Products	\$ 0.3	\$ 0.25
2.	Liquid Bulk	\$ 0.3	\$ 0.25
3.	Dry Bulk	\$ 0.5	\$ 0.25
4.	General Cargo	.	.
.	i. Loose Cargo	\$ 1.25	\$ 0.50
.	ii. Machinery(Non containerized	\$ 1.25	\$ 0.50
.	iii. Vehicles (Non Containerized)	\$ 1.25	\$ 0.50
.	iv. Containerized Cargo	\$ 1.50	\$ 0.75
.	TEU (20') standard	\$ 1.75	\$ 0.75
.	TEU(40') standard	\$ 2.00	\$ 0.75
.	TEU(40') high cube	.	.
5.	EXEMPTED CARGOES	No Fee	No Fee

ANNEX I

STCW 95' Certificates

Mandatory

1. Proficiency in personal survival techniques US\$ 10
2. Fire prevention and fire fighting US\$ 10
3. Elementary first aid US\$ 10
4. Personal safety and social responsibilities..... US\$ 10

Other:

1. ECDIS US\$ 5
2. GMDSS US\$ 5
3. Medical First Aid US\$ 5

[Issue 3]

Merchant Shipping

[Subsidiary]

4. Medical care US\$ 5
 5. Radar plotting and use if ARPA US\$ 5
 6. Integrated Bridge System US\$ 5
 7. Survival Craft and Rescue Boats US\$ 5
 8. Advanced fire fighting US\$ 5
 9. Certificate of medical fitness..... US\$ 5
 10. Replacement of lost certificates..... US\$ 15
 11. Rating forming part of a Navigation watch..... US\$ 5
 12. Rating forming part of a Engineering watch..... US\$ 5
 13. Compass adjuster..... US\$ 20
 14. Extension of validity of certificate of competency and Qualification..... US
\$ 10
-

MERCHANT SHIPPING (LICENSING OF VESSELS) REGULATIONS, 2012

ARRANGEMENT OF REGULATIONS

Regulation

1. Title.
2. Interpretation.
3. Application for licence.
4. Form of licence.
5. Conditions of licence.
6. Marking of vessels.
7. Change of ownership of vessel.
8. Change of name, designation or operation of vessel.
9. Permanent relocation of a vessels, etc.
10. Regulations on small vessel safety.
11. Offences and penalties.
12. Director-General may impose penalty upon admission of guilt.
13. Licences issued before commencement of Regulations.
14. Applications made before commencement of Regulations.

SCHEDULE—

PRESCRIBED FORMS

MERCHANT SHIPPING (LICENSING OF VESSELS) REGULATIONS, 2012

[L.N. 48/2012.]

1. Title

These regulations may be cited as the Merchant Shipping (Licensing of Vessels) Regulations, 2012.

2. Interpretation

In these regulations, unless the context otherwise requires—

“**Act**” means the Merchant Shipping Act, 2009;

“**proper officer**” means a person authorised by the Registrar, and is for that purpose properly identified by and given identification card issued by the Authority;

“**Registrar**” means the Director-General of the Authority.

3. Application for licence

(1) An application for a licence under section 57 of the Act or for the renewal of a licence shall be in accordance with Form 1 in the Schedule.

(2) An applicant for a licence under sub-regulation (1) above shall provide evidence that the applicant is the owner, or is authorized by the owner, of the vessel.

4. Form of licence

A licence shall, where it does not form part of the relevant local safety certificate—

- (a) be in accordance with Form 2 set out in the Schedule; and
- (b) be endorsed on the local safety certificate of the vessel in respect of which it is issued.

5. Conditions of licence

A licence issued under these regulations shall cease to be valid when the local safety certificate on which it is endorsed ceases to be valid.

6. Marking of vessels

The owner of a vessel or the owner's representative shall ensure that the official number assigned to the vessel by the proper officer and the name of the vessel (if any) are inscribed and continued, in the manner directed by the proper officer, on such features of the vessel as the proper officer may direct.

7. Change of ownership of vessel

(1) If during the period of validity of a licence issued under these regulations there is a change of ownership of the vessel to which that licence applies, the new owner of the vessel shall notify the proper officer accordingly in writing, as provided in section 58(3) of the Act.

(2) Notification under sub-regulation (1) shall be dated and signed by the new owner of the vessel.

(3) the owner's representative and shall specify—

- (a) the official number, name and designation of the vessel;
- (b) the full name and address of the previous owner;
- (c) the full name and address of the new owner; and
- (d) the date on which the change occurred.

(4) Where the owner of a licenced vessel or the owner's representative fails to comply with sub-regulation (1) the licence of the vessel shall be deemed to have been cancelled.

[Subsidiary]

(5) The new owner or the owner's representative shall apply for a license in accordance with regulation 3 within seven (7) days of the notification of the change of ownership, or within such other time as may be allowed by the Director-General, and the new owner shall at the same time forward the applicable local safety certificate to the proper officer for issuance of new licence.

(6) The proper officer is to return the local safety certificate in respect of the vessel duly endorsed to the new owner of the vessel.

8. Change of name, designation or operation of vessel

(1) If during the period of validity of a licence under these regulations there is a change in the name, designation or operation of the vessel to which that licence applies, the owner of the vessel shall notify the change, in accordance with sub-regulation (2), to the nearest proper officer within a period of seven (7) days or such longer period as may be allowed by the Director-General after the date on which the change occurred.

(2) Notification under sub-regulation (1) shall be dated and signed by the owner of the vessel and shall specify—

- (a) the official number of the vessel;
- (b) the previous name, designation or operation of the vessel;
- (c) the new name, designation or operation of the vessel;
- (d) the full name and address of the owner of the vessel; and
- (e) the date on which the change occurred.

(3) Where there is a change of name, the owner shall at the time of notification forward the applicable local safety certificate to the proper officer for endorsement of the change.

(4) Where there is a change of designation or operation of a vessel, the owner shall apply for a license in accordance with regulation 3 within seven (7) days of notification of the change or within such other time as may be allowed by the Director-General, and the owner shall at the same time forward the appropriate local safety certificate to the proper officer for issuance of new licence.

9. Permanent relocation of a vessel, etc

(1) If during the period of validity of a licence issued under these regulations, a vessel to which that licence relates—

- (a) is permanently relocated from one port to another; or
- (b) for any reason, ceases to be a vessel to which section 57 of the Act applies, the owner of the vessel shall report the relocation or the event contemplated in paragraph (b), as the case may be, in accordance with sub-regulation (2) to the nearest proper officer within a period of seven (7) days from the date on which the relocation or event occurred.

(2) A report under sub-regulation (1) shall be dated and signed by the owner of the vessel and shall specify the official number, name and designation of the vessel and—

- (a) in the case of a vessel which has been permanently relocated from one port to another—
 - (i) the previous home port of the vessel;
 - (ii) the new home port of the vessel; and
 - (iii) the date on which the relocation occurred; or
- (b) in the case of a vessel which, for any reason, has ceased to be a vessel to which section 57 of the Act applies—
 - (i) the home port of the vessel;
 - (ii) the date on which the cessation occurred; and
 - (iii) the reason for the cessation.

10. Regulations on small vessel safety

[Issue 3]

For matters contemplated under section 59(a) to (h) of the Act, the provisions of the regulations relating to the safety of small vessels shall apply to the extent that the provisions of those Regulations cover those matters.

11. Offences and penalties

A person who contravenes, or fails or refuses to comply with, regulations 6, 7(1), 8(1) or 9(1) commits an offence and shall be liable on conviction to a fine not exceeding three hundred thousand shillings, or to imprisonment for a period not exceeding six months, or to both.

12. Director-General may impose penalty upon admission of guilt

(1) If any person—

- (a) admits to the Director-General that person has contravened any provision of the Act or these Regulations, or that has failed to comply with any such provision with which it was his/her duty to comply;
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of not exceeding the maximum fine which may be imposed upon conviction for the contravention or failure in question, the Director-General may, after such enquiry as the Director-General deems necessary, determine the matter summarily and may, without legal proceedings, order by way of a penalty the whole or part of the said deposit to be forfeited.

(2) The imposition of a penalty under sub-regulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of vessels, shares therein or goods.

13. Licences issued before commencement of Regulations

A licence issued under section 57 of the Act before the commencement of these Regulations shall be deemed to have been issued under these Regulations, and, subject to the terms and conditions of its issue, is valid for the period for which it was issued.

14. Applications made before commencement of Regulations

An application for a licence under section 57 of the Act or for the renewal of a licence under the Act, being an application made, but not finally dealt with, before the commencement of these Regulations, shall be deemed to have been made under these Regulations.

SCHEDULE

(R.3)

FORM 1

REPUBLIC OF KENYA

KENYA MARITIME AUTHORITY

MERCHANT SHIPPING ACT

APPLICATION FOR LICENCE

(Section 57 and 58)

Merchant Shipping

[Subsidiary]

I hereby apply for a licence for the vessel the particulars of which are furnished in this form.

I declare that the particulars as furnished hereunder are true and correct to the best of my knowledge and belief, true and correct:

PARTICULARS

- (a) Name of Applicant..... of
- (b) Name of Vessel of
- (c) Full names and address of owner of vessel
- (d) Particulars of the Vessel:
 Official No. Year of Registry.....
 Port of Registry..... Year Built
 Port of Registry..... Year Built
- (e) Full Name and address of ship builder of ship
- (f) Expiry date of previous Licence (if any)
- (g) Intended Operational area of the vessel
- Signature of Applicant.....Date.....

Before Me: Commissioner for Oaths/Notary Public)

) Signature of Applicant (in case of an individual)

)

)

)

)

)

)

) Company Seal and Signature of two directors or

) a director and the Company Secretary (in case of a)

) company) FOR OFFICIAL USE ONLY

Entry in Register made on

...../...../..... (DD/MM/YYYY)

At..... (time)

Issuing Officer (print name).....

FORM 2 (r.4)

REPUBLIC OF KENYA
 KENYA MARITIME AUTHORITY
 MERCHANT SHIPPING ACT, 2009

VESSEL LICENCE

ISSUED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 57 OF THE
MERCHANT SHIPPING ACT, NO. 4 OF 2009

Name of Vessel

Owner

Owner's Address.....

Depth.....Girth..... Length.....Breadth.....

Type

Engine.....HP.....

Trade.....

Maximum Number of Persons

Tonnage

Fee Paid Date.....

.....

Registrar of Ships and Seafarers

THE MERCHANT SHIPPING (SMALL VESSEL SAFETY) REGULATIONS, 2012

ARRANGEMENT OF THE REGULATIONS

PART I — PRELIMINARY

1. Citation.
2. Interpretation.
3. Application.

PART II – VESSEL SAFETY REQUIREMENTS

4. Submission and approval of plans, etc for first issue of local safety certificate.
5. Inspection of vessel for renewal of local safety certificate.
6. Design and construction of vessels.
7. Safety appliances and equipment.
8. Safety of navigation.
9. Colouring of vessels.
10. Operational limits.
11. Carrying persons in excess.
12. Voyage information.
13. Obligation of skipper to report dangers to navigation and to assist vessels in distress.

PART III – CREWING

14. Responsibilities of owners.
15. Special endorsements for passenger vessels and dive vessels.
16. Conditions of certificates of competence.
17. Physical and mental fitness.
18. Age limitations.
19. Unauthorized intoxicating liquor or narcotic drugs.

PART IV – SPECIAL PROVISIONS FOR UNREGISTERED PLEASURE VESSELS

20. Application of Part.
21. Recording and marking of vessels.
22. Vessels not to be used without local certificate of fitness.
23. Initial and renewal inspection for local certificate of fitness.
24. Issue of local certificate of fitness.
25. Duration of certificate of fitness.
26. Cancellation of local certificate of fitness.
27. Surrender of expired or cancelled local certificate of fitness.
28. Custody and production of local certificate of fitness.
29. Maintenance of conditions after inspection.

PART V – SUPPLEMENTAL

30. Authorized agencies.
31. Powers of enforcement officers.
32. Equivalents and exemptions
33. Exemption in respect of controlled events.
34. Offences, penalties and defences.
35. Offences due to fault of another person.

PART VI – REQUIREMENTS FOR WATER-SKIING

36. Supplementary requirements for water-skiing.
37. Supplementary requirements for personal watercraft, etc.

PART VII – ADMINISTRATIVE ARRANGEMENTS

Merchant Shipping

[Subsidiary]

38. Authority may establish an advisory committee.

PART VIII – MISCELLANEOUS

39. Transitional arrangements

40. Authority may impose penalty upon admission of guilt.

SCHEDULES

FIRST SCHEDULE — CONSTRUCTION REQUIREMENTS

SECOND SCHEDULE — SAFETY APPLIANCES AND EQUIPMENT

THE MERCHANT SHIPPING (SMALL VESSEL SAFETY) REGULATIONS, 2012

[L.N. 114/2012.]

PART I – PRELIMINARY**1. Citation**

These Regulations may be cited as the Merchant Shipping (Small Vessel Safety) Regulations, 2012 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

2. Interpretation

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

"approved" means approved by the Authority;

"authorised agency" means a governing body, club or organisation designated under regulation 30(1);

"category" in relation to a vessel, means the particular category of vessel determined as follows—

- (a) Category A—vessels operating any distance from shore;
- (b) Category B—vessels operating less than 40 nautical miles from shore;
- (c) Category C—vessels operating less than 15 nautical miles from shore;
- (d) Category D—vessels operating less than 5 nautical miles from shore;
- (e) Category E—vessels operating not more than 1 nautical mile from shore and 15 miles from an approved launch site;
- (f) Category R—vessels operating solely on inland waters;

"certificate of competence" means a certificate, including any relative endorsement, issued by a certifying authority pursuant to regulation 16(1) and entitling its lawful holder to act in the capacity and perform the functions involved on a vessel of the type, category, tonnage or length, power and means of propulsion concerned;

"local certificate of fitness" means a certificate issued under regulation 24;

"certifying authority" means the Authority and, to the extent that it has been designated pursuant to regulation 30(1) to perform the functions of a certifying authority, an authorised agency;

"commercial harbour" means a harbour belonging to the Kenya Ports Authority;

"commercial small vessel" means a small vessel that is not a pleasure vessel;

"contravene" in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

"controlled event" means a competition, event or regatta organised by a governing body, or a club or an organisation affiliated with a governing body, and includes—

- (a) activities to prepare for the event that take place at the venue for the event and during the times specified by the organiser of the event; and
- (b) practice for the event under the supervision of a coach or an official approved by a governing body, or a club or organisation affiliated with a governing body;

"decked" in relation to a vessel, means fully or partially decked;

"dive boat" means a vessel that is used in diving support activities;

"enforcement officer" means a member of the Kenya Police Services, a member of any Municipal Police Service and any person designated as such by the Authority;

"existing vessel" means a vessel that was built and used on previously unregulated waters before the commencement of these regulations;

"governing body" means a national water sport governing body—

- (a) that publishes written rules and criteria in respect of conduct and safety requirements during skill demonstrations, formal training or controlled events; and
- (b) that—
 - (i) certifies coaches and coaching programmes;
 - (ii) certifies officials and programmes for officials; or
 - (iii) recommends training and safety guidelines for certified coaches or officials;

"inflatable" in relation to a vessel, means fitted with separate inflated airtight chambers that are either completely collapsible or fitted with a rigid bottom section to give buoyancy;

"inland waters" means all water areas accessible to the public and contained within ports, fishing harbours, lagoons, rivers, dams, wetlands and lakes in Kenya;

"kill switch" means a mechanism which is attached to the skipper or operator of a small vessel and which stops the engines when that person loses his or her footing or becomes otherwise incapacitated;

"night" means the period of time between six o'clock in the afternoon and six o'clock in the morning;

"operate" in relation to a vessel, means operate in inland waters;

"overall length" in relation to a vessel, means the horizontal distance measured between perpendiculars erected at the extreme ends of the outside of the hull of the vessel;

"owner" in relation to a vessel, includes any person entrusted by the owner with the care and control of the vessel;

"passenger vessel" means a vessel that carries more than 12 passengers;

"pleasure vessel" means a vessel that is used solely for sport or recreation;

"power-driven" in relation to a vessel, means propelled primarily by mechanical means;

"projectile flare set" means a set of flares designed to be propelled upwards by means of a hand-operated triggering device not forming an integral part of the flare;

"regulating authority" means the person, body or authority having jurisdiction over the shore or inland waters concerned;

"safety officer" means a person designated under regulation 30(4);

"sailing vessel" means a vessel provided with sufficient sail area for navigation under sail alone whether or not fitted with mechanical means of propulsion;

"sea" in relation to the application of these regulations, means the area seaward of a harbour breakwater, river mouth, estuary mouth or lagoon, the boundaries of which will be decided by the Authority in conjunction with the relevant local authority and published in a marine notice;

"skipper" means the master;

"specified by the Authority" means specified by the Authority in a marine notice;

"suitable" in relation to materials or an appliance or item of equipment, means suitable for the service for which it is intended;

"tender" means a small vessel, not exceeding 4 metres in overall length, that is used in a harbour, inland waters or in sheltered waters solely for the conveyance of persons or stores from the shore to a vessel, or vice versa, or from one vessel to another vessel without financial gain or reward;

"underway" in relation to a vessel, means that the vessel is in motion;

"water-skiing" includes towing a person on any device behind a vessel and the noun has a corresponding meaning.

(2) Any reference in these regulations to the owner of a vessel is, if there is more than one owner of the vessel, to be read as a reference to each of the owners.

(3) For the purposes of these regulations, a vessel is taken to be at sea or being operated at any time when it is not securely ashore or moored in a safe berth.

3. Application

(1) Subject to sub-regulations (2) and (3), these regulations apply to—

- (a) every commercial small vessel—
 - (i) that is registered as a ship in Kenya in terms of section 77 of the Act;
 - (ii) that is required to be licensed in terms of section 57 of the Act;
 - (iii) in respect of which a local general safety certificate is required by virtue of section 242 of the Act; or
 - (iv) that is used on inland waters, where section 57 of the Act will apply equally; and
- (b) every pleasure vessel of less than 100 gross tonnage, being—
 - (i) a vessel that is registered as a ship in Kenya;
 - (ii) a vessel contemplated in section 57 of the Act; or
 - (iii) a vessel used on inland waters.

(2) These regulations shall not apply to tenders.

(3) A provision of these regulations shall not apply to a Kenyan ship in the waters of a country other than Kenya where the provision is inconsistent with a law of that country, or which, by its terms, applies to the ship when in the waters of that country.

These regulations shall apply to vessels under 3 metres in length except where otherwise stated and subject to regulation 8(4).

PART II – VESSEL SAFETY REQUIREMENTS

4. Submission and approval of plans etc. by a commercial vessel for first issue of local safety certificate

(1) Subject to sub-regulation (5), and for the purposes of the initial issue of a local safety certificate in respect of a commercial small vessel, the builder or owner of a vessel shall submit in duplicate to the Authority the following particulars by means of plans, fully dimensional and including detailed specifications of the vessel, for approval by the Authority

- (a) longitudinal elevation showing the position of bulkheads or built-in non-flooding compartments, hatchways, deck houses and crew spaces;
- (b) midship section showing hull scantlings, deck, bulwarks, frames, doors, stringers and beams;
- (c) any deck openings, ventilators, air pipes, and tanks;
- (d) engine room layout and pumping arrangements;
- (e) steering and propeller shaft arrangements;
- (f) electrical circuit diagram; and
- (g) lines plan of scale 1:25.

[Subsidiary]

- (h) details of—
 - (i) anchors and cables;
 - (ii) lifesaving and fire-fighting equipment; and
 - (iii) navigation lights, shapes and sound signals.

(2) Any subsequent modification or addition to the scantlings, arrangements or equipment shown on approved plans shall be required to be approved by the Authority.

(3) The Authority may require such further plans and specifications as it deems fit, and may dispense with the requirement to submit certain plans or specifications.

(4) The Authority shall, after approving the plans and the specifications submitted in respect of a vessel, direct a surveyor to conduct inspections and tests to ensure that the vessel is constructed in accordance with the approved plans, specifications and the other requirements of these regulations.

(5) The builder or owner of a vessel being built shall in writing notify the Authority at least seven days before—

- (a) commencing building;
- (b) commencing planking, plating or laminating;
- (c) completing the fitting of all underwater fittings and rudder gear and propeller shafts;
- (d) launching the vessel; and
- (e) undertaking trials.

(6) No person shall undertake trials without the prior approval of the Authority and, if the Authority deems fit, the prior inspection of the vessel by a surveyor.

(7) The Authority may dispense with all or any of the requirements of sub-regulations (1), (4), (5) and (6) if—

- (a) in the case of a vessel being built, the work is carried out by an approved builder, in accordance with the relevant construction standards specified by the Authority; and
- (b) in the case of an existing vessel, it is satisfied that the vessel complies with the relevant construction standards specified by the Authority.

(8) The Authority may by way of a marine notice give direction from time to time regarding the precise information required for any particular type of vessel.

5. Inspection of vessel for renewal of local safety certificate

For the purposes of the renewal of a local safety certificate, every vessel shall, subject to section 260 of the Act, be thoroughly inspected, both internally and externally, by a surveyor at intervals not exceeding twelve months—

Provided that, at the discretion of the Authority—

- (a) water suction and discharge valves, excluding water connection fastenings, may be inspected at intervals not exceeding 24 months; and
- (b) propeller shafts shall be withdrawn at intervals not exceeding four years.

6. Design and construction of vessels

(1) Every vessel shall be constructed of suitable materials of good quality, with due regard to sound design practice and methods of construction and under normal operating conditions the design shall provide sufficient reserve of positive stability to avoid capsizing.

(2) On decked vessels no point of possible ingress of water, except scuppers, may be less than 200 millimetres above the surface of the water, measured when the vessel is afloat in an undamaged condition in calm water.

(3) The design and construction of a vessel shall, in addition, comply with the requirements set out in the First Schedule.

(4) These regulations shall not apply to vessels referred to in regulation 37.

(5) The Authority may exempt any other vessel from the provisions of this regulation.

(6) It shall be an offence to sell a vessel that does not comply with the construction requirements of these regulations;

Provided that where an exemption has been granted under subregulation (5), the seller shall produce a certificate issued by the Authority, detailing the extent to which the vessel is exempted from complying.

7. Safety appliances and equipment

(1) The owner and skipper of any vessel shall ensure that safety appliances and equipment are provided and maintained on board the vessel in accordance with the requirements of the Second Schedule, and the other requirements of that Schedule are complied with in relation to the vessel.

(2) The skipper of a commercial small vessel shall ensure that an approved buoyancy aid or lifejacket of the kind required by these regulations is worn by—

- (a) every crew member performing work on deck at night;
- (b) every crew member performing work which creates the risk of the person being lost overboard;
- (c) every crew member whenever a vessel of less than seven metres in length is being operated within one nautical mile from shore;
- (d) every child under twelve years of age on deck at all times when the vessel is underway;
- (e) any other person on board a vessel at such times as the skipper may direct; and
- (f) every person on board, including the skipper, whenever the vessel is launched or operated in the surf, or otherwise operates in rough sea or water conditions.

(3) On each occasion before any vessel is operated, the skipper shall—

- (a) ensure that every person on board the vessel has received essential safety information appropriate to that person's functions on board, including—
 - (i) information about the location on board of the safety appliances and equipment required to be carried on the vessel; and
 - (ii) instruction in the use of such appliances and equipment; and
- (b) ensure the safety appliances and equipment required to be on board the vessel are fit and ready for use.

(4) The skipper of a commercial small vessel shall, if it is practicable to do so, cause the vessel's emergency procedures and arrangements, including those in respect of fire-fighting, abandon ship and man overboard, to be practised at least once each week.

(5) The skipper or person operating any power-driven vessel of more than fifteen horsepower and of nine metres or less in length get the vessel underway unless there is an operational kill switch attached to the operator.

Sub-regulation (5) shall not apply to vessels launching or beaching through surf whilst the vessel is transiting the surf zone.

8. Safety of navigation

(1) The skipper of a vessel shall ensure at all times that the vessel is operated in accordance with—

- (a) the collision regulations as defined in the Act;
- (b) the conditions and limitations specified in the local safety certificate or local certificate of fitness, as the case may be, issued in respect of the vessel;

[Subsidiary]

- (c) the conditions and limitations specified in the skipper's certificate of competence;
- (d) the instructions and specifications of the manufacturer of the vessel and, if power-driven, of the vessel's propulsion machinery;
- (e) the law in force in the area in which the vessel is being operated, in so far as it is not inconsistent with the Act;
- (f) the load line regulations, if applicable; and
- (g) the requirement to operate within any demarcated areas on inland waters where indicated on charts or otherwise by a regulating authority.

(2) No person shall operate a vessel in a careless manner, without reasonable consideration for other persons or without due care and attention, taking into account—

- (a) the weather;
- (b) visibility;
- (c) the presence of persons or vessels in the body of water, including concentrations of persons and vessels in the immediate vicinity of the vessel;
- (d) the speed and maneuverability of the vessel, with special reference to stopping distance and turning capability in the prevailing conditions;
- (e) light conditions, including the presence of background light from shore lights or from backscatter of the vessel's own lights;
- (f) water conditions, currents and the proximity of navigational hazards; and
- (g) any other hazards that could adversely affect the safety of persons or property.

(3) Before any power-driven vessel is operated, the skipper shall ensure that the vessel carries a sufficient quantity of fuel for its intended voyage together with a reserve of not less than twenty five per cent of that quantity.

No vessel under three metres in length may go to sea except in an area designated for that use by a regulating authority, but in any event not more than one thousand metres offshore.

9. Colouring of vessels

The owner and skipper of any vessel going to sea shall ensure that—

- (a) as large an area as possible of the interior of a vessel which is not a decked vessel or of the deck of a decked vessel is painted or pigmented in a colour making the vessel readily visible from above in any sea condition; or
- (b) there is readily available on board the vessel, and capable of floating in a spread-out position when attached to it, a length of canvas or similar suitable material so painted or pigmented, and of a size capable of extending the full width of the vessel, but not less than 2 metres by 2 metres;

10. Operational limits

(1) Subject to sub-regulation (2), no person may operate a vessel beyond the maximum distance from shore applicable to the category of vessel concerned and specified in the local general safety certificate or local certificate of fitness, as the case may be, issued in respect of the vessel.

(2) No person may operate a passenger vessel more than 5 nautical miles from shore and 15 nautical miles from a safe haven in Kenya.

11. Carrying persons in excess

Except in an emergency, neither the owner nor the skipper of a vessel may cause or allow the number of persons, including crew members, on board the vessel to exceed the number determined by the certifying authority and specified in the local safety certificate or certificate of fitness, as the case may be, issued in respect of the vessel.

[Issue 3]

12. Voyage information

(1) Before a vessel goes to sea from a place in Kenya, the owner and skipper shall ensure that they supply particulars in respect of—

- (a) the identity of the vessel, including its name, if any, official number, and type or make;
- (b) the names of the occupants; and
- (c) the intended place or places and expected times of departure and arrival.

(2) Notwithstanding sub-regulation (1), where regulating authorities, authorized agencies or clubs affiliated to a governing body have implemented reporting mechanisms on inland waters or at harbours, fishing harbours and approved launch sites, owners and skippers of vessels shall comply with such mechanisms.

(3) Upon return to a place in Kenya the owner and skipper of the vessel shall ensure that the person with whom information has been left in compliance with sub-regulation (2) is notified of the return of the vessel.

(4) The owner and skipper of a vessel which goes to sea from a commercial harbour or a fishing harbour shall, in addition to meeting the other requirements of this regulation, comply with the reporting requirements in force in that harbour.

13. Obligation of skipper to report dangers to navigation and to assist vessels in distress

Section 210 of the Act (Notification of dangers to navigation) shall apply in relation to the skipper of a vessel to which these regulations apply as if the vessel were a ship to which that sections applies otherwise than by virtue of this regulation.

PART III – CREWING**14. Responsibilities of owners**

(1) The owner of a vessel shall ensure that the vessel is operated by or under the constant guidance of a skipper who is physically able and of sound mental health and who, in the case of—

- (a) a commercial small vessel; or
- (b) a pleasure vessel which is either a sailing vessel of nine metres or more in overall length or a power-driven vessel with propulsion power exceeding fifteen horsepower,

holds a valid certificate of competence issued by a certifying authority except as provided for in regulation 18(2):

Provided that this provision shall not require a certificate of competence to be held in respect of a vessel type which was previously unregulated or is operated on previously unregulated inland waters during the period expiring twelve months after the commencement of these regulations.

(2) The owner of a vessel shall, in addition to meeting the requirements of sub-regulation (1), ensure that the vessel is otherwise sufficiently and efficiently manned.

(3) For the purposes of paragraph (a), a commercial vessel shall be taken to be adequately and efficiently manned if, in the opinion of the Authority, it has a crew of competent persons to enable it to go to sea or to be otherwise operated with due regard to the requirements of these regulations and any other safety provisions which may be applicable to the vessel.

(4) In the determination of the adequacy of the crew in accordance with this sub-regulation, the following shall be taken into account—

- (a) the complement normally carried by similar vessels engaged on similar voyages or operations;

[Subsidiary]

- (b) the complement that the vessel in question has recently carried on previous voyages or operations;
- (c) the nature of the service for which the vessel is intended; and
- (d) any other appropriate considerations.

(5) The owner of a commercial small vessel going to sea shall, in addition to meeting the requirements of sub-regulations (1) and (2), ensure that—

- (a) the skipper and every crew member on the vessel holds documentary evidence of having successfully completed approved safety induction training;
- (b) documentation and data relevant to the skipper and every crew member on the vessel are maintained and readily available for inspection, including documentation and data in respect of their employment, experience, training, medical fitness and competence in assigned duties;
- (c) the skipper and every crew member, on being assigned to the vessel, are familiarized with their specific duties and with all vessel arrangements, installations, equipment, procedures and vessel characteristics which are relevant to their routine and emergency duties; and
- (d) the crew 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.

15. Special endorsements for passenger vessels and dive vessels

(1) No person shall serve as the skipper of a commercial small vessel which is a passenger vessel unless authorized by way of an appropriate endorsement on his or her certificate of competence.

(2) No person shall serve as the skipper of a commercial small vessel which is a dive support vessel or dive charter vessel unless authorized in terms of an appropriate endorsement on his or her certificate of competence.

16. Conditions of certificates of competence

(1) A certifying authority shall issue an applicant with a certificate of competence in accordance with its delegation from the Authority, if it is satisfied that the applicant is physically able and of sound mental health and—

- (a) in the case of a certificate in respect of a commercial small vessel—
 - (i) is not under the age of eighteen years; and
 - (ii) satisfies the relevant requirements specified by the Authority; or
- (b) in the case of a certificate in respect of a pleasure vessel—
 - (i) is not under the age of sixteen years; and
 - (ii) satisfies the relevant requirements specified by the Authority after consultation with the affected governing body, if any.

(2) A certifying authority shall suspend or cancel a certificate of competence if—

- (a) the holder has been convicted under the Act of an offence involving dishonest conduct in obtaining any license or certificate;
- (b) it believes on reasonable grounds that the holder has conducted himself or herself in a negligent or incompetent manner while serving in any capacity authorised by the certificate; or
- (c) it believes on reasonable grounds that the certificate was obtained fraudulently or based on wrong information.

(3) A person whose certificate of competence has been suspended or cancelled as contemplated in sub-regulation (2) shall surrender the certificate to the certifying authority upon demand.

[Issue 3]

(4) A person whose certificate of competence has been suspended or cancelled may appeal in writing to the Authority against the suspension or cancellation, as the case may be, not later than three months after the date of the decision to suspend or cancel the certificate.

(5) Upon receiving an appeal, the Authority shall designate one or more officials to hear any representations made by the appellant and the certifying authority and to report to the Director-General, who shall then determine the appeal.

(6) In determining an appeal, the Director-General may confirm, vary or set aside the suspension or cancellation of an appellant's certificate, and the certifying authority shall give effect to the Director-General's determination.

(6) A person aggrieved by a decision taken under sub-regulation (4) may—

- (a) notwithstanding any other provisions in this regulation, appeal to the High Court in the first instance; or
- (b) where dissatisfied with the decision of the Director-General under subregulation (6), further appeal to the High Court.

(7) The holder of a certificate of competence shall keep the original certificate, or a certified copy thereof, available for inspection at all reasonable times.

(8) A skipper who is not permanently resident in Kenya who holds or carries a certificate of competence or licence issued by a foreign government and which authorizes the skipper to operate the type of vessel shall be deemed to hold a certificate of competence in terms of these regulations for a period of three months after arrival in Kenya, provided that he or she carries such certificate with him or her:

Provided that the person shall within the period of three months, apply for and obtain a certificate of competence from the Authority.

17. Physical and mental fitness (Cap. 403)

(1) No person may operate a vessel if he or she is not physically able to do so or is not of sound mental health.

(2) No person shall operate a vessel or any of a vessel's equipment or machinery while under the influence of intoxicating liquor or a narcotic drug to such an extent that his or her ability to carry out his or her duties relative to the vessel is impaired.

(3) No person shall operate a vessel or any of a vessel's equipment or machinery while—

- (a) the concentration of intoxicating liquor in any specimen of blood taken from any part of his or her body is 0,05 gram or more per 100 millilitres; or
- (b) the concentration of intoxicating liquor in any specimen of breath exhaled by such person is 0,24 milligrams or more per 1 000 millilitres.

(4) For the purposes of sub-regulation (3)(b), the concentration of intoxicating liquor in any breath specimen shall be ascertained by using the equipment prescribed under section 119(1) of the Traffic Act.

(5) No person shall refuse that a specimen of blood, or a specimen of breath, be taken of him or her.

(6) Section 44 of the Traffic Act shall apply, with the necessary modifications, in relation to any prosecution for contravening a provision of sub-regulation (3).

18. Age limitations

(1) A person under the age of eighteen years shall not serve in the capacity of skipper of a commercial small vessel.

(2) A person under the age of sixteen years shall not operate a power-driven pleasure vessel having a propulsion power exceeding fifteen horsepower, unless—

- (a) that person does so under the guidance and constant supervision of a person who is the holder of a valid certificate of competence;

[Subsidiary]

- (b) in the case of a single-handed vessel, that person does so under the guidance and supervision of an authorized agency or a person referred to in paragraph (a); or
- (c) that person is certified by an authorized agency to be a competent person engaged in training for competitive sport.

19. Unauthorized intoxicating liquor or narcotic drugs (Cap. 245)

- (1) This regulation shall apply only to commercial small vessels.
- (2) A person in Kenya or on board a Kenyan registered ship elsewhere shall not—
 - (a) take any unauthorized intoxicating liquor or illicit drugs having narcotic effect on board a vessel;
 - (b) have any unauthorized intoxicating liquor or illicit drugs having a narcotic effect in his or her possession on board a vessel;
 - (c) allow another person to take on board a vessel, or to have in his or her possession on board a vessel, any unauthorized intoxicating liquor or illicit drugs having narcotic effect; or
 - (d) intentionally obstruct another person in the exercise of powers conferred on that person by sub-regulation (3).
- (3) Where an enforcement officer has reason to believe that an offence against sub-regulation (2) has been committed in relation to any vessel, the enforcement officer may, without a warrant—
 - (a) go on board the vessel and search it and any property on it; and
 - (b) take possession of any intoxicating liquor or drugs having narcotic effect found on the vessel and believed to be unauthorized intoxicating liquor or illicit drugs having narcotic effect and may detain the intoxicating liquor or drugs having narcotic effect for the period needed to ensure that the intoxicating liquor or drugs having narcotic effect are available as evidence in proceedings for the offence.

- (4) In this regulation—

"illicit narcotic drug" means a drug the use or possession of which is prohibited by law;

"narcotic drug" has the same meaning as in section 2 of the Narcotic Drugs and Psychotropic Substances Control Act;

"intoxicating liquor" means spirits, wine, beer, cider and any other fermented, distilled or spirituous liquor;

"unauthorized intoxicating liquor", in relation to—

- (a) a fishing boat, means intoxicating liquor of any kind; and
- (b) any other vessel, means intoxicating liquor in respect of which permission to take it on board the vessel has not been given either by the skipper or the owner of the vessel or by a person authorized by the owner of the vessel to give such permission.

Any reference in sub-regulation (4) to the owner of a vessel shall be construed to exclude any member of the crew of the vessel.

PART IV — SPECIAL PROVISIONS FOR UNREGISTERED PLEASURE VESSELS**20. Application of Part**

- (1) This Part applies to pleasure vessels provided for in section 57 of the Act and pleasure vessels used on inland waters.
- (2) This Part does not apply to sailing vessels or other vessels propelled by human power alone.

[Issue 3]

21. Recording and marking of vessels

(1) Neither the owner nor the skipper of a vessel to which this Part applies shall cause or allow the vessel to be operated on any waters within Kenya, unless—

- (a) there is in force in respect of that vessel an approved marking; and
- (b) the vessel has been marked in accordance with sub-regulation (4) with that marking.

(2) An approved marking is obtained either from the Authority or from an authorized agency and applications for an approved marking shall be accompanied by the particulars required by the Director-General for recording purposes.

(3) The Authority and the authorized agencies shall be responsible for ensuring that the Director-General receives the data as required in paragraph (2).

(4) The Director-General shall be responsible for the database of vessels and ensuring that the information is available to the relevant authorities and organizations.

(5) Subject to sub-regulation (8), the approval of a marking remains in force until such time as the particulars of the vessels as recorded by the Director-General are no longer valid and during that period the display on the vessel of any other identification marking is prohibited.

(6) The owner of a vessel shall ensure that the marking approved in respect of the vessel is displayed and continued on the vessel in accordance with the directions of the Authority, and that the information recorded with the Authority is correct.

(7) The owner shall, at least every two years, confirm with the Authority or an authorized agency that the particulars recorded with the Authority are correct, failing which the approved marking shall be invalidated by the Authority.

(8) The owner of a vessel shall in writing notify the Authority or relevant agency of any change of ownership in the vessel and of any change in the particulars of the owner furnished pursuant to sub-regulation (2), not later than fourteen days after the change occurs.

(9) The owner of a vessel may, within fourteen days, in writing notify the Authority or relevant agency if—

- (a) the vessel is permanently withdrawn from service;
- (b) the vessel is removed from his or her possession other than as a result of its sale;
- (c) any marking referred to in sub-regulation (2) ceases to be valid; or
- (d) the vessel has been abandoned, lost or destroyed.

(10) The Authority or relevant agency shall revoke the approval of a marking if—

- (a) it believes on reasonable grounds that the approval was obtained fraudulently or on wrong information; or
- (b) being a marking referred to in sub-regulation (2), it has ceased to be valid.

(11) Whenever the Authority or relevant agency revokes the approval of a marking, it may give the directions it thinks fit regarding the removal of the marking; and the owner of the vessel concerned shall comply with any direction so given and, upon demand, surrender the instrument of approval to the Authority or relevant agency.

(12) The Authority or relevant agency shall, in the absence of a marking referred to in sub-regulation (2) assign an approved marking to a vessel.

22. Vessels not to be used without local certificate of fitness

(1) Neither the owner nor the skipper of a vessel to which this Part applies shall cause or allow the vessel to be operated anywhere in Kenya, unless there is on board a valid local certificate of fitness in respect of that vessel.

(2) Sub-regulation (1) does not prohibit a vessel in previously unregulated inland waters from being operated without a local certificate of fitness for the period expiring 12 months after the commencement of these regulations.

23. Initial and renewal inspection for local certificate of fitness

(1) The structure, equipment, appliances, arrangements and material of a vessel referred to in regulation 22 shall be subjected to the following inspections:

- (a) an initial inspection, before a local certificate of fitness is issued for the first time, which shall include a complete examination of the vessel's structure, equipment, appliances, arrangements and material in so far as the vessel is covered by these regulations and which shall be such as to ensure that the structure, equipment, appliances, arrangements and material comply with the requirements of these regulations; and
- (b) a renewal inspection, at intervals not exceeding twelve months, which shall be such as to ensure that the structure, equipment, appliances, arrangements and material comply with the requirements of these regulations.

(2) An inspection provided for in sub-regulation (1) shall be conducted by a surveyor in the case of the Authority, or a safety officer designated for the purpose by an authorized agency; and any application for such an inspection shall be made by or on behalf of the owner of the vessel to the Authority or authorized agency, as the case may be.

24. Issue of local certificate of fitness

(1) Upon satisfactory completion of an initial or renewal inspection provided for in regulation 23, the certifying authority shall issue in respect of a vessel that complies with the requirements of these regulations a local certificate of fitness, stating—

- (a) the name of the vessel;
- (b) the marking assigned to the vessel;
- (c) the name, identity number and address of the owner of the vessel;
- (d) the type and category of vessel;
- (e) the overall length of the vessel and, where available, its gross tonnage;
- (f) the vessel's home port; and
- (g) the maximum number of persons permitted to be carried on the vessel, as determined in accordance with sub-regulation (2).

(2) In determining the maximum number of persons that a particular vessel may safely carry, a certifying authority shall take into account—

- (a) the specifications and guidance issued by the manufacturer of the vessel;
- (b) the available deck space;
- (c) the living accommodation, if applicable;
- (d) the mass the vessel can safely carry;
- (e) the safety equipment provided;
- (f) the intended operation of the vessel; and

the manner of launching the vessel.

25. Duration of local certificate of fitness

(1) Subject to sub-regulation (2) and regulation 26(1), a local certificate of fitness shall remain in force for a period not exceeding twelve months beginning on the date of completion of the inspection in question, but may be extended by the certifying authority for a maximum period of six months in special circumstances.

(2) A local certificate of fitness issued in respect of a vessel ceases to be valid if—

- (a) the vessel ceases to be subject to the jurisdiction of the authorized agency; or
- (b) the vessel ceases to be a vessel to which this Part applies.

26. Cancellation of local certificate of fitness

(1) The Authority or an authorized agency may cancel a local certificate of fitness if it believes on reasonable grounds that—

- (a) the certificate was obtained fraudulently or on wrong information; or
- (b) since the certificate was issued, the structure, equipment, arrangements or material of the vessel has, by reason of any alteration made thereto, or by reason or any damage sustained by the vessel, or for any other reason, does not comply with the requirements of these regulations;
- (c) since the certificate was issued, the vessel has for any reason become unseaworthy; or
- (d) the vessel no longer complies with all the requirements of these regulations, to the same extent to which it complied with the regulations when the certificate was issued.

(2) For the purposes of this regulation, "alteration", in relation to the structure, equipment, arrangements or material of a vessel, includes the renewal of any part thereof.

(3) Whenever a local certificate of fitness is cancelled, the Authority or authorized agency shall notify the owner or skipper of the vessel concerned of the cancellation.

27. Surrender of expired or cancelled local certificate of fitness

Upon the expiry of a local certificate of fitness and in each of the cases mentioned in regulation 25(2) and 26(1), the owner or skipper of the vessel in respect of which the local certificate of fitness was issued shall upon demand by the Authority or authorized agent surrender the certificate to the authority or authorized agency.

28. Custody and production of local certificate of fitness

The owner and skipper of a vessel shall ensure that the original local certificate of fitness issued in respect of the vessel, or a certified copy thereof, is kept available on board the vessel for inspection at all reasonable times.

29. Maintenance of conditions after inspection

The owner and skipper of a vessel shall ensure that the condition of the vessel and its equipment, structure, appliances, arrangements and material are maintained so as to comply with the requirements of these regulations.

PART V — SUPPLEMENTAL

30. Authorized agencies

(1) Subject to sub-regulation (2), the Authority may, with the concurrence of a governing body, or a club or an organization affiliated with a governing body, designate such body, club or organization as an authorized agency, entrusting to it in the instrument of designation the performance of one or more of the following functions:

- (a) the determination, for the purposes of regulation 11, of the maximum number of persons that a pleasure vessel may safely carry;
- (b) the recording of voyage details for the purposes of regulation 12;
- (c) the determination of whether a pleasure vessel is sufficiently and efficiently manned;
- (d) for the purposes of regulation 16, the issuing, suspension or cancellation of certificates of competence in accordance with its designation from the Authority, and to demand the surrender of any such certificates that have been suspended or cancelled;
- (e) in respect of pleasure vessels, to require a person to furnish medical evidence for the purposes of regulation 17(1) or (2);
- (f) the supervision and certification of persons under the age of 16 years for the purposes of regulation 16(2);

Merchant Shipping

[Subsidiary]

- (g) the conducting of initial and renewal inspections of vessels under regulation 23;
- (h) the issuing and cancellation of certificates of fitness, and to demand the surrender of cancelled certificates, contemplated in regulations 24, 26 and 27, respectively; and
- (i) the approval of controlled events.

(2) Designation under sub-regulation (1) is subject to the conditions, which may include provision in respect of periodical inspections or audits, which the Authority may determine and specify in the instrument of designation, in the case of the designation of a club or organization affiliated with a governing body, after consultation with that governing body.

(3) The Authority may suspend or revoke a designation under sub-regulation (1) if it believes on reasonable grounds that the body, club or organization concerned has failed—

- (a) to comply with these regulations or any condition imposed there-under; or
- (b) to perform diligently and faithfully the functions entrusted to it in terms of these regulations.

(4) An authorized agency shall, for the purpose of performing its functions under these regulations, designate as a safety officer any member of the authorized agency who, in its opinion, is qualified to be so designated.

(5) An authorized agency shall furnish every safety officer with a certificate attesting to his or her designation as a safety officer setting out the provisions of these regulations that the safety officer is authorized to enforce, and a safety officer shall, if so required, produce the certificate in the course of performing his or her functions under these regulations.

(6) Designation as a safety officer shall terminate if—

- (a) the designee's membership of the authorized agency is suspended or terminated; or
- (b) the designation is otherwise revoked by the authorized agency and the person concerned shall upon demand surrender the certificate issued to him or her in terms of sub-regulation (4)(b) to the authorized agency.

31. Powers of enforcement officers

(1) Subject to sub-regulation (3), an enforcement officer may, in order to verify and ensure compliance with these regulations—

- (a) board and inspect a small vessel and its appliances and equipment, ask any pertinent questions of, and demand all reasonable assistance from, the owner or skipper, or any person who is in charge or appears to be in charge, of the vessel; and
- (b) require the owner or skipper or other person who is in charge or appears to be in charge of the vessel to produce—
 - (i) personal identification; and
 - (ii) any document or certificate required by these regulations.

Subject to paragraph (b) and sub-regulation (3), an enforcement officer may, in order to ensure compliance with these regulations and in the interests of public safety, direct the movement of a small vessel or prohibit the operation of a small vessel.

- (b) Except in an emergency, an enforcement officer shall not give a direction or prohibition under paragraph (a) in respect of any small vessel in a public harbour for which a harbour master is appointed without the prior consent of the harbour master.
- (c) The owner or skipper of a vessel whose operation has been prohibited under paragraph (a) may, at own expense, submit the vessel to inspection by the Authority, who may confirm, vary or set aside the prohibition.

[Issue 3]

(3) An enforcement officer who is a safety officer may exercise the powers of an enforcement officer under sub-regulations (1) and (2) only for the purpose of enforcing the provisions of these regulations that he or she has been authorized to enforce pursuant to regulation 30(4).

(4) Every person shall comply with the valid instructions of an enforcement officer in the course of performing functions under these regulations.

Where the particulars of any vessel, including a commercial vessel, are found to differ substantively from the particulars registered, or are not registered with the Authority, the Authority shall detain the vessel until the vessel's ownership or deficiency been satisfactorily explained or rectified.

32. Equivalents and exemptions

(1) Where these regulations require that a particular fitting, material, appliance, apparatus, item of equipment or type thereof be fitted or carried in a vessel, or that any particular provision be made, or any procedure or arrangement be complied with, the Authority may allow any other fitting, material, appliance, apparatus, item of equipment or type thereof to be fitted or carried, or any other provision, procedure or arrangement to be made in the vessel, if it is satisfied by trial thereof or otherwise that such fitting, material, appliance, apparatus, item of equipment or type thereof, or that any particular provision, procedure or arrangement is at least as effective as that required by the regulations.

(2) The Authority may grant exemptions, on such terms, if any, as it may specify, from any of the provisions of these regulations for individual cases or classes of cases and may, after reasonable notice, alter or cancel any such exemption.

(3) Any approval given pursuant to these regulations is to be given in writing and shall specify the date when the approval is to come into force and the conditions if any to which it is subject.

33. Exemption in respect of controlled events

(1) Subject to sub-regulation (2), the owner and skipper of a vessel that participates in an approved controlled event in Kenya or in the territorial waters of Kenya are, in respect of such vessel and for the duration of the event, exempt from these regulations.

(2) Application for the approval of a controlled event shall be lodged with the Authority or the relevant authorized agency not later than 10 days before the intended date of the event, unless waived by the Authority or authorized agent and shall be accompanied by full details of the event and of the rules and manner of supervision, including safety measures, to be applied and by the other particulars that the Authority may require.

(3) The Authority or authorized agency may extend a standing approval under sub-regulation (2) for any controlled event subject to such conditions as are considered appropriate by the Authority or authorized agency and may at any time on reasonable grounds revoke such approval.

34. Offences, penalties and defences

(1) Any person who contravenes any of the provisions of these Regulations commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(2) In proceedings for an offence in terms of sub-regulation (1) it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

(3) In proceedings for an offence in terms of sub-regulation (1) in relation to regulation 17(2) it is an additional defence to prove that, at the time of the conduct alleged against the accused, he or she was under the influence of a drug taken by him or her for medicinal purposes and either that he or she took it on medical advice and complied with any directions given as part of that advice or that he or she had no reason to believe that the drug might have the influence it had.

[Subsidiary]**35. Offences due to fault of another person**

Where the commission by any person of an offence in terms of regulation 34(1) is due to the act or omission of some other person, that other person also commits the offence and may be charged with and convicted of the offence by virtue of this regulation, whether or not proceedings are taken against the first-mentioned person.

PART VI — REQUIREMENTS FOR WATER SKIING**36. Supplementary requirements for water-skiing**

(1) Waters in which water-skiing is allowed shall be so indicated by the regulating authority.

(2) A person shall not water-ski—

- (a) in any waters other than those contemplated in sub-regulation (1);
- (b) at night;
- (c) while under the influence of intoxicating liquor or any substance having a narcotic effect.

(3) A water-skier—

- (a) shall wear a suitable flotation aid of the type and quality prescribed in First Schedule;
- (b) shall have knowledge of the standard hand signals as described by marine notice;
- (c) may not purposefully let go of the rope in a congested area; and
- (d) shall comport himself or herself in such a way as not to create a nuisance or danger for other water users.

(4) The owner or skipper of the towing vessel may not use a steel or other metallic rope or wire to tow a water-skier.

(5) The skipper of the towing vessel shall ensure that there is a competent person in the vessel to observe the water-skier.

(6) The skipper of the towing vessel shall carry a 500 millimetre square red flag in the vessel and cause it to be clearly exhibited when the vessel is engaged in picking up a water-skier or dragging a tow.

(7) As soon as the tow is dropped by a water-skier, the skipper of the towing vessel shall either move to the nearest safe place, stop and pull in the tow, or if the tow was accidentally dropped, reduce speed and return immediately to pick up the water-skier.

(8) The skipper of a vessel may not follow closer than 100 metres in the wake of another vessel towing a person, water-skier or a towable aquatic or airborne device.

37. Supplementary requirements for personal watercraft, etc

(1) On inland waters a vessel may enter only the water from those areas or places permitted by the regulating authority, except that however vessels contemplated in this Part may, subject to sub-regulation (2), operate as directed in any areas under the jurisdiction of a regulating authority.

(2) Personal watercraft or jet-skis under three metres may only operate in demarcated areas specifically set aside for that purpose by the regulating authority and in addition shall not proceed further than 1000 metres offshore.

(3) Power-driven vessels with less than 15 horsepower, sailing dinghies and non-power driven vessels under 7 metres in overall length need not comply with regulations 6, 9, Part 4 and the First Schedule, but shall—

- (a) have sufficient buoyancy to keep the vessel afloat when completely swamped; and
- (b) shall carry the safety equipment provided for in the table in the Second Schedule.

[Issue 3]

PART VII — ADMINISTRATIVE ARRANGEMENTS

38. Authority may establish an advisory committee

(1) For the purpose of promoting efficient administration of these regulations, the Authority, may in writing—

- (a) establish any co-ordinating structures the Authority deems fit; and
- (b) determine the membership and functions of any established structure.

(2) Before establishing a structure contemplated in sub-regulation (1), the Authority may consult—

- (a) the Ministry responsible for matters relating to transport; and
- (b) any other organ of state or person required in writing by the Authority to be consulted.

(3) The structures contemplated in sub-regulation (1) shall meet at least once every year to consider amendments to these regulations and their implementation.

39. Transitional arrangements

(1) The Director-General shall provide, by notice in the Gazette, the date, time and the manner in which all vessels shall be marked with an approved marking and relevant information to be provided to the Director-General for recording purposes.

(2) The date by which existing vessels need to comply with the design and construction provisions of regulation 6(3) is two years after the commencement of these regulations unless directed to do so sooner by a surveyor or safety officer due to safety considerations.

(3) The date by which commercial vessels previously exempted need to comply with item 1 of the First Schedule is two years after the commencement of these regulations.

(4) A local certificate of fitness in existence on the date of the coming into operation of these Regulations, shall remain valid until its expiry date, unless cancelled prior to that date.

(5) A local safety certificate in existence on the date of the coming into operation of these Regulations shall remain valid until its expiry date, unless cancelled prior to that date.

40. Authority may impose penalty upon admission of guilt

(1) If any person —

- (a) admits to the Authority that he has failed to comply with any provision of these regulations or the Act, or that he has failed to comply with any provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question,

the Authority may, after such enquiry as it deems necessary, determine the matter and may, without legal proceedings, order by the way of a penalty the whole or only part of the said deposit to be forfeited.

(2) A person aggrieved by a determination or order by the Authority under sub-regulation (1) whereby a penalty exceeding twenty thousand shillings is imposed may appeal to the Minister, provided such right is exercised within a period of three months from the date of such determination or order.

(3) The Authority shall not bring legal proceedings against any person who pays a penalty under subregulation (1).

(4) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

FIRST SCHEDULE

(Rule 6.)

CONSTRUCTION REQUIREMENTS

1. Built-in buoyancy

(1) The vessels described below may in lieu of carrying the liferafts contemplated in Second Schedule, be fitted or constructed with built-in buoyancy or comply with other arrangements as follows—

- (a) Any category B, C, D and E vessel, other than a passenger vessel, may operate in an unrestricted manner if it has buoyancy built into the vessel which complies with sub-items (2) and (3).
- (b) Sailing pleasure vessels are exempt from built-in buoyancy on inland waters and at sea when operating within 15 miles of the shore and within 30 miles of a safe haven.
- (c) Inflatable vessels of any category intending to go to sea, whether fully inflatable or semi-rigid, may in lieu of fitted buoyancy be constructed with at least three separate buoyancy chambers and have the capacity to stay afloat despite the largest two of the chambers being completely deflated. For the purpose of this paragraph, the hull of a semi-rigid inflatable vessel is not considered to be one of the three buoyancy chambers required.
- (d) Category R vessels may make any suitable and reasonable provisions to ensure that the vessel retains positive buoyancy when fully flooded, swamped or capsized.
- (e) Vessels participating in an organized event are exempted from these requirements for the duration of the event and whilst practising for an event under the auspices of an authorized agency or affiliated club.

(2) Watertight compartments and watertight empty cases are not a substitute for built-in buoyancy referred to in sub-item (1): Provided that a decked vessel may, instead of built-in buoyancy, be provided with at least two watertight bulkheads so positioned and of sufficient strength that, in the event of flooding of the largest compartment formed by the bulkheads, the vessel will remain afloat in its worst envisaged load condition with positive transverse stability

(3) Built-in buoyancy shall consist of a material, such as foam, or approved plastic bottles that are not affected by oil or oil products. Built-in buoyancy shall be capable of keeping the vessel afloat when fully flooded, swamped or capsized. It shall be capable of floating the vessel, when capsized, in such a manner as to provide a level platform onto which the full complement of the vessel can be secured. In passenger vessels, built-in buoyancy shall be such that the vessel will remain afloat with positive transverse stability when fully flooded in its worst envisaged load condition.

(4) It is the duty of the owner of a vessel to show, by certification, calculation or test, that—

- (a) a vessel with watertight bulkheads complies with sub-item (2);
- (b) a vessel with built-in buoyancy complies with sub-item (3); and
- (c) an inflatable vessel with buoyancy chambers complies with sub-regulation (1) (c).

2. Hatches and hatch coamings

(1) Subject to sub-item (4), hatches on the open deck shall be provided with hatch covers that are watertight when dogged down. Special care is to be given to the dogging down arrangements of flush deck hatches.

(2) Where a fishing vessel is designed so that the hatch containing the catch can be opened to the sea, the cover of the hatch need not have securing devices making it watertight, but the cover shall be capable of being secured in an emergency.

(3) All watertight hatches shall be capable of withstanding a hose test.

(4) On sailing vessels aft-facing companionway hatches that are closed by washboards need not be watertight but shall be constructed so that the ingress of water is substantially retarded in the event of the vessel being capsized or pooped.

3. Guard rails etc

(1) Subject to sub-items (2) and (3)—

- (a) every power-driven vessel which goes to sea and has an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement, around the outboard edge of the deck to a height of at least—
 - (i) 600 millimetres above the deck on vessels of 9 metres or more in overall length; and
 - (ii) 450 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category D and E motor vessels of less than 9 metres in overall length are exempt from this requirement if—
- (b) every commercial sailing vessel going to sea and having an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement, around the outboard edge of the deck to a height of at least—
 - (i) 560 millimetres above the deck on vessels of 9 metres or more in overall length; and
 - (ii) 410 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category D and E sailing vessels are exempt from this requirement if—
- (c) every sailing pleasure vessel having an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement, around the outboard edge of the deck to a height of at least—
 - (i) 560 millimetres above the deck on vessels of 9 metres or more in overall length; and
 - (ii) 410 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category C, D, E and R sailing pleasure vessels are exempt from this requirement if—

(4) Power-driven vessels operating through the surf are exempt from sub-item (1) if fitted with bulwarks having a height of at least 450 millimetres forward and 300 millimetres aft.

(5) Power-driven vessels constructed so that the cabin-top extends nearly to the vessel's side, with a crew-only access forward, are exempt from sub-item (1) if provided with a substantial, secure handrail on each side of the cabin and with a toe rail of at least 50 millimetres in height along the outer edge of the deck.

4. Towing arrangements

Every vessel shall be provided with an efficient means of securing a tow rope or anchor cable.

5. Underwater hull fittings

Inlet and discharge pipes attached to the underwater part of the hull shall be properly flanged to the hull and be provided with a valve or shut-off cock inserted in the line as close as possible to the hull.

6. Ventilators

(1) Ventilators serving engine or accommodation compartments shall be provided with proper closing devices or water traps to prevent the ingress of water into the compartment.

(2) Ventilators serving only an engine compartment shall be provided with a means of shutting off the air flow in the event of fire in the engine compartment.

7. Engine power

[Subsidiary]

(1) Every motorized vessel going to sea shall be provided with an engine capable of propelling the vessel, in its full load condition, at a speed in calm water of at least 5 knots. Additionally, if the vessel is to be operated in the surf, the engine shall be capable of propelling the vessel at a safe speed when operating in surf conditions.

(2) Sub-item (1) of this Schedule does not apply to sailing vessels, not being sailing passenger vessels, or to dinghies under oars.

(3) Every category A, B and C power-driven vessel that employs outboard engine propulsion shall be provided with at least two engines either of which shall be capable of propelling the vessel, in its full load condition, at a speed in calm water of at least 5 knots. Additionally, if the vessel is to be operated in the surf, either engine shall be capable of propelling the vessel at a safe speed when operating in surf conditions.

(4) Vessels fitted with inboard petrol engines shall comply with the following—

- (a) the engine shall be installed in a compartment that is protected from water spray and flooding and is adequately ventilated;
- (b) a manual bilge pump shall be fitted in the engine compartment;
- (c) batteries shall be stowed in a separate compartment that is protected from sea spray and flooding and is adequately ventilated;
- (d) a marinised carburettor with flash arrester shall be fitted;
- (e) a spark-less alternator with starter shall be fitted;
- (f) a flameproof extractor fan set to operate for a minimum of 30 seconds before the engine starts shall be fitted in the engine compartment;
- (g) a remote controlled fire extinguishing system shall be fitted in the engine compartment;
- (h) in the case of category A, B and C vessels fitted with a single inboard petrol engine, an auxiliary outboard engine shall be provided.

(5) Exhaust pipes and silencers shall be water cooled or lagged.

8. Fuel tanks

- (a) Fuel tanks shall be efficiently secured and of adequate capacity and shall be constructed of suitable material.
- (b) Outlets of built-in fuel tanks shall be fitted with shut-off valves or approved automatic shut-off and anti-siphoning devices. Shut-off valves that cannot readily and safely be accessed shall be capable of remote operation.
- (c) Fuel filler pipes to built-in fuel tanks shall be adequate for the purpose and shall be provided with adequate sealing threaded plugs or caps. Only non-corrosive materials may be used.
- (d) All fuel tanks shall be fitted with adequate breathers or breather pipes led to a height allowing the vessel to heel to 50 degrees without fuel escaping through them. The breathers or breather pipes shall be led to the outside of the hull and shall be constructed so as to prevent the ingress of water into the tank in all operating conditions.
- (e) All fuel tanks shall be provided with a suitable means for determining the amount of fuel in the tank.
- (f) All fuel tanks holding petrol shall be fitted or stored outside engine and battery compartments.
- (g) Where gauge glasses are provided, they shall be fitted with self-closing valves.

9. Electrical installations

(1)

- (a) Subject to paragraph (b), every category A, B and C power-driven vessel shall be provided with an electrical installation that includes at least two

[Issue 3]

identical banks of batteries. Each bank of batteries shall be capable of providing sufficient power in accordance with the engine manufacturer's recommendations and have facilities for parallel connection.

- (b) Vessels fitted with hand-start engines may be provided with one bank of batteries.

(2) Every category D, E and R power-driven vessel shall be provided with at least one bank of batteries, unless the vessel is fitted only with hand-start engines.

(3) Every sailing vessel fitted with an inboard auxiliary engine shall be provided with at least one bank of batteries, unless the vessel is fitted only with hand-start engines.

(4) Vessels required to be provided with one or more banks of batteries shall be provided with a suitable battery charging appliance, and if more than one engine is fitted each engine shall be provided with a battery charging appliance capable of charging both banks of batteries.

(5) All electrical installations shall conform to good, established marine practice and all electrical equipment shall be constructed so that there will be no danger of injury to any person handling the installation in the proper manner.

(6) A single bank of batteries shall be capable of providing at least 12 hours' auxiliary power for navigation lights, electric bilge pumps (if provided) and fixed radio equipment.

10. Emergency steering arrangements

A means of emergency steering shall be provided in every vessel that is not steered by means of a tiller, including a tiller control arm of an outboard engine. The emergency steering shall be capable of operation at all angles and when an outboard engine is fitted and tilted. The emergency steering may be portable, in which case it shall be stored in a readily accessible position for rapid attachment in an emergency.

11. Bilge pumping arrangements

- (1) This item does not apply to—

- (a) ski-boats having self-draining decks;
- (b) inflatable or semi-rigid inflatable vessels having self-draining decks; or
- (c) sailing or rowing dinghies, but such vessels shall be provided with an efficient bailing device.

(3) Every category A power-driven decked vessel shall be provided with two power-driven bilge pumps. Each bilge pump shall have its own prime mover and may be driven off the vessel's main engines if more than one main engine is installed; otherwise, the configuration shall be such that one pump is driven off the main engine and the other by a standby engine. The pump driven off the standby engine may be electrically powered.

(4) Every category B, C, D and E power-driven decked vessel of 7 metres or more in overall length fitted with an inboard main engine shall be provided with a power-driven bilge pump having as its prime mover the vessel's main engine. Where the configuration of the inboard engine is such that it cannot act as the prime mover, the bilge pump may be electrically powered. In addition, every such vessel shall be provided with a hand-operated bilge pump situated above the main deck. All other category B, C, D and E power-driven decked vessels of 7 metres or more in overall length shall be provided with two hand-operated bilge pumps, one of which may be installed below the main deck, the other above the main deck.

(5) Every category B, C, D and E power-driven decked vessel of less than 7 metres in overall length shall be provided with at least one hand-operated bilge pump.

(6) Every category A decked sailing vessel shall be provided with two hand-operated bilge pumps, and every category B, C, D, E and R decked sailing vessel over 7 metres in length shall be provided with one hand-operated bilge pump.

(7) Every category R power driven vessel which does not have a self-draining arrangement shall be fitted with at least one efficient pump and where the fitting of such

[Subsidiary]

arrangements is clearly impracticable, an efficient bailer should be provided, but, no vessel over seven metres may be exempted from fitting a suitable pump.

(8) All power-driven and hand-operated bilge pumps shall have a minimum pumping capacity of 3 000 litres and 2 000 litres per hour, respectively.

(9) All bilge pumps shall be fitted, where necessary, with piping arrangements, valves, suctions and strainers to pump out every compartment in a vessel, other than a compartment used exclusively for catches of fish and which can be flooded without adversely affecting the vessel's buoyancy or stability.

(10) Every bilge pumping arrangement discharging, in any operating condition, below the waterline shall be fitted with a sufficient number of non-return valves to prevent back-flooding.

(11) Portable pump levers for hand-operated bilge pumps shall be kept in a readily accessible space as near to the pump as possible and, in the case of pumps above the main deck, in a readily accessible space or locker above the main deck.

12. Visibility at steering position

Where a steering position is not situated in the open, visibility from 112,5 degrees to port and starboard of the centre line ahead shall be through safety-toughened clear glass or a Kenyan Bureau of Standards approved alternative, and protection from the glare of the sun may be afforded by means of portable tinted screens.

13. Maintenance of propulsion and steering machinery

The propulsion and steering machinery of a vessel shall be periodically serviced, maintained and, if necessary, repaired in accordance with the manufacturer's instructions and specifications so as to ensure at all times its effective functioning. The period between servicing may not exceed the period recommended by the manufacturer. All servicing, maintenance and repair work on the propulsion and steering machinery of power-driven vessels fitted with a propulsion engine of more than 15 horsepower shall be performed by competent persons.

14. Crew accommodation in commercial small vessels

Every commercial small vessel that goes to sea for a continuous period of 16 hours or more out of every 24 hours and on which a person is to live while the vessel is in port shall be provided with crew accommodation, as follows:

- (a) not more than 10 persons may be accommodated in a space that has only one access;
- (b) bunks shall be single and have clear access from one side. A bunk may not be less than 1.8 metres in length and, in the forecastle space, a bunk may taper in width along its length but may not be less than 600 millimetres at its head and 460 millimetres at its foot. Where bunks are stacked one on top of the other, the height between bunks may not be less 500 millimetres between the base of the lower bunk and the base of the bunk above. Bunks shall be so positioned to avoid water drips from access ladders and ventilators. Protection boards encasing the back of an access ladder or drip traps are acceptable when there is no other option but to install a bunk under a ladder or ventilator. Each bunk shall have a cubby hole for the storage of personal items. Bunks butting onto each other shall be separated with a board having a minimum height of 500 millimetres;
- (c) sleeping arrangements are not permitted in engine room or galley spaces. Sleeping arrangements are permitted in the steering space provided the steering gear is enclosed, has a separate escape hatch to the deck and the bulkhead

between the steering and engine room spaces is made gas tight. Exhaust pipes passing through the steering space shall be boxed in and ventilated to the outside;

- (d) galleys fitted with gas stoves may not have an access to the engine room. Where this cannot be avoided, there shall be installed a gas-tight access between the engine room and galley. The immediate area about the stove shall be insulated to inhibit the spread of fire;
- (e) at least one toilet and shower shall be provided on vessels carrying up to ten persons and at least two toilets and showers shall be provided on vessels carrying not more than 19 persons. An additional toilet and shower shall be provided for every additional 10 persons, or part of that number, carried. Toilets and showers shall be located outside, but adjacent to, sleeping spaces;
- (f) all accommodation spaces shall be provided with adequate ventilation with closing devices to prevent water ingress from spray or rain and air ingress in the event of a fire in the space;
- (g) all accommodation spaces shall be provided with adequate electrical lighting; and
- (h) all accommodation spaces shall provide a minimum head height of at least 1.8 metres; this may be reduced in way of bunks, cupboards and other spaces where persons would not normally need to stand or walk in the upright position.

15. Gas appliances

Every gas operated cooker or refrigerator installed in a commercial small vessel shall be fitted with a safety device capable of preventing the build up of an explosive atmosphere in the event of a flame-out. The device shall be maintained in good working order at all times.

16. Additional requirements for passenger vessels

(1) Every passenger vessel shall comply with the following the requirements in addition to the requirements contemplated in Part 2 of these regulations:

- (a) two outboard engines, complying with item 7(3), or an inboard diesel engine shall be fitted;
- (b) petrol outboard engines shall be provided with either approved portable fuel tanks; containing a maximum combined total of 50 litres, or inboard tanks built and fitted to the appropriate ISO standards containing a combined maximum of 200 litres in total at any time.
- (c) inboard engine compartments shall be protected by—
 - (i) smoke and heat sensors linked to an alarm generating device located at the conning position; and
 - (ii) a manual fire smothering system capable of remote operation;
- (d) a bilge alarm shall be fitted in every compartment having a hull fitting open to the sea; and
- (e) seating arrangements shall be adequate for the number of persons authorized to be carried by the vessel's local safety certificate.

(2) Every passenger vessel certified to carry a maximum of 20 passengers shall comply with following requirements in addition to the requirements contemplated in sub-item (1):

- (a) with the vessel in the worst anticipated intact condition and, as far as is practicable, with 75 per cent of the passengers congregated on one side of the vessel and 25 per cent on the other side, the angle of heel may not exceed 7 degrees and may not result in deck-edge immersion of the vessel;
- (b) with the vessel in the worst anticipated intact condition and, as far as is practicable, with all of the passengers congregated on one side, neither may

[Subsidiary]

a capsizing moment be introduced nor may the resultant angle of heel result in a down-flooding point being reached; and

- (c) with the vessel in its fully loaded condition including passengers, crew and fuel, the freeboard at the lowest point may not be less than 381 millimetres for vessels not exceeding 6,1 metres in length and 762 millimetres for vessels of 18,3 metres in length; for vessels of intermediate length, the freeboard is to be obtained by linear interpolation.

(3) Compliance with the requirements as contemplated in sub-item (2) may be demonstrated theoretically or practically.

(4) Every passenger vessel certified to carry more than 20 passengers shall comply with the stability criteria applicable to ships classified as class VI passenger ships in terms of the Safety of Navigation or with sub-item (2) in the case of category R passenger vessels, as decided by the Authority.

17. Additional requirements for dive boats

Every dive boat shall comply with the following requirements in addition to the requirements contemplated in Part 2 of these regulations:

- (a) on vessels operating through the surf, adequate seating arrangements with grab points shall be provided for all divers on board; such arrangements shall not be located on the gunwale unless the gunwale is formed by the outside buoyancy tube of an inflatable or semi-rigid inflatable vessel; and
- (b) adequately secured racks capable of accommodating all air tanks on board shall be provided.

SECOND SCHEDULE

(Rule 7.)

SAFETY APPLIANCES AND EQUIPMENT

Safety item No.	Description of safety appliances and equipment	Category of vessel					Additional remarks
		A	B	C	D	E&R	
1	Authority approved lifejacket*		X	X	X†	—	One lifejacket of appropriate size to be provided for each person on board.
							* Lifejackets carried on all category A vessels as well as passenger vessels operating at night to be fitted with a light and all lifejackets

[Issue 3]

Merchant Shipping

[Subsidiary]

							to be tested to the compulsory performance standard and comply with quality standard specification SABS 146/1979, or the equivalent CE or ISO standard.
2	Authority approved buoyancy aid*	X†	X†	X†	X†	X†	† One buoyancy aid of appropriate size to be provided — (a) for the skipper and each member of the crew of a commercial small vessel, where required in terms of regulation 7(2) (b) in lieu of an approved lifejacket on category D vessels.
							One buoyancy aid of appropriate size to be provided for each person on board.
							* Buoyancy aid to be tested to the compulsory performance

[Issue 3]

Merchant Shipping

[Subsidiary]

							standard and comply with quality standard specification SABS 1417/1987, or the equivalent CE or ISO standard.
3	Lifebuoy	X	X	X	X	—	Required only on non-planing vessels.
4	Dan buoy	X	X	X	X	—	Required only on trawling vessels and on sailing vessels of 9 metres or more in overall length.
5	Unexpired approved projectile flare set	—	—	—	—	X	Minimum of 6 flares. Not required on category R vessels.
6	Unexpired approved hand-held red distress flares	X4	X4	X2	X2	—	Minimum of 6 flares. Not required on category R vessels.
7	Unexpired approved red rocket parachute flares	X4	X4	X2	X2	—	
8	Unexpired approved floating orange smoke marker	X	X	X	X	—	
9.	Unexpired approved hand-held smoke marker	—	—	—	—	X	Not required on category R vessels.
10	Waterproof torch	X	X	X	X	X	Spare bulb and

[Issue 3]

Merchant Shipping

[Subsidiary]

	including full set of spare batteries and a spare bulb						batteries to be kept in a watertight container. Required only on vessels operating at night.
11	Hand-held spotlight with own 12 volt battery	X	X	X	X	X	Required only on dive boats operating at night.
12	Sound signalling device (other than a lifejacket whistle)	X	X	X	X	—	Fundamental frequency range 250 Hz – 700 Hz. Range of audibility not less than 1 kilometre over water in still conditions. Required only on vessels operating to the west of Port Alfred.
13	Ships bell or sound signalling device capable of making the signal "R"	X	X	X	X	X	Not required on category R vessels. Required only on vessels of 20 metres or more in overall length.
14	Code Flags "N" and "C"	X	—	—	—	—	.
15	Code Flag "A" (rigid)	X	X	X	X	X	Required only on dive boats.
16	2 Black balls or shapes of at least 400 millimetres in diameter	X	X	X	X	X	Not required on category R vessels Not required on vessels of

[Issue 3]

Merchant Shipping

[Subsidiary]

							less than 12 metres in overall length.
17	Radar reflector of at least 400 millimetres in diameter or patent type of equivalent echoing capability	X	X	X	X	—	Required to be fitted permanently on power-driven vessels of 9 metres or more in overall length operating to the west of Port Alfred.
18	Marine VHF or 29 MHz radio	X	X	X	X	—	As appropriate to the area of operation: Provided that a VHF radio shall be carried on passenger vessels regardless of the area of operation. A VHF radio shall, as a minimum, be capable of operating on channel 16 and on one other working channel. A 29 MHz radio shall be capable of operating on local marine channels A, B and C. Appropriate alternative

[Issue 3]

Merchant Shipping

[Subsidiary]

							arrangements shall be made for category R passenger vessels.
19	MF/HF SSB radio	X*	—	—	—	—	*Except sailing pleasure vessels.
20	Approved emergency position-indicating radio beacon (EPIRB)* capable of transmitting distress alerts through the COSPAS-SARSAT satellite service operating in the 406 MHz band	X†	—	—	—	—	†EPIRB to be— installed in an easily accessible position; ready to be manually released and capable of being carried by one person into a survival craft; capable of floating free if the vessel sinks; capable of being activated manually; and automatically activated when afloat.
21	Depth-sounding device or hand lead line	X	X	X	X	X	Required only on dive boats.
22	Suitable steering magnetic compass	X	X	X	X	—	
23	Suitable navigation charts for the voyage or area of operation	X	X	—	—	—	Up-to-date charts, corrected in accordance with the South

[Issue 3]

Merchant Shipping

[Subsidiary]

							African Notices to Mariners, or renewed every six years.
24	Suitable fire extinguisher	X	X	X	X	X	One per engine and, in decked vessels of 9 metres or more in overall length, one in each of the following compartments where formed by complete transverse bulkheads: sleeping accommodation, galley and wheelhouse.
25	Power-driven or hand-operated fire-pump with hose.	—	—	—	X	X	Required only on passenger vessels of 9 metres or more in overall length. The hose shall be capable of reaching all parts of the vessel and of delivering a jet of water of at least 3 metres in length, through an adjustable jet or spray nozzle of no less than 5 millimetres in diameter.

[Issue 3]

Merchant Shipping

[Subsidiary]

26	2 oars or paddles	—	—	—	X	X	Required only on a power driven vessel fitted with a single outboard petrol engine.
27	Grab-line fitted to outside of gunwale	X	X	X	X	X	Required only on dive boats. Not required on vessels equipped with a boarding ladder extending into the water.
28	Capsize rope for use when vessel is inverted in water	X	X	X	X	X	Required only on, inflatable vessels and on ski-boats of less than 9 metres in overall length.
29	Full set of sails, including suitable storm sails where appropriate	X	X	X	X	X	Required only on sailing vessels.
30	Suitable means of cutting standing rigging	X	X	X	X	—	Required only on sailing vessels.
31	Suitable sea anchor fitted with hawser and tripping line (rigged and ready for use)	X	X	X	X	X	Required only on surf-launched vessels of less than 9 metres in overall length.
32	Proper patent anchor and	X	X	X	X	X	Length of chain Vessels of

Merchant Shipping

[Subsidiary]

	chain with suitable length of rope of suitable strength for the area of operation						6 metres or more in overall length— at least 5 metres. Vessels less than 6 metres in overall length— at least 3 metres. Length of rope At least 50 metres for category E vessels, and at least 100 metres for vessels of the other categories.
33	Watertight capsized bottle attached to vessel with rope readily accessible in event of vessel capsizing	X	X	X	X	X	To contain flares and other survival and emergency equipment. Not required on category R.
34	Space blankets	X2	X2	X2	X2	—	.
35	One litre of drinking water per person	X	X	X	X	—	.
36	First-aid kit	X	X	X	X*	X*	Suitable for the vessel's size, complement and intended operation, to the satisfaction of the surveyor or safety officer. First-aid kit

[Issue 3]

Merchant Shipping

[Subsidiary]

							to include elementary first-aid manual, such as the publication entitled First on the Scene, published by St Johns Ambulance. *Only power driven vessels with engine power exceeding 15 horsepower.
37	Suitable air bellows	X	X	X	X	X	Required only on inflatable vessels.
38	Approved self-inflating liferaft capable of carrying all persons on board and stowed on deck or in a readily accessible position	X	X*	X*	X*	X*	*Not required on vessels, other than passenger vessels, provided the vessel complies with the built-in buoyancy in accordance with Annexure 1, paragraph 1. Not required on passenger vessels operating solely within the confines of the breakwaters of a port. Not required on

[Issue 3]

Merchant Shipping

[Subsidiary]

							category R vessels.
39	Spares	X	X	X	X	X	Adequate for the purpose of carrying out emergency repairs to machinery and essential equipment on board.
40	Tools	X	X	X	X	X	Adequate for the purpose of carrying out emergency repairs to machinery and essential equipment on board.
41	2 metres by 2 metres canvas as provided for in regulation 9	X	X	X	X	—	Only applies to vessels which are not painted in visible colours.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations introduce safety requirements for small vessels which are required to be licensed in terms of the Act. They also introduce requirements for Skippers to be certificated. In addition, for Sport and recreation vessels, there is the possibility of appointing Authorized Agencies to undertake various aspects of the inspection and control. Therefore, these regulations are for all small vessels both commercial and sport and recreation.

**MERCHANT SHIPPING (TRAINING AND
CERTIFICATION) REGULATIONS, 2012**

[L.N. 115/2012.]

Revoked by L.N. 41/2016.

THE MERCHANT SHIPPING (SAFE MANNING) REGULATIONS, 2012

ARRANGEMENT OF REGULATIONS

1. Citation.
2. Interpretation.
3. Application.
4. Responsibilities of owners and masters.
5. Watchkeeping standards.
6. Hours of work: general duty of owners, masters and others.
7. Hours of work: schedules of duties.
8. Hours of work: exception for emergencies.
9. Employment of persons holding foreign certificates.
10. Recognition of foreign certificates.
11. Employment of certificated deck officers on ships other than fishing vessels.
12. Employment of certificated deck officers on fishing vessels operating wholly within fishing Zone.
13. Employment of certificated deck officers on fishing vessels operating outside defined fishing zone.
14. Employment of certificated engineer officers on ships other than fishing vessels.
15. Employment of certificated engineer officers on fishing vessels.
16. Employment of certificated radio operators.
17. Employment of certificated ratings on ships other than fishing vessels.
18. Employment of certificated ratings on fishing vessels of 100 GT or more.
19. Employment of qualified personnel on tankers and passenger ships.
20. Employment of qualified medical personnel.
21. Employment of qualified fire-fighting personnel.
22. Employment of qualified personnel on ships equipped with fast rescue boat.
23. Exemptions.
24. Equivalence of certificates and endorsements.
25. Safe manning document.
26. Carriage of documents.
27. Offences, penalties and defences.
28. Director General may impose penalty upon admission of guilt.

SCHEDULE —

DOCUMENTS ACCOMPANYING AN
APPLICATION FOR EXAMINATION

THE MERCHANT SHIPPING (SAFE MANNING) REGULATIONS, 2012

[L.N. 116/2012.]

1. Citation

These Regulations may be cited as the Merchant Shipping (Safe Manning Regulations), 2012.

2. Interpretation

(1) In these Regulations, meaning in the Act shall have, unless the context indicates otherwise required—

“able seafarer deck” means a rating qualified for service on a seagoing ship of 500GT or more;

“able seafarer engine” means a rating qualified for service on a seagoing ship powered by main propulsion machinery of 750 Kw propulsion power or more;

“accredited institution” means a training institution accredited under regulation 70 of the Merchant Shipping (Training and Certification) Regulations, 2012;

“Authority” means the Kenya Maritime Authority established under the Kenya Maritime Authority Act, 2006;

“certificated”, except in relation to a radio operator, means duly certificated under the Act or deemed under the Act to be so certificated, and, in relation to a radio operator, means holding a valid appropriate certificate of proficiency issued or recognized by or on behalf of the Communications Commission of Kenya;

“contravene” in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

“deck officer” means a person who is qualified for service as a ship's officer in the deck department on a ship, and includes the master;

“defined fishing zone” means the Kenya Fishery Waters as defined in the Fisheries Act.

“electro technical officer” means an officer qualified and certificated for service in a ship powered by main propulsion machinery of 759Kw propulsion power or more;

“electro technical rating” means a rating qualified and certificated for service on a ship powered by main propulsion machinery of 750kW or more;

“engineer officer” means a person who is qualified for service as a ship's officer in the engine-room department on a ship;

“examiner” means a person appointed under section 170 of the Act;

“fast rescue boat” means a rigid or semi-rigid inflatable boat used for rescue work and capable of manoeuvring, for at least 4 hours, at a speed of 20 knots in calm water with a crew of at least three persons and at a speed of at least 8 knots with a full complement;

“fishing vessel” means a ship that is used for catching fish or other living resources of the sea for financial gain or reward;

“foreign ship” means any ship that is not registered in Kenya;

“GMDSS” means the global maritime distress and safety system;

“GT” in relation to a ship, means its gross tonnage calculated in accordance with the Merchant Shipping (Tonnage Measurement) Regulations, 2012;

“length” in relation to a ship, has the same meaning as in regulation 2 of the Merchant Shipping (Tonnage Measurement) Regulations, 2012;

[Subsidiary]

“offshore exploration operations” means the exploitation, whether by mining or otherwise, of mineral resources of the seabed or subsoil thereof, excluding oil and gas resources;

“officer” means a person engaged as an officer on a ship;

“offshore” means seaward measured from the low-water line along a coast;

“owner”, in relation to a ship, includes any person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner;

“port operations” means voyages confined to the sea area within a 15 mile radius of a port;

“propulsion power” means the total maximum continuous rated output power in kilowatts of all a ship's main propulsion machinery appearing on the ship's certificate of registry or other official document;

“radio operator” means a person having responsibility for the operation of the radio installations on a ship;

“rating” means a seafarer other than an officer;

“ro-ro passenger ship” means a passenger ship with ro-ro cargo spaces or special category spaces as defined in regulation II-2/3 of the Safety Convention;

“safe manning document” means a document that describes the minimum manning considered necessary to ensure that a ship is sufficiently and efficiently manned, and that is issued—

- (a) in the case of a Kenyan ship, by the Authority; and
- (b) in the case of any other ship, by or under the authority of the flag State;

“Safety Convention” means the Safety of Life At Sea Convention of 1974;

“seagoing ship” means a ship other than one that navigates exclusively in inland waters or in a sea area contemplated in the definition of port operations;

“ship to which the Safety Convention applies” means any seagoing ship, except

—

- (a) warships, naval auxiliaries or other ships owned or operated by a state and engaged only on government non-commercial service;
- (b) ships of less than 500 GT, other than passenger ships;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of traditional build;
- (e) ships used solely for sport or recreation; and
- (f) fishing vessels;

“ship to which the STCW Convention applies” means any seagoing ship, except

—

- (a) warships, naval auxiliaries or other ships owned or operated by a state and engaged only on government non-commercial service;
- (b) fishing vessels;
- (c) ships used solely for sport or recreation; and
- (d) wooden ships of traditional build;

“STCW Convention” means the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, as amended and “Convention” shall be construed accordingly;

“STCW Code” means the Seafarers' Training, Certification and Watchkeeping Code, as amended;

“**tanker**” means a ship—

- (a) constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the latest edition of the *International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk* published by the International Maritime Organization, constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the latest edition of the *International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk* published by the International Maritime Organization,
- (b) constructed and used for the carriage in bulk of petroleum or petroleum products;

“**the Code**” means the Code for Kenyan Maritime Qualifications published by the Authority as amended from time to time;

“**the Training and Certification Regulations**” means the Merchant Shipping (Training and Certification) Regulations, 2012;

“**unlimited voyage**” means a voyage other than one contemplated in the definitions of near-coastal voyage and port operations;

“**Kenyan waters**” includes—

- (a) the internal and territorial waters of Kenya; and
- (b) the exclusive economic zone of Kenya.

(2) A reference in these regulations to the holder of any certification or document or to holding any certification or document shall be read as a reference to the lawful holder of the certification or document or to lawfully holding the certification or document, as the case may be.

(3) For the purposes of these regulations, a ship shall be taken to be at sea at any time when it is not securely ashore or moored in a safe berth, provided that a ship shall not be taken to be at sea by reason only that the ship has been got underway for the purpose of moving the ship from one berth in a port to another berth in the port.

3. Application

(1) Subject to this regulation—

- (a) these regulations shall apply to every Kenyan ship wherever it may be;
- (b) Regulation 24 shall apply, in addition to every Kenyan ship wherever it may be, to every foreign ship to which the Safety Convention applies, when in Kenyan waters.
- (c) Regulations 6, 7, 25 and 26 shall apply, in addition to every Kenyan ship wherever it may be, to every foreign ship to which the STCW Convention applies, when in Kenya or its territorial waters.

(2) A provision of these regulations shall not apply to a Kenyan ship in the waters of another State where the provision is inconsistent with a law of that State which, by its terms, applies to the ship when in the waters of that State.

(3) These regulations shall not apply to—

- (a) vessels of less than 25 GT;
- (b) any vessel of less than 100 GT that is used solely for sport or recreation; or any vessel of 100 GT or more which is classified in terms of the life-saving equipment regulations as a Class XII yacht, if there is employed on the vessel an adequate number and description of persons to ensure that the vessel is sufficiently and efficiently manned.

4. Responsibilities of owners and masters

(1) The owner of every ship shall ensure that—

Merchant Shipping

[Subsidiary]

- (a) no ship's officer takes charge of a navigational or engineering watch on the ship unless the officer holds appropriate valid certification entitling him to do so; and
- (b) no rating forms part of a navigational or engineering watch on the ship unless he holds appropriate valid certification entitling him to do so;
- (c) the master and every ship's officer all have appropriate experience of the type of ship on which they are employed;
- (d) the master and every seafarer employed on the ship, before being allowed to assume their assigned duties, are familiarized with their specific duties and with all the ship's arrangements, installations, equipment, procedures and characteristics relevant to their routine and emergency duties;
- (e) every rating employed on the ship and designated to have safety or pollution prevention duties holds documentary evidence of having—
 - (i) served in a capacity designated to have safety or pollution prevention duties for a period of an aggregate of not less than twelve months during the preceding five years; or
 - (ii) successfully completed approved training relating to those duties during the preceding five years;
- (f) the ship's crew can effectively co-ordinate activities in an emergency situation and perform functions vital to safety or to the prevention or mitigation of pollution;
- (g) documentation and data relevant to the master and seafarers employed on the ship are maintained and readily available for inspection, including documentation and data relevant to their experience, training, medical fitness and competency in assigned duties; and
- (h) every seafarer employed on the ship and going to sea for the first time holds documentary evidence of having successfully completed approved safety induction training and, in the case of a fishing vessel, that the master and every seafarer other than a seafarer going to sea for the first time employed on the ship hold such evidence for a period not more than twenty four months preceding the engagement of such master or seafarer on the ship.

(2) Without limiting the owner's obligations under sub-regulation (1), it is the duty of the master to ensure that the requirements of that sub-regulation are complied with in relation to the seafarers employed on the ship.

(3) Nothing in sub-regulation (1)(a) to (7) prohibits the allocation of tasks for training under supervision or in the event of *force majeure*.

(4) The owner and the master of every ship shall ensure that, in addition to the ship's officers and other persons prescribed by these regulations or elsewhere in terms of the Act, there are employed as crew of the ship an adequate number and description of persons to ensure that the ship is sufficiently and efficiently manned.

(5) For the purposes of paragraph (4) a ship shall be taken to be sufficiently and efficiently manned if, in the opinion of the proper officer, it has as crew suitably qualified persons to enable it to go to sea with due regard to the requirements of the life-saving equipment regulations, the collision regulations, the radio regulations, and any other safety provisions that may be applicable to the ship.

(6) The proper officer shall, when determining the adequacy of the crew in accordance with this sub-regulation, take the following into account—

- (a) the complement normally carried by similar ships employed on similar voyages or operations;
- (b) the complement that the ship in question has recently carried on previous voyages or operations;
- (c) the complement adequate to ensure compliance with regulations 6 and 7 (if applicable); and

[Issue 3]

(d) the nature of the service for which the ship is intended.

(7) The Authority shall, as and when necessary, issue a marine notice specifying the number of persons to constitute the crew of a ship and the capacities in which those persons are to serve other than persons prescribed in these regulations or elsewhere in terms of the Act.

5. Watchkeeping standards

The owner and master of a ship shall ensure that the watchkeeping standards set out in the Schedule are complied with on the ship at all times.

6. Hours of work: general duty of owners, masters and others

(1) The owner of every ship shall ensure, so far as is reasonably practicable, that the master and seafarers employed on the ship do not work more hours than is safe in relation to the safety of the ship and the master's and the seafarers' performance of their duties.

(2) The master of every ship shall ensure, so far as is reasonably practicable, that the seafarers employed on the ship do not work more hours than is safe in relation to the safety of the ship and the seafarers' performance of their duties.

(3) Every master and seafarer shall, so far as is reasonably practicable, ensure that he or she is properly rested when commencing duty on a ship and that he obtains adequate rest during periods when he or she is off duty.

7. Hours of work: schedules of duties

(1) The owner of every ship of 100 GT or more shall produce a schedule of duties complying with this regulation.

(2) Where the owner is not also the employer of the master and seafarers, the owner shall consult the person who is the employer of the master or any of the seafarers before producing the schedule of duties.

(3) The owner may arrange with any such employer that the employer is to produce a schedule of duties complying with this regulation, and in that case, that employer shall also be subject to the duties of the owner under this regulation.

(4) Before producing a schedule of duties, the owner shall seek the views of the master, and the master shall seek, and convey to the owner, the views of—

- (a) the ship's safety committee;
- (b) the seafarers or their representatives; or
- (c) a trade union with one or more members aboard ship.

(5) A schedule of duties shall be deemed to comply with this regulation if—

- (a) it sets out the hours of work for—
 - (i) masters and seafarers whose work includes regular watchkeeping duties or ship handling; and
 - (ii) the ship's chief engineer, chief mate and second engineer so as to provide that they do not work more hours than is safe in relation to the safety of the ship and the master's and seafarers's performance of their duties;
- (b) it specifies the maximum period of continuous watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work; and
- (c) it provides a minimum of ten hours of rest in any twenty four hour period, which period may be divided into no more than two periods, one of which shall be at least six hours duration:

Provided that the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that any such reduction shall

[Subsidiary]

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

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

(7) The schedule of duties may be changed by the owner, or by an employer who by virtue of sub-regulation (3) is subject to the duties of the owner, on condition that—

- (a) other employers and the owner, as the case may be, have been consulted;
- (b) the owner or the employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the owner the views of persons mentioned in sub-regulation (4)(a), (b) or (c); and
- (c) the schedule of duties as changed complies with sub-regulation (5).

(8) The owner shall ensure that the schedule of duties is displayed prominently in the crew accommodation for the information of all seafarers.

(9) It is the duty of the master to ensure, as far as reasonably practicable, that the hours of work specified in the schedule of duties are not exceeded.

(10) The owner and the master shall keep on board the ship a copy of the schedule of duties and a record of all deviations from its requirements.

(11) The owner for the time being shall ensure that a copy of the schedule of duties and the record of all deviations from its requirements are preserved for a period of five years from the date the schedule of duties was introduced, and that they are available for inspection by a proper officer or a surveyor. If during the five year period there ceases to be an owner in relation to the ship, the duty to preserve the copies of the schedule and of the record shall remain with the last such owner.

8. Hours of work: exception for emergencies

(1) The requirements for rest periods provided for in regulation 7(5) (c) need not be maintained in case of emergency or drill or in other overriding operational conditions.

(2) When in pursuance of sub-regulation (1) the master or a seafarer has worked within a rest period provided for by the schedule of duties, the master shall cause to be entered in the ship's official logbook the master's or seafarer's name, as the case may be, together with the reason why he so worked.

9. Employment of persons holding foreign certificates

(1) For the purposes of section 170 of the Act, the owner of a ship to which the STCW Convention applies shall not employ on the ship, as master or ship's officer, any person who holds a certificate issued by or on behalf of the government of another country, unless—

- (a) that person's certificate has been endorsed in accordance with regulation 10; or
- (b) in the absence of such an endorsement, the certificate was issued and is valid in accordance with the STCW Convention, the period of employment does not exceed three months and the owner makes application to the Authority within that period for an endorsement in accordance with regulation 10.

(2) For the purposes of section 170(5) of the Act, the owner of a ship to which the STCW Convention does not apply shall not employ on the ship, as master or ship's officer, any person who holds a certificate of competency issued by or on behalf of the government of another country, unless the Authority has, under section 170(5) of the Act, authorized that person's employment on the ship.

(3) Application for an authorization under section 170(5) of the Act shall be made by the owner of the ship and shall be directed to the proper officer nearest to the ship's intended port of departure, and the application shall—

- (i) be made before the person assumes duty on the ship; and
- (ii) be accompanied by the person's original certificate (together with a certified translation into the English language where the certificate is in a language

[Issue 3]

other than English), a medical examination report complying with the requirements specified by marine notice and attesting to the person's medical fitness and, in the case of a deck officer, a valid eyesight test certificate.

(4) The proper officer may require the person referred to in sub-regulations (3) and (4) to appear before an examiner, who shall satisfy himself or herself that the person is adequately qualified and that he or she has the ability to converse, issue and understand orders and written instructions in the English language.

(5) An authorization granted under section 170 of the Act shall be in writing and shall specify the period, not exceeding six months, for which it is to remain in force.

(6) The Authority may revoke an authorization granted under section 170 of the Act if—

- (a) the person in question shows, through any inability, that he or she is not adequately qualified or that he or she is not able to converse, issue and understand orders and written instructions in the English language;
- (b) the person's certificate expires or is cancelled or suspended by or on behalf of the government under whose authority the certificate was originally issued;
- (c) the person fails to comply with any condition on which the authorization was granted;
- (d) an admiralty court holding a marine enquiry or a disciplinary hearing recommends the revocation of the authorization; or

the person is convicted of an offence in terms of the Act or any other law administered by the Authority.

10. Recognition of foreign certificates

(1) The holder of a certificate as master or ship's officer, being a certificate issued in terms of the STCW Convention by or on behalf of another party to that Convention, may apply to the Authority, in accordance with sub-regulation (2), for the certificate to be recognized as equivalent to a certificate of competency issued under the Act.

(2) An application contemplated in sub-regulation (1) shall be accompanied by—

- (a) a letter of motivation requesting the specific equivalency;
- (b) a statement by the applicant, confirmed by or on behalf of another party to the STCW Convention, that his level of proficiency in the English language meets the relevant requirements of the STCW Convention;
- (c) a medical certificate, issued by an approved medical practitioner, declaring that the medical fitness of the applicant complies with the medical standards set out in the Code;
- (d) a certified copy of the applicant's original certificate;
- (e) two passport-size photographs of the applicant; and
- (f) if the applicant is applying for an equivalency as master, chief mate, chief engineer officer or second engineer officer, documentary proof that he or she has attained the level of knowledge of the Republic's maritime legislation required for the equivalent certificate desired. A certificate issued by an accredited institution stating that the applicant has satisfied the institution's examiner that he or she has attained the required level of knowledge shall be accepted as sufficient proof of such knowledge.

(3) The Authority may issue an endorsement recognizing an applicant's certificate, which endorsement shall have effect as an authorization under section 170 of the Act, if it is satisfied that—

- (a) the certificate is authentic and valid;
- (b) the level of competence and knowledge evidenced by the certificate is not inferior to that required for the equivalent certificate issued under the Act;
- (c) the applicant, if applying for an equivalency as master, chief mate, chief engineer officer or second engineer officer, has attained the level of

Merchant Shipping

[Subsidiary]

knowledge of the Kenyan maritime legislation required for the equivalent certificate issued under the Act; and

- (d) prompt notification shall be given to the Authority of any significant change in the arrangements for training and certification provided in compliance with the STCW Convention.

(4) Every endorsement issued under sub-regulation (3) shall be a separate document and shall state, with reference to the Training and Certification Regulations and the STCW Convention, the capacity in which the holder is entitled to serve.

(5) The Authority may cancel an endorsement issued under sub-regulation (3) if—

- (a) the holder shows, through any inability, that he or she does not meet the level of competency or knowledge required for the equivalent certificate of competency, or that his or her level of proficiency in the English language does not meet the relevant requirements of the STCW Convention;
- (b) the holder's certificate expires or is cancelled or suspended by or on behalf of the government under whose authority the certificate was originally issued;
- (c) an admiralty court marine enquiry or a disciplinary hearing recommends the cancellation of the endorsement; or
- (d) the holder is convicted of an offence in terms of the Act or any other law administered by the Authority.

(6) Where the Authority cancels an endorsement under sub-regulation (5), it shall inform the government under whose authority the certificate was originally issued of the cancellation.

11. Employment of certificated deck officers on ships other than fishing vessels

(1) The owner and the master of every ship, other than a fishing vessel or a ship referred to in sub-regulation (2), shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table:

<i>Item</i>	<i>Voyage/ Operation</i>	<i>Tonnage of ship (GT)</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons to be employed</i>	<i>Number</i>
				<i>Certification</i>	
1	Port operation	<200	Master	Coxswain (Port operations)	1
2		>200 but <500	Master	Master (Port operations)	1
3		>500	Master	Master (Port operations)	1
			Master	Coxswain (Port Operations)	1
4	Near-Coastal	<100	Master	Coxswain (Coastal)	1
			Master	Coxswain (Coastal)	1
5		>100 but <500	Master	Master (Coastal)	1
			Mate	Master (Coastal)	1

[Issue 3]

Merchant Shipping

[Subsidiary]

6			Master	Coxswain (Unlimited)	1
			Mate	Coxswain (Unlimited)	1
7	Unlimited		Master	Deck Officer (A)	1
			Mate	Deck Officer	1
8			Master	Chef Master (B)	1
			Master	Deck Officer (C)	1
			Watchkeeping Officer	Deck Officer	1
9			Master	Master	1
			Master	Chief Master	1
Notes:			Watchkeeping Officer	Deck Officer	2
A) Certification to include the endorsement "Master of a ship of less than 500 GT on unlimited voyages".					
(B) Certification to include the endorsement "Master of a ship of less than 3 000 GT on unlimited voyages".					
(C) Certification to include the endorsement "Chief mate of a ship of less than 3 000 GT on unlimited voyages".					

(2) The owner and the master of every ship of 100 GT or more that—

- (a) is engaged in offshore exploitation operations within waters under Kenyan jurisdiction; and
- (b) so operates at anchor for two-thirds or more of the time spent at sea between port calls, shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table—

<i>Item</i>	<i>Tonnage of ship (GT)</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number</i>	

Merchant Shipping

[Subsidiary]

			<i>of persons employed</i>	
			<i>Certification</i>	<i>Number</i>
1	>100<500	Master	Master (Coastal)	1
		Mate	Mate (Coastal)	1
2	>500 but <3000	Master	Chief Mate (A)	.
		Mate	Deck Officer (B)	
3	>3000	Master	Master	1
		Mate	Mate	1
		Watchkeeping Officer	Deck Officer	1
Notes:				
(A) Certification includes the endorsement "Master of a ship of less than 3 000 GT on unlimited voyages".				
(B) Certification includes the endorsement "Chief mate of a ship of less than 3 000 GT on unlimited voyages".				
The certification referred to in the table may be the kind limited to offshore operations				

12. Employment of certificated deck officers on fishing vessels operating wholly within defined fishing zone

The owner and the master of every fishing vessel that operates wholly within the defined fishing zone shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of the following table—

<i>Item</i>	<i>Length of vessel (metres)</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons to be employed</i>	
			<i>Certification</i>	<i>Number</i>
1	<12.7	Master	Fisherman Grade 1 4 (Skipper)	1
		Mate	Small vessel certificate of competence (vessels > 9 metres in length)	1
2	>12.7 but <24	Master	Fisherman Grade 1 4 (Skipper)	

[Issue 3]

Merchant Shipping

[Subsidiary]

		Mate	Fisherman Grade 1(A) 4 (Watchkeeper)
3	>but<30	Master	Fisherman Grade 1 3
		Mate	Fisherman Grade 1 4 (Watchkeeper)
4	>30	Master	Fisherman grade 1 2
		Mater	Fisherman grade 1 3
		Watchkeeping officer	Fisherman grade 1 (Watchkeeper)
Note: (A) Not required on vessels < 50 GT going to sea for periods not exceeding 12 consecutive hours.			

13. Employment of certificated deck officers on fishing vessels operating outside defined fishing zone

The owner and the master of every fishing vessel that operates, at any time, outside the defined fishing zone shall comply with regulation 12, provided that, in all cases, the appropriate minimum certification applicable to the master shall include the high seas command endorsement.

14. Employment of certificated engineer officers on ships other than fishing vessels

(1) The owner and the master of every ship, other than a fishing vessel or a ship referred to in sub-regulation (2), shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table—

Item	Voyage/ Operation	Registered propulsion power of ship (kW)	Capacity of employment	Appropriate minimum certification and number of persons to be employed	
				<i>Certification</i>	<i>Number</i>
1	Port Operations	<350	Chief engineer	Marine Motorman Grade 1	1
2		<350 but <750	Chief engineer	Marine Motorman Higher Grade	1
3		>750 but <1500	Chief engineer	Second Engineer Officer (Port operations)	1
4		>1500	Chief engineer	Chief engineer Officer (Port operations)	1

Merchant Shipping

[Subsidiary]

			Second engineer	Marine Motorman grade 1	1
5		<350	Chief engineer	Marine Motorman Higher grade	1
6	Near-Coastal	<350 but <750	Chief engineer	Marine Motorman Higher grade	1
			Second engineer	Marine motorman Grade 1	1
7		≥ 750 but < 1 500	Chief engineer	Second engineer officer ($\geq 3\,000$ kW)(A)	1
			Second engineer	Engineer officer	1
			Watchkeeping officer	Engineer officer	1
8		$\geq 1\,500$	Chief engineer	Chief engineer officer ($\geq 3\,000$ kW)	1
			Second engineer	Second engineer officer ($\geq 3\,000$ kW)	1
			Watchkeeping officer	Engineer officer	1

(2) The owner and the master of every ship of 100 GT or more that—

- (a) is engaged in mining operations within waters under Kenyan jurisdiction; and
- (b) so operates at anchor for two-thirds or more of the time spent at sea between port calls, shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table—

Item	Registered propulsion power of ship (kW)	Capacity employment	Appropriate minimum certification and number of persons employed	
			Certification	Number
1	< 750	Chief engineer	Marine Motorman Higher grade	1
		Second engineer	Marine Motorman Grade 1	1
2	≥ 750 but < 3000	Chief engineer	Second engineer officer ($\geq 3\,000$ kW)(A)	1
		Second engineer	Engineer officer	1
		Watchkeeping officer	Engineer officer	1
3	≥ 3000	Chief engineer	Chief engineer officer ($\geq 3\,000$ kW)	1

[Issue 3]

Merchant Shipping

[Subsidiary]

		Second engineer	Second engineer officer ($\geq 3\,0000$ kW)	1
		Watchkeeping officer	Engineer officer	1
Note:				
(A) Certification to include the endorsement: "Chief engineer officer of a ship of less than 3 000 kW propulsion power.				

15. Employment of certificated engineer officers on fishing vessels

The owner and the master of every fishing vessel shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of the following table—

<i>Item</i>	<i>Registered propulsion power of ship (kW)</i>	<i>Capacity of employment</i>	<i>Appropriate minimum certification and number of persons to be employed</i>	
			<i>Certification</i>	<i>Number</i>
1	< 150	Chief engineer	Marine Motorman Grade 3	1(A)
2	≥ 150 but < 350	Chief engineer	Marine Motorman grade 2	1(A)
3	≥ 350 but < 1000	Chief engineer	Marine Motorman Grade 1	1
		Second engineer	Marine Motorman Grade 2	1
4	≥ 1000 but < 2000	Chief engineer	Marine Motorman Higher Grade	1
		Second engineer	Marine Motorman grade 1	1
5	≥ 2000 but < 3000	Chief engineer	Marine Engineer officer (Class 4) (B)	1
		Second engineer	Marine Motorman Grade 1	1
6	≥ 3000	Chief engineer	Marine engineer officer (Class 3) (C)	1
		Second engineer	Engineer officer	1
Notes:				
(A) Not required on vessels ≤ 12.7 metres in length if the master has passed a level 3 assessment (oral examination) in				

Merchant Shipping

[Subsidiary]

basic engineering knowledge				
(B) Certification to include the class 4 service endorsement.				
(C) Certification to include the class 3 service endorsement				

16. Employment of certificated radio operators

The owner and the master of every ship shall ensure that there is employed on the ship the number and description of appropriately certificated radio operators specified the following table as appropriate, provided that—

- (a) if the ship is of 300 GT or more, is engaged on a near-coastal voyage and is not equipped in accordance with GMDSS requirements of the radio regulations, there shall be employed on the ship at least two radio operators who are appropriately certificated for the type of radio installation on the ship;
- (b) if the ship is equipped in accordance with the GMDSS requirements of the radio regulations and at sea maintenance of radio equipment is to be conducted to ensure availability, at least one radio operator on the ship shall hold a valid Radio Electronic Certificate (First Class), or a recognized equivalent certificate;
- (c) if the ship is fitted with radio equipment capable of operating within the GMDSS (whether or not so fitted in compliance with statutory requirements), there shall be employed on the ship at least one radio operator who is the holder of a valid GMDSS General Operators Certificate, or a recognized equivalent certificate;
- (d) when the radio equipment on the ship is being used for general communications, other than distress, urgency or safety communications, such general communications shall not be conducted by the deck officer on watch.

<i>Item</i>	<i>Voyage/ Operation</i>	<i>Tonnage/length of ship</i>	<i>Appropriate minimum certification and number of persons to be employed</i>	<i>.</i>
			<i>Certification</i>	<i>Number</i>
1	Port Operations	≥ 25 GT	Restricted Radiotelephone Operator	1
2	Near-Coastal	≥ 25 GT but < 300 GT	Restricted Radiotelephone Operator	2
3	≥ 350 but < 1000	≥ 300 GT	GMDSS General Operator	2
4	Fishing operations within 40 nautical miles offshore	≥ 25 GT	Restricted Radio telephone Operator (VHF only)	1
5	Fishing operations beyond 40	≥ 25 GT	Restricted Radiotelephone Operator	2

[Issue 3]

Merchant Shipping

[Subsidiary]

	but within 200 nautical miles offshore			
6	Fishing operations beyond 200 nautical miles offshore	≥ 25GT but < 45 metres	Restricted Radiotelephone Operator	2
7	.	≥ 45 metres	GMDSS General Operator	2
8	Unlimited	≥ 100 GT but < 300 GT	Restricted Radiotelephone Operator	2
9		≥ 300 GT	GMDSS General Operator	2
		Second engineer	Engineer officer	1

17. Employment of certificated ratings on ships other than fishing vessels

The owner and the master of every ship other than a fishing vessel shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated ratings specified in the table below as appropriate, provided that—

- (a) where a combination of ratings qualified as ordinary seafarers and as able seafarers are employed in the deck department, at least half the combined number of ratings so employed shall be persons qualified as able seafarers;
- (b) where a combination of ratings qualified as wipers and as oilers is employed in the engine-room department, at least one of the ratings so employed shall be persons qualified as an oiler;
- (c) on passenger ships the prescribed number of ratings qualified as proficient in survival craft and as proficient in fast rescue boats shall be in addition to the number of ratings qualified as able seafarers and as oilers;
- (d) on ships having only inflatable appliances as survival craft there may be employed, instead of the number of ratings qualified as proficient in survival craft, an equal number of ratings qualified as proficient in inflatable appliances only;
- (e) owners and masters shall, considering that the table below specifies minimum requirements only shall have regard to the requirements of regulation 4(4) when determining the appropriate manning;
- (f) in respect of a ship engaged solely in port operations, and instead of meeting the requirements specified in the table below, application may be made to the proper officer at the ship's port of operation for the number of certificated ratings to be determined, with the necessary changes, in accordance with regulation 4(4);
- (g) on ships engaged solely in port operations, there may be employed, instead of the number of ratings qualified as able seafarers or as oilers, an equal number of ratings holding the qualification as General Purpose Rating (Port Operations);

<i>Item</i>	<i>Type of ship</i>	<i>Voyage/ Operation</i>	<i>Minimum certification and number to be employed</i>			
			<i>Ordinary seafarer/ Able seafarer</i>	<i>Wiper/oiler</i>	<i>Proficient in survival craft</i>	<i>Efficient cook</i>

[Issue 3]

Merchant Shipping

[Subsidiary]

1	Passenger	Unlimited or near-coastal	Sufficient to man each 4 hour watch with a 12 hour period with a rating, plus one (i.e. 4)	Sufficient to man each 4 hour watch in a 12 hour period with a rating (i.e. 3)	One for every 50 passengers, or part of such number, on board	1
		Port operations	Sufficient to man each 6 hour watch with a 12 hour period with a rating, plus one (i.e. 3)	Sufficient to man each 6 hour watch with a 12 hour period with a rating (i.e. 2)		—
3	Other	Unlimited	Sufficient to man each 4 hour watch with a 12 hour period with a rating, plus one (i.e. 4)	Sufficient to man each 4 hour watch in a 12 hour period with a rating (i.e. 3)		
4		Near Coastal	Sufficient to man each 6 hour watch with a 12 hour period with a rating, plus one (i.e. 3)	Sufficient to man each 6 hour watch with a 12 hour period with a rating (i.e. 2)		1
5		Port Operations	1 Able seafarer (Port Operations) and 1 ordinary seafarer (Port Operations) or 2 Able seafarers (Port Operations)	1 Oiler (Port Operations)		—

18. Employment of certificated ratings on fishing vessels of 100 GT or more

The owner and the master of every fishing vessel of 100 GT or more shall ensure that there is employed on the vessel in their appropriate capacities the number and description of appropriately certificated ratings as specified in the following table:

[Issue 3]

Merchant Shipping

[Subsidiary]

<i>Item</i>	<i>Number of persons on vessel</i>	<i>Minimum certification and number to be employed</i>	<i>.</i>	<i>.</i>
		<i>Able seafarer</i>	<i>Proficient in survival craft</i>	<i>Efficient cook</i>
1	≥ 15 but < 30	1	1	—
2	≥ 30	1	2	1
Notes:				
The number of ratings to be qualified as proficient in survival craft shall be in addition to the number required to be qualified as able seafarer				
The certification as able seafarer and as proficient in survival raft and fast rescue boats may be the local certification or the certification issued in accordance with the STCW Convention.				

Notes:

The number of ratings to be qualified as proficient in survival craft shall be in addition to the number required to be qualified as able seafarer.

The certification as able seafarer and as proficient in survival raft and fast rescue boats may be the local certification or the certification issued in accordance with the STCW Convention.

19. Employment of qualified personnel on tankers and passenger ships

(1) The owner and the master of every tanker shall ensure that—

- (a) every seafarer assigned in specific duties and responsibilities related to cargo or cargo equipment on the ship; and
- (b) the master, chief engineer officer, chief mate, second engineer officer and every other seafarer with immediate responsibility for loading, discharging and care in transit or handling of cargo on the ship, holds—
 - (i) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 52 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
 - (ii) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/1 of that Convention relative to their capacity, duties and responsibilities on the ship.

[Subsidiary]

(2) The owner and the master of every ro-ro passenger ship shall ensure that the master and every seafarer employed on the ship hold—

- (a) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 53 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
- (b) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/2 of that Convention relative to their capacity, duties and responsibilities on the ship.

(3) The owner and the master of every passenger ship, other than a ro-ro passenger ship, engaged on unlimited voyages shall ensure that the master and every seafarer employed on the ship hold—

- (a) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 53 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
- (b) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/3 of that Convention relative to their capacity, duties and responsibilities on the ship.

20. Employment of qualified medical personnel

(1) The owner and the master of every ship on an unlimited voyage that carries one hundred or more persons shall ensure that at least one medical practitioner is employed on the ship.

(2) The owner and the master of every ship to which the STCW Convention applies shall ensure that—

- (a) every seafarer designated to take charge of medical care on the ship, in the absence of a qualified medical practitioner, holds—
 - (i) a valid Ship Captain's Medical Training Certificate issued in accordance with the Code; or
 - (ii) a valid certificate in medical care issued in accordance with regulation V1/4, paragraph 2 of the STCW Convention by or on behalf of another party to that Convention; and
- (b) every seafarer designated to provide medical first aid on the ship holds—
 - (i) a valid First Aid at Sea Certificate issued in accordance with the Code; or
 - (ii) a valid certificate in medical first aid issued in accordance with regulation V1/4, paragraph 1 of the STCW Convention by or on behalf of another party to that Convention.

(3) Every person who is designated the duties referred to sub-regulation (2) (a) or (b) shall undertake approved refresher training at intervals not exceeding five years.

21. Employment of qualified fire-fighting personnel

(1) The owner and the master of every ship shall ensure that every seafarer designated to take charge of a fire-fighting party on the ship holds—

- (a) in the case of a ship of 100 GT or more, a valid Fire-Fighting Certificate issued in accordance with the Code, or an approved equivalent qualification;
- (b) in the case of a tanker of 100 GT or more, a valid Tanker Fire-Fighting Certificate issued in accordance with the Code, or an approved equivalent qualification; and
- (c) in the case of a ship of less than 100 GT, a valid Fire-Fighting (Small Vessels) Certificate issued in accordance with the Code, or an approved equivalent qualification.

[Issue 3]

(2) The owner and the master of every ship to which the STCW Convention applies shall ensure that every seafarer designated to control fire-fighting operations on the ship holds—

- (a) a valid Advanced Fire-Fighting Certificate issued in accordance with the Code; or
- (b) a valid certificate in advanced fire-fighting issued in accordance with regulation VI/3, paragraph 1 of the STCW Convention by or on behalf of another party to the Convention.

(3) Every person who is designated the duties referred to in sub-regulation (1) or (2) shall undertake approved refresher training at intervals not exceeding five years.

22. Employment of qualified personnel on ships equipped with fast rescue boat

The owner and master of every ship that is equipped with one or more fast rescue boats shall ensure that there are employed on the ship at least two persons per boat who hold—

- (a) a valid certificate of qualification as proficient in fast rescue boats issued in accordance with regulation 48 of the Training and Certification Regulations; or
- (b) a valid certificate of proficiency in fast rescue boats issued in accordance with regulation VI/2, paragraph 2 of the STCW Convention by or on behalf of another party to that Convention.

23. Exemptions

(1) The Director-General may, if in his opinion no danger would result to persons, property or the environment, grant exemption, on such terms (if any) as it may specify, from any of the provisions of these regulations (as may be specified in the exemption) for classes of cases or individual cases.

(2) However, an exemption permitting a person to serve in a capacity for which he is not certificated—

- (a) may be granted only if the person is certificated to serve in the next lower capacity, provided that if the next lower capacity is an uncertificated capacity, exemption may be granted only if the person's knowledge and experience, in the opinion of the Authority, are appropriate for the capacity to be filled;
- (b) shall not be granted in respect of—
 - (i) the capacity of master of a passenger ship; or
 - (ii) the capacities of master or chief engineer of any ship to which the STCW Convention applies, except in the event of *force majeure* and then only for the shortest possible time; and
- (c) shall, in all cases, cease to have effect on the earlier of the following two dates:
 - (i) the date of expiry (if any) in terms of the exemption; or
 - (ii) the date on which the period of six months after the grant of exemption expires.

(3) The Director-General may, after reasonable notice, alter or cancel any exemption granted under this regulation.

24. Equivalence of certificates and endorsements

(1) Subject to sub-regulation (2), each certificate or endorsement specified in a column of an item in the table below is taken to be equivalent to the certificate or endorsement, as the case may be, specified in the other columns of that item.

(2) If the certificate or endorsement specified in column 3 of an item in the table is subject to additional qualification requirements in terms of the Training and Certification Regulations, documentary evidence of compliance with those requirements, or so much thereof as the Authority requires, is to be produced within the time and in the manner that the Authority directs.

Item	Column 1	Column 2	Column 3
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Merchant Shipping

[Subsidiary]

	<i>Title of certificate issued before commencement of these new regulations</i>	<i>Equivalent certificate or endorsement under any previous regulations</i>	<i>Equivalent certificate or endorsement under Training and Certification Regulations</i>
1	Master of a foreign-going ship	Deck Officer Class 1	Master
2		Deck Officer class 2 endorsed master (Limited Trade)	Chief Mate endorsed
			- Master of a ship of less than 3000 GT on unlimited voyages.
3	Chief navigating Officer of a foreign-going ship	Deck Officer Class 2 endorsed Master (Short Sea Trade)	Chief Mate endorsed
			- Master of a ship of less than 500 Gt on near-coastal voyages
4	—	Deck Officer class 2	Chief Mate
5	—	Deck Officer class 3 endorsed Master (Limited Trade)	Chief Mate endorsed
			- Master of a ship of less than 500 GT on unlimited voyages.
			- Chief Mate of a ship of less than 3 000 GT on unlimited voyages.
6		Deck Officer Class 3 endorsed Master (Limited trade)	Deck Officer endorsed
			- Master of a ship of less than 500 GT on near-coastal voyages.
7	Second navigating Officer of a foreign-going ship	Deck Officer Class 3	Deck Officer
8		Deck Officer class 4 endorsed Master (Limited Trade)	Deck Officer endorsed
			- Master of a ship of less than 500 GT on unlimited voyages.
9	Master of a coasting ship of 100 GT or more	Deck Officer class 4 endorsed Master (Short Sea Trade)	Deck Officer endorsed
			- Master of a ship of less than 500 GT on near-coastal voyages.
10		Deck Officer class 4 endorsed Master (Port Operations)	Deck Officer endorsed
			Master of a ship of less than 500 GT on near-coastal voyages.

[Issue 3]

Merchant Shipping

[Subsidiary]

11		Deck Officer class 4 endorsed Port Operation Service	Master (Port Operations)
12		Deck Officer Class 4	Deck Officer
13		Deck officer class 5 endorsed Master (Short Sea trade)	Mate (Coastal) endorsed
			- Master of a ship of less than 500 GT on near-coastal voyages
14		Deck officer class 5 endorsed Master (Port Operations)	Mate (Coastal) endorsed
			- Master of a ship of any tonnage operating within a port operations area.
15		Deck officer class 5 endorsed Master (Short Sea trade)	Master (Port Operations)
16	Navigating Officer of a coasting ship of 100 GT or more	Deck Officer Class 5	Mate (Coastal)
17		Deck Officer Class 6 (Unlimited Trade)	Coxswain (Unlimited)
18		Deck Officer Class 6 (Short Sea Trade)	Coxswain (Coastal)
19		Deck Officer Class 6 (Restricted trade)	Coxswain (Port Operations)
.	Title of certificate issued before commencement of these new regulations	Equivalent certificate or endorsement under any old regulations	Equivalent certificate or endorsement under Training and Certification Regulations
20	Chief Engineer of a foreign-going ship	Marine Engineer-Officer Class 1	Chief Engineer Officer ($\geq 3\,000$ kW)
21	Second Engineer Officer of a foreign-going ship	Marine Engineer-Officer Class 2	Second Engineer officer ($\geq 3\,000$ kW) endorsed
			- Chief Engineer officer of a ship less than 3 000 kW propulsion power
22		Marine Engineer Officer class 3 with a Service Endorsement	Second Engineer officer (< 3 000 kW) endorsed:
			- Chief Engineer officer of a ship less than 750 kW propulsion power
			- Chief Engineer Officer of a ship of any kilowatt propulsion power operating within a port operations area

[Issue 3]

Merchant Shipping

[Subsidiary]

23	Chief Engineer Officer of a coasting Ship	Marine Engineer-Officer class 3	a) Second Engineer officer (< 3 000 kW) endorsed: - Chief Engineer Officer of a ship of any kilowatt propulsion power operating within a port operations area
			Chief Engineer Officer (Port Operations)
24	Second Engineer Officer of a coasting ship	Marine Engineer-Officer Class 4	(a) Engineer Officer endorsed Chief Engineer Officer of a ship of less than 1 500 kW propulsion power operating within a port operations area
			(b) Second Engineer Officer (Port Operations)

(3) Where the holder of a certificate of competency issued under the Act before the commencement of these regulations has served in a certificated capacity for at least 12 months in the preceding five years but is prohibited from continued employment in that capacity owing to the tonnage, propulsion power or area of operation of the ship exceeding the applicable tonnage, propulsion power or area of operation limitation, the Authority may endorse the certificate, or the equivalent certificate in terms of this regulation, as the case may be, so as to entitle the holder to continued employment in the capacity concerned on a ship having an appropriately greater tonnage, propulsion power or area of operation.

25. Safe manning document

(1) The owner of every ship shall ensure that—

- (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; 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 every ship shall ensure that the ship does not go to sea unless there is on board and in force in respect of the ship a valid safe manning document and the manning of the ship complies with that document.

26. Carriage of documents

Without prejudice to the provisions of limitation to regulation 4, the owner and the master of every ship shall ensure that there are carried at all times on board the ship all original certificates and other documents issued pursuant to the Act or the STCW Convention, as the case may be, showing the qualification of the master and any member of the crew to perform functions which they are required to perform aboard ship in the course of their designated duties.

27. Offences, penalties and defences

(1) Every owner who contravenes regulation 4(1) or (4), 6, 7(1), 9, 25(1) or 26 commits an offence.

(2) Every employer, being an employer who in terms of regulation 7(3) has become subject to the duties of the owner under that regulation, who contravenes regulation 6(2) commits an offence.

(3) Every master commits an offence who contravenes regulation 4(2) or (4), 6, 7(2) or (3), 8(9) or (10), 9, 25(2) or 26, commits an offence.

(4) Every seafarer who contravenes regulation 7(3) commits an offence.

(5) A person who commits an offence in terms of sub-regulation (1), (2) or (3) is liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or both.

(6) A person who commits an offence in terms of sub-regulation (4) is liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or both.

(7) In proceedings for an offence in terms of this regulation it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

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

28. Director-General may impose penalty upon admission of guilt

(1) If any person—

- (a) admits to the Director General that he has contravened any provision of these regulations or Act, or that he has failed to comply with any such provision with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Director General; and
- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question, the Director General may, after such enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(2) The imposition of a penalty under sub-regulation (1) shall be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or cargo.

SCHEDULE

(Rule 5.)

PART I – WATCHKEEPING PRINCIPLES AND ARRANGEMENTS

Planning the voyage

1. Voyage to be planned in advance

The intended voyage shall be planned in advance, taking into consideration all pertinent information, and any course laid down shall be checked before the voyage commences.

2. Requirements for voyage

The chief engineer officer shall, in consultation with the master, determine in advance the requirements for the intended voyage, taking into consideration the requirements for fuel, water, lubricants, chemicals, expendable and other spare parts, tools, supplies and any other requirements.

[Subsidiary]

3. Charts

Before each voyage the master of a ship shall ensure that the intended route from the port of departure to the first port of call is planned using adequate and appropriate charts and other nautical publications necessary for the intended voyage, containing accurate, complete and up-to-date information regarding those navigational limitations and hazards that are of a permanent or predictable nature and that are relevant to the safe navigation of the ship.

4. Display of route charts

When the route planning is verified taking into consideration all pertinent information, the planned route shall be clearly displayed on appropriate charts and shall be continuously available to the officer in charge of the watch, who shall verify each course to be followed before using it during the voyage.

5. Deviation from planned route

If a decision is made during a voyage to change the next port of call of the planned route, or if it becomes necessary for the ship to deviate substantially from the planned route for other reasons, then an amended route shall be planned before deviating substantially from the route originally planned.

Watchkeeping at Sea

6. Principles of watchkeeping

Owners, masters, chief engineer officers and watchkeeping personnel shall observe the principles set out in this part to ensure that safe watches are maintained at all times.

7. Duty of master

The master of a ship shall ensure that watchkeeping arrangements are adequate for maintaining a safe navigational watch and, under the master's general direction, the officers of the navigational watch are responsible for navigating the ship safely during their periods of duty, during which they shall be particularly concerned with avoiding collision and stranding.

8. Duty of chief engineer officer

The chief engineer officer of a ship shall, in consultation with the master, ensure that watchkeeping arrangements are adequate to maintain a safe engineering watch.

9. Prevention of pollution

The master, officers and ratings shall be aware of the serious effects of operational or accidental pollution of the marine environment and shall take all possible precautions to prevent such pollution, particularly within the framework of relevant international and port regulations.

PART II – PRINCIPLES TO BE OBSERVED IN KEEPING NAVIGATIONAL WATCH**10. Duty of officer in charge**

The officer in charge of the navigational watch is the master's representative and is primarily responsible at all times for the safe navigation of the ship and for complying with the collision regulations.

11. Look-out

A proper look-out shall be maintained at all times in compliance with rule 5 of the annex to the collision regulations, and shall serve the purpose of—

- (a) maintaining a continuous state of vigilance by sight and hearing as well as by all other available means, with regard to any significant change in the operating environment;

- (b) fully appraising the situation and the risk of collision, stranding and other dangers to navigation; and
- (c) detecting ships or aircraft in distress, shipwrecked persons, wrecks, debris and other hazards to safe navigation.

12. Look-out not to be assigned other task

The look-out shall give full attention to the keeping of a proper lookout and no other duties shall be undertaken or assigned which could interfere with that task.

13. Helmsman not to be considered a look-out

The duties of the look-out and helmsman are separate and the helmsman shall not be considered to be the look-out while steering, except in small ships where an unobstructed all-round view is provided at the steering position and there is no impairment of night vision or other impediment to the keeping of a proper look-out. The officer in charge of the navigational watch may be the sole look-out in daylight provided that on each such occasion—

- (a) the situation has been carefully assessed and it has been established without doubt that it is safe to do so;
- (b) full account has been taken of all relevant factors, including, but not limited to—
 - (i) the state of the weather;
 - (ii) visibility;
 - (iii) traffic density;
 - (iv) proximity of dangers to navigation; and
 - (v) the attention necessary when navigating in or near traffic separation schemes; and
- (c) assistance is immediately available to be summoned to the bridge when any change in the situation so requires.

14. Considerations for maintaining proper look-out

In determining that the composition of the navigational watch is adequate to ensure that a proper look-out can continuously be maintained, the master shall take into account all relevant factors, including those described in this Schedule, as well as the following factors—

- (a) the hours of darkness, requiring in addition to the watchkeeping officer, a look-out;
- (b) visibility, state of weather and sea;
- (c) traffic density, and other activities occurring in the area in which the ship is navigating;
- (d) the attention necessary when navigating in or near traffic separation schemes and other routing measures;
- (e) the additional workload caused by the nature of the ship's functions, immediate operating requirements and anticipated manoeuvres;
- (f) the fitness for duty of any crew members on call who are assigned as members of the watch;
- (g) knowledge of and confidence in the professional competence of the ship's officers and crew;
- (h) the experience of each officer of the navigational watch, and the familiarity of that officer with the ship's equipment, procedures, and manoeuvring capability;
- (i) activities taking place on board the ship at any particular time, including radio communication activities, and the availability of assistance to be summoned immediately to the bridge when necessary;

[Subsidiary]

- (j) the operational status of bridge instrumentation and controls, including alarm systems;
- (k) rudder and propeller control and ship manoeuvring characteristics;
- (l) the size of the ship and the field of vision available from the conning position;
- (m) the configuration of the bridge, to the extent that such configuration might inhibit a member of the watch from detecting by sight or hearing any external development; and
- (n) any other relevant standard, procedure or guidance relating to watchkeeping arrangements and fitness for duty which has been promulgated by regulation.

15. Factors for watch on bridge

When deciding the composition of the watch on the bridge, which may include appropriately qualified ratings, the following factors, *inter alia*, shall be taken into account:

- (a) at no time shall the bridge be left unattended;
- (b) weather conditions, visibility and whether there is daylight or darkness;
- (c) proximity of navigational hazards which may make it necessary for the officer in charge of the watch to carry out additional navigational duties;
- (d) use and operational condition of navigational aids such as radar or electronic position indicating devices and any other equipment affecting the safe navigation of the ship;
- (e) whether the ship is fitted with automatic steering;
- (f) whether there are radio duties to be performed;
- (g) unmanned machinery space (UMS) controls, alarms and indicators provided on the bridge, procedures for their use and limitations; and
- (h) any unusual demands on the navigational watch that may arise as a result of special operational circumstances.

16. Hand-over watch

The officer in charge of the navigational watch shall not hand over the watch to the relieving officer if there is reason to believe that the latter is not capable of carrying out the watchkeeping duties effectively, in which case the master shall be notified.

17. Duties of relieving officer

The relieving officer shall ensure that the members of the relieving watch are fully capable of performing their duties, particularly as regards their adjustment to night vision. Relieving officers shall not take over the watch until their vision is fully adjusted to the light conditions.

18. Relieving officer to confirm speed

Before taking over the watch, relieving officers shall satisfy themselves as to the ship's estimated or true position and confirm its intended track, course and speed, and UMS controls as appropriate and shall note any dangers to navigation expected to be encountered during their watch.

19. Issues for relieving officer

Relieving officers shall personally satisfy themselves regarding—

- (a) standing orders and other special instructions of the master relating to navigation of the ship;
- (b) position, course, speed and draught of the ship;
- (c) prevailing and predicted tides, currents, weather, visibility and the effect of these factors upon course and speed;
- (d) procedures for the use of main engines to manoeuvre when the main engines are on bridge control; and

- (e) navigational situation, including but not limited to—
 - (i) the operational condition of all navigational and safety equipment being used or likely to be used during the watch;
 - (ii) the errors of gyro- and magnetic compasses;
 - (iii) presence and movement of ships in sight or known to be in the vicinity,
 - (iv) the conditions and hazards likely to be encountered during the watch, and
 - (v) the possible effects of heel, trim, water density and squat on under-keel clearance.

20. When navigational watch is relieved

If at any time the officer in charge of the navigational watch is to be relieved when a manoeuvre or other action to avoid any hazard is taking place, the relief of that officer shall be deferred until such action has been completed.

21. Officer in charge of navigational watch

The officer in charge of the navigational watch shall—

- (a) keep the watch on the bridge;
- (b) in no circumstances leave the bridge until properly relieved;
- (c) continue to be responsible for the safe navigation of the ship, despite the presence of the master on the bridge, until informed specifically that the master has assumed that responsibility and this is mutually understood; and
- (d) notify the master when in any doubt as to what action to take in the interest of safety.

22. Checks during watch

During the watch the course steered, position and speed shall be checked at sufficiently frequent intervals, using any available navigational aids necessary, to ensure that the ship follows the planned course.

23. Officer to check equipment

The officer in charge of the navigational watch shall have full knowledge of the location and operation of all safety and navigational equipment on board the ship and shall be aware and take account of the operating limitations of such equipment.

24. Officer not to be assigned other tasks

The officer in charge of the navigational watch shall not be assigned or undertake any duties which would interfere with the safe navigation of the ship.

25. Use of navigational equipment

Officers of the navigational watch shall make the most effective use of all navigational equipment at their disposal.

26. Use of radar

(1) The officer in charge of the Navigational watch shall use the radar at times of restricted visibility and at all times in congested water having due regard to its limitations.

(2) When using radar, the officer in charge of the navigational watch shall bear in mind the necessity to comply at all times with the provisions on the use of radar contained in the collision regulations.

(3) The officer in charge of the navigational watch shall, when radar is in use, select an appropriate range scale and observe the display, and ensure that plotting or systematic analysis is commenced in ample time.

27. Use of helm, engines, other apparatus

[Subsidiary]

In cases of need, the officer in charge of the navigational watch shall not hesitate to use the helm, engines and sound signalling apparatus, but timely notice of intended variations of engine speed shall be given where possible or effective use made of UMS engine controls provided on the bridge in accordance with the applicable procedures.

28.

Officers of the navigational watch shall know the handling characteristics of their ship, including its stopping distances, and should appreciate that other ships may have different handling characteristics.

29. Record of watch

A proper record shall be kept during the watch of the movements and activities relating to the navigation of the ship.

30. Proper Look-outs

It is of special importance that at all times the officer in charge of the navigational watch ensures that a proper look-out is maintained and in a ship with a separate chartroom the officer in charge of the navigational watch may visit the chartroom, when essential, for a short period for the necessary performance of navigational duties, but shall first ensure that it is safe to do so and that proper look-out is maintained.

31. Operational tests

Operational tests of shipboard navigational equipment shall be carried out at sea as frequently as practicable and as circumstances permit, in particular before hazardous conditions affecting navigation are expected and before port arrival and departure where appropriate, and shall be recorded.

32. Checks on Navigational watch

The officer in charge of the navigational watch shall make regular checks to ensure that—

- (a) the person steering the ship, or the automatic pilot, is steering the correct course;
- (b) the standard compass error is determined at least once a watch and, when possible, after any major alteration of course; the standard and gyro-compasses are frequently compared and repeaters are synchronized with their master compass;
- (c) the automatic pilot is tested manually at least once a watch;
- (d) the navigation and signal lights and other navigational equipment are functioning properly;
- (e) the radio equipment available in the bridge is functioning properly in accordance with paragraph 82 of this Schedule; and
- (f) the UMS controls, alarms and indicators are functioning properly.

33. Considerations for Navigational watch

The officer in charge of the navigational watch shall bear in mind the necessity to comply at all times with the requirements in force of the Safety Convention, and shall take into account—

- (a) the need to station a person to steer the ship and to put the steering into manual control in good time to allow any potentially hazardous situation to be dealt with in a safe manner; and
- (b) that with a ship under automatic steering it is highly dangerous to allow a situation to develop to the point where the officer in charge of the navigational watch is without assistance and has to break the continuity of the look-out in order to take emergency action.

34. Use of Electronic Navigational aids

[Issue 3]

Officers of the navigational watch shall be thoroughly familiar with the use of all electronic navigational aids carried, including their capabilities and limitations, and shall use each of these aids when appropriate and shall bear in mind that the echo sounder is a valuable navigational aid.

35. Change of range Scales

The officer in charge of the navigational watch shall ensure that range scales employed are changed at sufficiently frequent intervals so that echoes are detected as early as possible. It shall be borne in mind that small or poor echoes may escape detection.

36. Officer to notify Master

The officer in charge of the navigational watch shall notify the master immediately—

- (a) if restricted visibility is encountered or expected;
- (b) if the traffic conditions or the movements of other ships are causing concern;
- (c) if difficulty is experienced in maintaining course;
- (d) on failure to sight land, a navigational mark or to obtain soundings by the expected time;
- (e) if, unexpectedly, a land or a navigation mark is sighted or a change in sounding occurs;
- (f) on breakdown of the engines, propulsion machinery remote control, steering gear or any essential navigational equipment, alarm or indicator;
- (g) if the radio equipment in the bridge malfunctions;
- (h) in heavy weather, if in any doubt about the possibility of weather damage;
- (i) if the ship meets any hazard to navigation, such as ice or a derelict; and
- (j) in any other emergency or if in any doubt.

37. Office may take action

Despite the requirement to notify the master immediately in the foregoing circumstances, the officer in charge of the navigational watch shall in addition not hesitate to take immediate action for the safety of the ship, where circumstances so require.

38. Instructions for safe watch

The officer in charge of the navigational watch shall give watchkeeping personnel all appropriate instructions and information which will ensure the keeping of a safe watch, including a proper look-out.

39. Officer to take compass bearings

In clear weather the officer in charge of the navigational watch shall take frequent and accurate compass bearings of approaching ships as a means of early detection of risk of collision and bear in mind that such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large ship or a tow or when approaching a ship at close range. The officer in charge of the navigational watch shall also take early and positive action in compliance with the applicable collision regulations and subsequently check that such action is having the desired effect.

40. Radar practice

In clear weather, whenever possible, the officer in charge of the navigational watch shall carry out radar practice.

41. Action in restricted visibility

When restricted visibility is encountered or expected, the first responsibility of the officer in charge of the navigational watch is to comply with the relevant rules of the collision regulations with particular regard to the sounding of fog signals, proceeding at a safe speed

[Subsidiary]

and having the engines ready for immediate manoeuvre. In addition, the officer in charge of the navigational watch shall—

- (a) inform the master;
- (b) post a proper look-out;
- (c) exhibit navigation lights; and
- (d) operate and use the radar.

42. Watch in hours of darkness

During the hours of darkness the master and the officer in charge of the navigational watch, when arranging lookout duty, shall have due regard to the bridge equipment and navigational aids available for use, their limitations and procedures and safeguards implemented.

43. Watch in coastal and congested waters

In coastal and congested waters the largest scale chart on board, suitable for the area and corrected with the latest available information, shall be used. Fixes shall be taken at frequent intervals, and shall be carried out by more than one method whenever circumstances allow. The officer in charge of the navigational watch shall positively identify all relevant navigational marks.

44. Co-operation with pilots

(1) Despite the duties and obligations of pilots, their presence on board does not relieve the master or officer in charge of the navigational watch from their duties and obligations for the safety of the ship, but the master and the pilot shall exchange information regarding navigation procedures, local conditions and the ship's characteristics.

(2) The master or the officer in charge of the navigational watch shall co-operate closely with the pilot and maintain an accurate check on the ship's position and movement.

45. Actions of Pilot

If in any doubt as to the pilot's actions or intentions, the officer in charge of the navigational watch shall seek clarification from the pilot and, if doubt still exists, shall notify the master immediately and take whatever action is necessary before the master arrives.

46. Duties of Officer at Anchor

While at anchor, the officer in charge of the navigational watch shall—

- (a) determine and plot the ship's position on the appropriate chart as soon as practicable;
- (b) when circumstances permit, check at sufficiently frequent intervals whether the ship is remaining securely at anchor by taking bearings of fixed navigational marks or readily identifiable shore objects;
- (c) ensure that proper look-out is maintained;
- (d) ensure that inspection rounds of the ship are made periodically;
- (e) observe meteorological and tidal conditions and the state of the sea;
- (f) notify the master and undertake all necessary measures if the ship drags anchor;
- (g) ensure that the state of readiness of the main engines and other machinery is in accordance with the master's instructions;
- (h) if visibility deteriorates, notify the master;
- (i) ensure that the ship exhibits the appropriate lights and shapes and that appropriate sound signals are made in accordance with all applicable regulations;
- (j) take measures to protect the environment from pollution by the ship and comply with applicable pollution regulations; and

[Issue 3]

- (k) maintain a listening watch on VHF channel 16 and/or the port operations working channel.

PART III – PRINCIPLES TO BE OBSERVED IN KEEPING ENGINEERING WATCH

47. Engineering Watch

The term engineering watch as used in parts 2, 6 and 8 of this Schedule means either a person or a group of personnel comprising the watch or a period of responsibility for an officer during which the physical presence in machinery spaces of that officer may or may not be required.

48. Officer in charge of Engineering watch

The officer in charge of the engineering watch is the chief engineer officer's representative and is primarily responsible, at all times, for the safe and efficient operation and upkeep of machinery affecting the safety of the ship and is responsible for the inspection, operation and testing, as required, of all machinery and equipment under the responsibility of the engineering watch.

49. Composition of Engineering Watch

(1) The composition of the engineering watch shall, at all times, be adequate to ensure the safe operation of all machinery affecting the operation of the ship, in either automated or manual mode, and be appropriate to the prevailing circumstances and conditions.

(2) When deciding the composition of the engineering watch, which may include appropriately qualified ratings, the following criteria, *inter alia*, shall be taken into account:

- (a) The type of ship and the type and condition of the machinery;
- (b) the adequate supervision, at all times, of machinery affecting the safe operation of the ship;
- (c) any special modes of operation dictated by conditions such as weather, ice, contaminated water, shallow water, emergency conditions, damage containment or pollution abatement;
- (d) the qualifications and experience of the engineering watch;
- (e) the safety of life, ship, cargo and port, and protection of the environment;
- (f) the observance of international, national and local regulations; and
- (g) maintaining the normal operations of the ship.

50. When relieving officer is incapable

The officer in charge of the engineering watch shall not hand over the watch to the relieving officer if there is reason to believe that the latter is obviously not capable of carrying out the watchkeeping duties effectively, in which case the chief engineer officer shall be notified.

51. Responsibility of relieving officer

The relieving officer of the engineering watch shall ensure that the members of the relieving engineering watch are apparently fully capable of performing their duties effectively.

52. Taking over engineering watch

Before taking over the engineering watch, relieving officers shall satisfy themselves regarding at least the following:

- (a) The standing orders and special instructions of the chief engineer officer relating to the operation of the ship's systems and machinery;
- (b) the nature of all work being performed on machinery and systems, the personnel involved and potential hazards;

[Subsidiary]

- (c) the level and, where applicable, the condition of water or residues in bilges, ballast tanks, slop tanks, reserve tanks, fresh water tanks, sewage tanks and any special requirements for use or disposal of the contents thereof;
- (d) the condition and level of fuel in the reserve tanks, settling tanks, day tanks and other fuel storage facilities;
- (e) any special requirements relating to sanitary system disposals;
- (f) condition and mode of operation of the various main and auxiliary systems, including the electrical power distribution system;
- (g) where applicable, the condition of monitoring and control console equipment, and which equipment is being operated manually;
- (h) where applicable, the condition and mode of operation of automatic boiler controls such as flame safeguard control systems, limit control systems, combustion control systems, fuel-supply control systems and other equipment related to the operation of steam boilers;
- (i) any potentially adverse conditions resulting from bad weather, ice, or contaminated or shallow water;
- (j) any special modes of operation dictated by equipment failure or adverse ship conditions;
- (k) the reports of engine-room ratings relating to their assigned duties;
- (l) the availability of fire-fighting appliances; and
- (m) the state of completion of engine-room log.

53. Organising Engineering watch

The officer in charge of the engineering watch shall ensure that the established watchkeeping arrangements are maintained and that, under direction, engine-room ratings, if forming part of the engineering watch, assist in the safe and efficient operation of the propulsion machinery and auxiliary equipment.

54. Responsibility for machines

The officer in charge of the engineering watch shall continue to be responsible for machinery-space operations, despite the presence of the chief engineer officer in the machinery spaces, until specifically informed that the chief engineer officer has assumed that responsibility and this is mutually understood.

55. Duties of members of Engineering watch

(1) All members of the engineering watch shall be familiar with their assigned watchkeeping duties, and in addition, every member shall with respect to the ship they are serving in, have knowledge of—

- (a) the use of appropriate internal communication systems;
- (b) the escape routes from machinery spaces;
- (c) the engine-room alarm systems and be able to distinguish between the various alarms, with special reference to the fire-extinguishing media alarm; and
- (d) the number, location and types of fire-fighting equipment and damage-control gear in the machinery spaces, and their use and the various safe precautions to be observed.

(2) Any machinery not functioning properly, expected to malfunction or requiring special service shall be noted along with any action already taken and plans shall be made for any further action if required.

56. Manning Machinery Spaces

[Issue 3]

(1) When the machinery spaces are in the manned condition, the officer in charge of the engineering watch shall at all times be readily capable of operating the propulsion equipment in response to needs for changes in direction or speed.

(2) When the machinery spaces are in the periodic unmanned condition, the designated duty officer in charge of the engineering watch shall be immediately available and on call to attend the machinery spaces.

57. Bridge Orders

(1) All bridge orders shall be promptly executed, and except in ships of less than 500 GT, changes in direction or speed of the main propulsion units shall be recorded.

(2) The officer in charge of the engineering watch shall ensure that the main propulsion unit controls, when in the manual mode of operation, are continuously attended under stand-by or manoeuvring conditions.

58. Maintenance of Machinery

Due attention shall be paid to the ongoing maintenance and support of all machinery, including mechanical, electrical, electronic, hydraulic and pneumatic systems, their control apparatus and associated safety equipment, all accommodation service systems, equipment and the recording of stores and spare gear usage.

59. Responsibility of Chief Engineer

The chief engineer officer shall ensure that the officer in charge of the engineering watch is informed of all preventive maintenance, damage control, or repair operations to be performed during the engineering watch, and the officer in charge of the engineering watch shall be responsible for the isolation, bypassing and adjustment of all machinery under the responsibility of the engineering watch that is to be worked on, and shall record all work carried out.

60. Stand-by condition

When the engine-room is put in a stand-by condition, the officer in charge of the engineering watch shall ensure that all machinery and equipment which may be used during manoeuvring is in a state of immediate readiness and that an adequate reserve of power is available for steering gear and other requirements.

61. Officer not to be assigned other duties

Officers in charge of an engineering watch shall not be assigned or undertake any duties which would interfere with their supervisory duties in respect of the main propulsion system and ancillary equipment, and shall—

- (a) They shall keep the main propulsion plant and auxiliary systems under constant supervision until properly relieved;
- (b) periodically inspect the machinery in their charge, and
- (c) also ensure that adequate rounds of the machinery and steering-gear spaces are made for the purpose of observing and reporting equipment malfunctions or breakdowns, performing or directing routine adjustments, required upkeep and any other necessary tasks.

62. Information on hazardous conditions

Officers in charge of an engineering watch shall direct any other member of the engineering watch to inform them of potentially hazardous conditions which may adversely affect the machinery or jeopardize the safety of life or of the ship.

63. Containing Effects of Damage

The officer in charge of the engineering watch shall take the action necessary to contain the effects of damage resulting from equipment breakdown, fire, flooding, rupture, collision, stranding, or other cause.

[Subsidiary]

64. Record of events

Before going off duty, the officer in charge of the engineering watch shall ensure that all events related to the main and auxiliary machinery which have occurred during the engineering watch are suitably recorded.

65. Co-operation in maintenance work

The officer in charge of the engineering watch shall co-operate with any engineer in charge of maintenance work during all preventive maintenance, damage control or repairs. This shall include but not necessarily be limited to—

- (a) isolating and bypassing machinery to be worked on;
- (b) adjusting the remaining plant to function adequately and safely during the maintenance period;
- (c) recording, in the engine-room log or other suitable document, the equipment worked on and the personnel involved, and which safety steps have been taken and by whom, for the benefit of relieving officers and for record purposes; and
- (d) testing and putting into service, when necessary, the repaired machinery or equipment.

66. Assistance by ratings

The officer in charge of the engineering watch shall ensure that any engine-room ratings who perform maintenance duties are available to assist in the manual operation of machinery in the event of automatic equipment failure.

67. Reports to the Bridge

The officer in charge of the engineering watch shall bear in mind that changes in speed, resulting from machinery malfunction, or any loss of steering, may imperil the safety of the ship and life at sea and shall immediately notify the bridge in the event of fire and of any impending action in machinery spaces that may cause reduction in the ship's speed, imminent steering failure, stoppage of the ship's propulsion system or any alteration in the generation of electric power, or similar threat to safety.

(2) The notification under paragraph (1), where possible, shall be accomplished before changes are made, in order to afford the bridge the maximum available time to take whatever actions possible to avoid a potential marine casualty.

68. Notification to chief engineering officer

The officer in charge of the engineering watch shall notify the chief engineer officer without delay—

- (a) when engine damage or a malfunction occurs which may be such as to endanger the safe operation of the ship;
- (b) when any malfunction occurs which, it is believed, may cause damage or breakdown of propulsion machinery, auxiliary machinery or monitoring and governing systems; and
- (c) in any emergency or if in any doubt as to what decision or measures to take.

69. Emergency action

Despite the requirement to notify the chief engineer officer in the foregoing circumstances, the officer in charge of the engineering watch shall not hesitate to take immediate action for the safety of the ship, its machinery and crew where circumstances require.

70. Responsibility of officer in charge

(1) The officer in charge of the engineering watch shall give the watchkeeping personnel all appropriate instructions and information which will ensure the keeping of a safe engineering watch.

(2) Routine machinery upkeep, performed as incidental tasks as a part of keeping a safe watch, shall be set up as an integral part of the watch routine, and detailed repair maintenance involving repairs to electrical, mechanical, hydraulic, pneumatic or applicable electronic equipment throughout the ship shall be performed with the cognizance of the officer in charge of the engineering watch and chief engineer officer and recorded.

71. Signals in Restricted Visibility

In restricted visibility the officer in charge of the engineering watch shall ensure that permanent air or steam pressure is available for sound signals and that at all times bridge orders relating to changes in speed or direction of operation are immediately implemented and, in addition, that auxiliary machinery used for manoeuvring is readily available.

72. Manual mode in coastal and congested waters

In coastal and congested waters the officer in charge of the engineering watch shall ensure that all machinery involved with the manoeuvring of the ship can immediately be placed in the manual mode of operation when notified that the ship is in congested waters. The officer in charge of the engineering watch shall also ensure that an adequate reserve of power is available for steering and other manoeuvring requirements. Emergency steering and other auxiliary equipment shall be ready for immediate operation.

73. Unsheltered anchorage

At an unsheltered anchorage the chief engineer officer shall consult with the master whether or not to maintain the same engineering watch as when under way.

74. When ship is at anchor

When a ship is at anchor in an open roadstead or in any other virtually “at-sea” condition, the engineer officer in charge of the engineering watch shall ensure that—

- (a) an efficient engineering watch is kept;
- (b) periodic inspection is made of all operating and stand-by machinery;
- (c) main and auxiliary machinery is maintained in a state of readiness in accordance with orders from the bridge;
- (d) measures are taken to protect the environment from pollution by the ship, and that applicable pollution-prevention regulations are complied with; and
- (e) all damage-control and fire-fighting systems are in readiness.

PART IV – PRINCIPLES TO BE OBSERVED IN KEEPING RADIO WATCH

75. Arrangements for Radio Watch

In deciding the arrangements for the radio watch, the master of every seagoing ship shall—

- (a) ensure that the radio watch is maintained in accordance with the relevant provisions of the radio regulations and the Safety Convention.
- (b) ensure that the primary duties for radio watchkeeping are not adversely affected by attending to radio traffic not relevant to the safe movement of the ship and safety of navigation; and
- (c) take into account the radio equipment fitted on board and its operational status.

76. Responsibilities of radio operator

The radio operator performing radio watchkeeping duties shall—

[Subsidiary]

- (a) ensure that watch is maintained on the frequencies specified in the radio regulations and, where applicable, the Safety Convention;
- (b) while on duty, regularly check the operation of the radio equipment and its sources of energy and report to the master any observed failure of this equipment; and
- (c) maintain and keep the appropriate radio log.

77. Duty of maintaining records

The maintenance of radio records, in compliance with the requirements of the radio regulations and where applicable, the Safety Convention, is the responsibility of the radio operator designated as having primary responsibility for radiocommunications during distress incidents.

(2) The following shall be recorded, together with the times at which they occur:

- (a) A summary of distress, urgency and safety radiocommunications;
- (b) important incidents relating to the radio service;
- (c) where appropriate, the position of the ship at least once per day; and
- (d) a summary of the condition of the radio equipment, including its sources of energy.

78. Radio Records

The radio records shall be kept at the distress communications operating position, and shall be made available—

- (a) for inspection by the master; and
- (b) for inspection by any authorized official during a port state inspection and during a radio equipment survey.

PART V – WATCHKEEPING IN PORT**79. Watchkeeping in Port**

On any ship safely moored or safely at anchor under normal circumstances in port, the master shall arrange for an appropriate and effective watch to be maintained for the purpose of safety. Special requirements may be necessary for special type of ships' propulsion systems or ancillary equipment and for ships carrying hazardous, dangerous, toxic or highly flammable materials or other special types of cargo.

80. Deck Watch

Arrangements for keeping a deck watch when the ship is in port shall at all times be adequate to—

- (a) ensure the safety of life, of the ship, the port and the environment, and the safe operation of all machinery related to cargo operations;
- (b) observe international, national and local rules; and
- (c) maintain order and the normal routine of the ship.

81. Master to Decide on deck watch

(1) The master shall decide the composition and duration of the deck watch depending on the conditions of mooring, type of the ship and character of duties.

(2) If the master considers it necessary, a qualified officer shall be in charge of the deck watch.

(3) The necessary equipment shall be so arranged as to provide for efficient watchkeeping.

82. Responsibility of Chief Engineer

(1) The chief engineer officer, in consultation with the master, shall ensure that engineering watchkeeping arrangements are adequate to maintain a safe engineering watch while in port.

(2) When deciding the composition of the engineering watch, which may include appropriate engine-room ratings, the following points are among those to be taken into account:

- (a) On all ships of 3 000 kW propulsion power or more there shall always be an officer in charge of the engineering watch;
- (b) on ships of less than 3 000 kW propulsion power there may be, at the master's discretion and in consultation with the chief engineer officer, no officer in charge of the engineering watch; and
- (c) officers, while in charge of an engineering watch, shall not be assigned or undertake any task or duty which would interfere with their supervisory duty in respect of the ship's machinery system.

83. Handing over of watch

(1) Officers in charge of the deck or engineering watch shall not hand over the watch to their relieving officer if they have any reason to believe that the latter is obviously not capable of carrying out watchkeeping duties effectively, in which case the master or chief engineer shall be notified accordingly.

(2) Relieving officers of the deck or engineering watch shall ensure that all members of their watch are apparently fully capable of performing their duties effectively.

84. Operations to be completed before handing over

If, at the moment of handing over the deck or engineering watch, an important operation is being performed it shall be concluded by the officer being relieved, except when ordered otherwise by the master or chief engineer officer.

PART VI –TAKING OVER DECK WATCH

85. Information for relieving officer by deck watch officer

Before taking over the deck watch, the relieving officer shall be informed of the following by the officer in charge of the deck watch as to—

- (a) the depth of the water at the berth, the ship's draught, the level and time of high and low waters; the securing of the moorings, the arrangement of anchors and the scope of the anchor chain, and other mooring features important to the safety of the ship, the state of main engines and their availability for emergency use;
- (b) all work to be performed on board the ship, the nature, amount and disposition of cargo loaded or remaining, and any residue on board after unloading the ship;
- (c) the level of water in bilges and ballast tanks;
- (d) the signals or lights being sounded or exhibited;
- (e) the number of crew members required to be on board and the presence of any other persons on board;
- (f) the state of fire-fighting appliances;
- (g) any special port regulations;
- (h) the master's standing and special orders;
- (i) the lines of communication available between the ship and shore personnel, including port authorities, in the event of an emergency arising or assistance being required;
- (j) any other circumstances of importance to the safety of the ship, its crew, cargo or protection of the environment from pollution; and

[Subsidiary]

- (k) the procedures for notifying the appropriate authority of any environmental pollution resulting from ship activities.

86. Responsibility of relieving Officers

Relieving officers, before assuming charge of the deck watch, shall ensure that—

- (a) the securing of moorings and anchor chain is adequate;
- (b) the appropriate signals or lights are properly sounded or exhibited;
- (c) safety measures and fire protection regulations are being maintained;
- (d) they are aware of the nature of any hazardous or dangerous cargo being loaded or discharged and the appropriate action to be taken in the event of any spillage or fire; and
- (e) no external conditions or circumstances imperil the ship and that it does not imperil others.
- (f) they are aware of any ballasting/de-ballasting operations in progress and the current status of anti-heeling pumps and systems (where installed).

PART VII – TAKING OVER ENGINEERING WATCH

87. Information for relieving officer by engineering watch officer

(1) Before taking over the engineering watch, the relieving officer shall be informed by the officer in charge of the engineering watch as to—

- (a) the standing orders of the day, any special orders relating to the ship operations, maintenance functions, repairs to the ship's machinery or control equipment;
- (b) the nature of all work being performed on machinery and systems on board ship, personnel involved and potential hazards;
- (c) the level and condition, where applicable, of water or residue in bilges, ballast tanks, slop tanks, sewage tanks, reserve tanks and special requirements for the use or disposal of the contents thereof;
- (d) any special requirements relating to sanitary system disposals;
- (e) the condition and state of readiness of portable fire-extinguishing equipment and fixed fire-extinguishing installations and fire-detection systems;
- (f) authorized repair personnel on board engaged in engineering activities, their work locations and repair functions and other authorized persons on board and the required crew;
- (g) any port regulations pertaining to ship effluents, fire-fighting requirements and ship readiness, particularly during potential bad weather conditions;
- (h) the lines of communication available between the ship and shore personnel, including port authorities, in the event of an emergency arising or assistance being required;
- (i) any other circumstances of importance to the safety of the ship, its crew, cargo or the protection of the environment from pollution; and
- (j) the procedures for notifying the appropriate authority of environmental pollution resulting from engineering activities.

(2) Relieving officers, before assuming charge of the engineering watch, shall satisfy themselves that they are fully informed by the officer being relieved, as outlined above, and shall—

- (a) be familiar with existing and potential sources of power, heat and lighting and their distribution;
- (b) know the availability and condition of ship's fuel, lubricants and all water supplies; and

[Issue 3]

- (c) be ready to prepare the ship and its machinery, as far as is possible, for stand-by or emergency conditions as required.

PART VIII – PERFORMING DECK WATCH

88. Duties of officer in charge of deck watch

The officer in charge of the deck watch shall—

- (a) make rounds to inspect the ship at appropriate intervals;
- (b) pay particular attention to—
 - (i) the condition and securing of the gangway, anchor chain and moorings, especially at the turn of the tide and in berths with a large rise and fall, if necessary, taking measures to ensure that they are in normal working condition;
 - (ii) the draught, under-keel clearance and the general state of the ship, to avoid dangerous listing or trim during cargo handling or ballasting;
 - (iii) the weather and sea state;
 - (iv) the observance of all regulations concerning safety and fire protection;
 - (v) the water level in bilges and tanks;
 - (vi) all persons on board and their location, especially those in remote or enclosed spaces; and
 - (vii) the exhibition and sounding, where appropriate, of lights and signals;
- (c) in bad weather, or on receiving a storm warning, take the necessary measures to protect the ship, persons on board and cargo;
- (d) take every precaution to prevent pollution of the environment by the ship;
- (e) in an emergency threatening the safety of the ship, raise the alarm, inform the master, take all possible measures to prevent any damage to the ship, its cargo and persons on board, and, if necessary, request assistance from the shore authorities or neighbouring ships;
- (f) be aware of the ship's stability condition so that, in the event of fire, the shore fire fighting authority may be advised of the approximate quantity of water that can be pumped on board without endangering the ship;
- (g) Offer assistance to ships or persons in distress;
- (h) Take necessary precautions to prevent accidents or damage when propellers are to be turned; and
- (i) enter in the appropriate log-book all important events affecting the ship.

PART IX – PERFORMING ENGINEERING WATCH

89. Duties of officer in charge of Engineering Watch

Officers in charge of the engineering watch shall pay particular attention to—

- (a) the observance of all orders, special procedures and regulations concerning hazardous conditions and their prevention in all areas in their charge;
 - (b) the instrumentation and control systems, monitoring of all power supplies, components and systems in operation;
 - (c) the techniques, methods and procedures necessary to prevent violation of the pollution regulations of the local authorities; and
 - (d) the state of the bilges.
- (2) Officers in charge of the engineering watch shall—
- (a) in emergencies, raise the alarm when in their opinion the situation so demands, and take all possible measures to prevent damage to the ship, persons on board and cargo;

[Subsidiary]

- (b) be aware of the deck officer's needs relating to the equipment required in the loading or unloading of the cargo and the additional requirements of the ballast and other ship stability control systems;
- (c) make frequent rounds of inspection to determine possible equipment malfunction or failure, and take immediate remedial action to ensure the safety of the ship, of cargo operations, of the port and the environment;
- (d) ensure that the necessary precautions are taken, within their area of responsibility, to prevent accidents or damage to the various electrical, electronic, hydraulic, pneumatic and mechanical systems of the ship; and
- (e) ensure that all important events affecting the operation, adjustment or repair of the ship's machinery are satisfactorily recorded.

PART X – WATCH IN PORT ON SHIPS CARRYING HAZARDOUS CARGO**90. Duty of Master where there is hazardous Cargo**

The master of a ship carrying cargo that is hazardous, whether explosive, flammable, toxic, health-threatening or environment-polluting, shall ensure that safe watchkeeping arrangements are maintained. On ships carrying hazardous cargo in bulk, this will be achieved by the ready availability on board of a duly qualified officer or officers, and ratings where appropriate, even when the ship is safely moored or safely at anchor in port

(2) On ships carrying hazardous cargo other than in bulk, the master shall take full account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions on board, afloat and ashore.

THE MERCHANT SHIPPING (RADIO COMMUNICATIONS) REGULATIONS, 2012

ARRANGEMENT OF REGULATIONS

PART I – GENERAL

1. Citation.
2. Interpretation.
3. Application.
4. Ships and persons in distress.
5. Equivalents and exemptions.
6. Performance standards.

PART II – GMDSS SHIP REQUIREMENTS

7. Functional Requirements.
8. Installation, location and control of radio equipment.
9. Installation of a distress panel.
10. Radio equipment to be provided for all sea areas.
11. Additional radio equipment to be provided for area A1 ships.
12. Additional radio equipment to be provided for area A2 ship.
13. Additional radio equipment to be provided for area A3 ship.
14. Additional radio equipment to be provided for area A4 ship.
15. Registration of radio-communications equipment.
16. Radio watches.
17. Installation of a distress panel.
18. Serviceability and maintenance requirements.
19. Radio personnel.
20. Radio records.
21. Position-updating.
22. Exemptions from Part II.

PART III – NONGMDSS SHIP REQUIREMENTS

23. Provision of radio equipment.
24. Interference with reception and other installations.
25. Charging of batteries.
26. Serviceability and maintenance requirements.
27. VHF radiotelephone station.
28. Provision of VHF radiotelephone antennas.
29. Sources of energy (VHF radiotelephone installation).
30. Use of VHF radiotelephone installation.
31. VHF Radio watches.
32. Radiotelephone station.
33. Provision of radiotelephone antennas.
34. Range of radiotelephone transmitter.
35. Sources of energy (Radiotelephone ship).
36. Radio watch (Radiotelephone ship).
37. Radiotelephone operators.
38. Radio records (Radiotelephone ship).

PART IV – RADIO LIFE-SAVING EQUIPMENT

39. Two-way VHF radiotelephone apparatus.
40. Radar transponders.

Merchant Shipping

[Subsidiary]

PART V – RADIO-COMMUNICATION REQUIREMENTS FOR SHIPS OF LESS
THAN 25 TONS AND PLEASURE VESSELS OF LESS THAN 100 TONS

41. Mandatory communication equipment.

PART VI – ENFORCEMENT

42. Inspection etc. of Convention ships not registered or licensed Kenya.
43. Ships not to be detained in certain cases.
44. Director-General may impose penalty upon admission of guilt.

SCHEDULES

FIRST —	STANDARDS OF PERFORMANCE OF RADIO EQUIPMENT
SECOND —	SATELLITE EPIRBs
THIRD —	SERVICEABILITY AND MAINTENANCE REQUIREMENTS OF RADIO EQUIPMENT UNDER THE GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM (GMDSS)
FOURTH —	EQUIPMENT TESTS AND RESERVE POWER CHECKS
FIFTH —	GMDSS RADIO LOG

THE MERCHANT SHIPPING (RADIO COMMUNICATIONS) REGULATIONS, 2012

[L.N. 117/2012.]

PART I – GENERAL**1. Citation**

These Regulations may be cited as the Merchant Shipping (Radiocommunications) Regulations, 2012.

2. Interpretation

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

“Admiralty List of Radio Signals” means the document so entitled published by the United Kingdom Hydrographer of the Navy and any subsequent List containing the like information which the Hydrographer of the Navy considers relevant from time to time which replaces the Admiralty List of Radio Signals or replaces any subsequent list containing the like information; and any reference to any such List includes a reference to any United Kingdom Admiralty Notice to Mariners amending the same which the Hydrographer of the Navy considers relevant from time to time;

“area A1 ship” means a ship which goes to sea in sea area A1 only and includes Cargo ships of less than 300 GT, pleasure vessels not engaged in trade and fishing vessels;

“area A2 ship” means a ship which goes to sea in sea area A2 only, or in sea areas A1 and A2;

“area A3 ship” means a ship which goes to sea in sea area A3 only, or in sea area A3 and also in sea area A1 or A2 or both those sea areas;

“area A4 ship” means a ship which goes to sea in sea area A4 only, or in sea area A4 and also in one or more of sea areas A1, A2 and A3;

“bridge-to-bridge communications” means safety communications between ships from the position from which the ships are normally navigated;

“cargo ship” in these regulations means any ship that is not—

- (a) a passenger ship;
- (b) a fishing vessel; or
- (c) a pleasure vessel;

“certificated” radio operator means a person qualified as specified in regulation 19, as a VHF radiotelephone operator, radiotelephone operator, or radio officer;

“conning position” means the place on the bridge with a commanding view of the ship and its position used by navigators when commanding manoeuvring and controlling the ship;

“continuous watch” means a radio watch which is not interrupted other than for brief intervals when the ship’s receiving capability is impaired or blocked by its own communications or when the facilities are under periodical maintenance or checks;

“contravene”, in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

“COSPAS-SARSAT satellite service” means a satellite aided search and rescue system designed to locate distress beacons transmitting in the 406 MHz band and on other frequencies;

“direct-printing telegraphy” means an automated telegraphy technique which complies with the relevant recommendations in the First Schedule;

“**DSC**” means Digital Selective Calling being a technique using digital codes which enables a radio station to establish contact with, and transfer information to, another station or group of stations, and complying with the relevant recommendations as specified in the First Schedule;

“**DSC watch**” means listening for an audible alarm from a ship’s DSC equipment on VHF (Channel 70), MF (2187.5 kHz) or HF (8414.5 kHz, and on at least one of the distress and safety DSC frequencies 4207.5 kHz, 6312 kHz, 12577 kHz or 16804.5 kHz;

“**dugout canoe**” means a boat or canoe made of hollowed tree trunk;

“**EPIRB**” means an emergency position indicating radiobeacon capable of transmitting a distress alert through the COSPAS/SARSAT polar orbiting satellite service operating in the 406 MHz band or through the INMARSAT geostationary satellites operating in the 1.6 GHz band, the emissions of which are intended to facilitate search and rescue operations;

“**fishing vessel**” means any of the following classes of vessels used for catching fish or other living resources of the sea or inland waters for financial gain or reward:

- (a) Class A-fishing vessels of 45 metres or more in length making voyages outside waters under Kenyan jurisdiction;
- (b) Class B-fishing vessels of less than 45 metres in length making voyages outside waters under Kenyan jurisdiction;
- (c) Class C-fishing vessels, other than of class D, making voyages exclusively within waters under Kenyan jurisdiction;
- (d) Class D fishing vessels making voyages exclusively within waters under Kenyan jurisdiction, not more than 40 nautical miles from shore; and
- (e) Class R vessels operating only in inland waters;

“**general radiocommunications**” means operational and public correspondence traffic, other than distress, urgency and safety messages, conducted by radio;

“**GMDSS**” means the Global Maritime Distress and Safety System;

“**GMDSS general operator’s certificate**” and “**GMDSS restricted operator’s certificate**” means the certificates respectively so called in the Radio Regulations, issued in accordance with these Regulations, and which, in relation to a Kenyan ship, shall be issued under the authority of the Communications Commission of Kenya;

“**GMDSS ship**” means a ship to which Part II of these Regulations applies;

“**Non-GMDSS ship**” means a ship to which parts III, IV and V of these regulations applies;

“**HF**” means the frequency spectrum between 3000 kHz and 30 MHz;

“**inland waters vessel**” means a vessel operating in inland waters.

“**inland waters**” means navigable waters within Kenya other than waters of the Indian Ocean and includes canals, lakes, rivers, water courses, inlets, reservoirs and bays.

“**INMARSAT**” means the Organisation established by the Convention on the International Maritime Satellite Organisation (INMARSAT) adopted on 3rd September 1976, as amended;

“**International NAVTEX service**” means the co-ordinated broadcast and automatic reception on 518 kHz of maritime safety information by means of narrow-band direct-printing telegraphy using the English language;

“**locating**” means the finding of ships, aircraft, units or persons in distress;

“maintenance” means any activity intended to keep a radio installation in efficient working condition, and includes tests, measurements, replacements, adjustments and repairs;

“maritime safety information” means navigational and meteorological warnings, meteorological forecasts and other urgent safety related messages broadcast to ships;

“mobile satellite service” means a radiocommunications service

(a) mobile earth stations and one or more space stations, or between space stations used by this service; or

(b) mobile earth stations by means of one or more space stations;

and this service may also include feeder links necessary for its operation;

“MF” means the frequency spectrum between 300kHz and 3000 kHz;

“non-Convention ship” means—

(a) a passenger ship that is not foreign-going;

(b) a cargo ship of 300 tons or more that is not foreign going;

(c) a cargo ship of less than 300 tons;

(d) a fishing vessel;

(e) a pleasure vessel; or

(f) wooden ships of traditional build

“non-GMDSS ship” means any ship other than a GMDSS ship;

“operator” includes master, and any charterer or agent of the ship;

“polar orbiting satellite service” means a service which is based on polar orbiting satellites which receive and relay distress alerts from satellite EPIRBs and which provides their position;

“radar transponder” means a survival craft radar transponder for search and rescue between ships or aircraft and survival craft;

“radio communication” means telecommunication by means of radio waves;

“radio communications service” means a service as defined in the Radio Regulations involving the transmission, emission and/or reception of radio waves for specific telecommunication purposes;

“radio installation” means any radio installation provided on board a ship in compliance with these regulations, including its associated antennas, inter-connecting circuits and, where appropriate, sources of energy;

“radio log” means the diary of the radio communication service required to be kept by regulation 20;

“radiotelephone station” means the place on board a ship where a radiotelephone installation is located;

“Radio Regulations” are accumulation of agreements reached at the World or regional radio conferences of the International and Telecommunication Union as amended.

“Safety Convention” shall have the meaning assigned to it in the Act;

“satellite EPIRB” means an EPIRB which is in the mobile-satellite service;

“sea area A1” means an area within the radiotelephone coverage of at least one VHF coast station in which continuous DSC alerting is available;

“sea area A2” means an area, excluding sea area A1, within the radiotelephone coverage of at least one MF coast station in which continuous DSC alerting is available;

“**sea area A3**” means an area, excluding sea areas A1 and A2, within the coverage of an INMARSAT geostationary satellite in which continuous alerting is available;

“**sea area A4**” means an area outside sea areas A1, A2 and A3;

“**service**” means, in relation to a reference to any particular type of radio service, a reference to that service as defined in the Radio Regulations;

“**ship earth station**” means a mobile earth station in the maritime mobile-satellite service located on board ship;

“**ship station**” means a mobile station in the maritime mobile-satellite service located on board a vessel which is not permanently moored, other than a survival craft station;

“**similar stage of construction**” means the stage at which—

- (a) construction identifiable with a specific ship begins; and
- (b) assembly of that ship commenced comprising at least 50 tons or 1% of the estimated mass of all structural material, whichever is less;

“**survival craft**” means a vessel that is capable of sustaining the lives of persons in distress after abandoning ship;

“**survival craft station**” means a mobile station in the maritime mobile-satellite service intended solely for survival purposes and located on any lifeboat, life-raft or other survival equipment.

“**VHF**” means the frequency spectrum between 30 MHz and 300 MHz;

“**VHF coast station**” means a radio communication service located on the coast offering services in the very high frequency band (30-300 MHz);

“**waters under Kenyan jurisdiction**” means waters comprising—

- (a) the internal, inland and territorial waters of Kenya; and
- (b) the exclusive economic zone.

(2) For the purposes of these regulations, a ship shall be deemed to be making a voyage or to be at sea at any time when it is not securely ashore or moored in a safe berth.

3. Application

Subject to this regulation, these regulations shall apply to—

- (a) ships that are registered or licensed in Kenya wherever they may be; and
- (b) other ships while they are in Kenya or its inland waters.

(2) Regulations 4, 5, 6 and Part II apply to Convention ships and class A fishing vessels.

(3) Regulations 4, 5, 6 and Part III apply to non-Convention ships, other than class A fishing vessels.

(4) Parts IV and V apply both to Convention ships and to non-Convention ships.

(5) Notwithstanding paragraph (1)(a), these regulations shall not apply to a ship that is registered or licensed in Kenya while it is in the waters of a country other than Kenya where their provisions are inconsistent with the laws of that country.

(6) Notwithstanding the provisions, of these regulations only Part V shall apply to—

- (a) ships of less than 25 tons; or
- (b) pleasure vessels of less than 100 tons.

(7) Subject to sub-regulation (6), regulations 4, 5, 6 and Part VI shall apply to vessels provided in that sub-regulation.

4. Ships and persons in distress

Nothing in these Regulations shall prohibit any ship, survival craft or person in distress from using any means at their disposal to attract attention, make known their position or obtain help.

5. Equivalents and exemptions

(1) Where these Regulations require that a particular fitting, material, appliance or apparatus, or type thereof, shall be fitted or carried in a ship, or that any particular provision shall be made, the Director General may permit any other fitting, material, appliance or apparatus or type thereof to be fitted or carried, or any other provision to be made in that ship where he is satisfied by trial thereof or otherwise that such other fitting, material, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by these Regulations.

(2) The Director-General may exempt any individual ship or class or description of ships from any of the provisions of Parts II and III of these Regulations, on such terms, if any, as he may specify and may, on reasonable notice, alter or cancel any such exemption.

6. Performance standards

(1) Subject to subregulation (2), radio equipment required by these regulations shall—

- (a) in the case of Convention ships, comply with performance standards not inferior to the relevant performance standards adopted by the IMO and specified by the Authority in the First Schedule to these Regulations or in a marine notice as having been so adopted; and
- (b) in the case of non-Convention ships, comply with such performance standards as may be specified by the Authority in a marine notice; and
- (c) in either case, be of a type approved by the Communications Commission of Kenya.

(2) In respect of a ship entitled to fly the flag of a Convention State, sub-regulation (1) (c) does not apply to equipment of a type approved by or on behalf of the competent maritime authority of that State.

(3) Every approval given pursuant to this regulation—

- (a) must be given in writing;
- (b) must specify the date on which it takes effect and the conditions (if any) on which it is given; and
- (c) may, after reasonable notice, be altered or cancelled.

PART II – GMDSS SHIP REQUIREMENTS

7. Functional Requirements

Every ship, to which this Part applies, while at sea, shall be required to be capable of—

- (a) transmitting ship-to-shore distress alerts by at least two separate and independent means, using different radiocommunication service, other than by the means provided for in regulations 11(1)(a) and 13(1)(d)(iii) Alternative A;
- (b) receiving shore-to-ship distress alerts;
- (c) transmitting and receiving ship-to-shore distress alerts;
- (d) transmitting and receiving search and rescue co-ordinating communication;
- (e) transmitting and receiving on-scene communication;
- (f) transmitting and receiving signals for locating;
- (g) transmitting and receiving maritime safety information;
- (h) transmitting and receiving general radio-communications to and from shore-based radio systems or networks;
- (i) transmitting and receiving bridge-to-bridge communication.

8. Installation, location and control of radio equipment

(1) Every radio installation shall—

[Subsidiary]

- (a) be so located that no harmful interference of mechanical, electrical or other origin affects its proper use, and so as to ensure electromagnetic compatibility and avoidance of harmful interaction with other equipment and systems;
- (b) be so located as to ensure the greatest possible degree of safety and operational availability;
- (c) be protected against harmful effects of water, extremes of temperature and other adverse environmental conditions;
- (d) be provided with reliable, permanently arranged electrical lighting, independent of the main and emergency sources of electrical power, for the adequate illumination of the radio controls for operating the radio installation; and
- (e) be clearly marked with the call sign, the ship station identity and other codes as applicable for the use of the radio installation.

(2) Control of the VHF radiotelephone channels shall be immediately available on the navigating bridge convenient to the position from which the ship is normally navigated and where appropriate, facilities shall be available to permit radio-communications from the wings of the navigating bridge, and portable VHF equipment may be used to meet the latter provision.

(3) Each radio transmitter and receiver fitted in accordance with these Regulations shall be provided with a suitable antenna or antennas, which shall be so constructed and sited as to enable each transmitter and receiver to perform its intended communication function effectively.

9. Installation of a distress panel

(1) In every passenger ship to which this regulation applies a distress panel shall be installed at the conning position.

(2) A distress panel shall—

- (a) contain either—
 - (i) a single button for all radio communications installations on board; or
 - (ii) a separate button for each radio communication installation on board which, when pressed, initiates a distress alert using all radio communication installations required on board for that purpose.
- (b) clearly and visually indicate whenever any such button or buttons referred to in paragraph (a) have been pressed; and
- (c) provide visual and aural indication of any distress alert or alerts received on board and indicate through which radio communication service the distress alert or alerts have been received.

(3) Means shall be provided to prevent inadvertent activation of the button or buttons on the distress panel.

(4) Where the satellite EPIRB required by regulation 10(1)(f) is used as the secondary means of initiating a distress alert pursuant to these Regulations and is not capable of being remotely activated, an additional EPIRB shall be installed in the wheelhouse near the conning position.

(5) Information on the ship's position shall be continuously and automatically provided to all relevant radio-communication equipment included in the initial distress alert when the button or buttons on the distress panel is pressed.

10. Radio equipment to be provided for all sea areas

(1) Every ship shall be provided with—

- (a) a VHF radio installation capable of transmitting and receiving—
 - (i) DSC on the frequency 156.525 MHz (Channel 70) and means shall be provided to initiate the transmission of distress alerts on Channel 70 from the position from which the ship is normally navigated; and

[Issue 3]

- (ii) radiotelephony on the frequencies 156.300 MHz (Channel 6), 156.650 MHz (Channel 13) and 156.800 MHz (Channel 16);
- (b) VHF radio installation capable of maintaining a continuous DSC watch on Channel 70 referred to above which may be separate from, or combined with, that required by subparagraph (a)(i) of this subregulation;
- (c) a radar transponder capable of operating in the 9 GHz band, which—
 - (i) shall be stowed in such a manner that it can be easily utilised; and
 - (ii) may be one of those required for a survival craft in accordance with the prescribed regulations;
- (d) where the ship is at sea in any area in which an international NAVTEX service is provided, a receiver capable of receiving international NAVTEX service broadcasts;
- (e) where the ship is at sea in any area of INMARSAT coverage but in which an international NAVTEX service is not provided, a radio facility for reception of maritime safety information by the INMARSAT enhanced group calling system;
- (f) subject to the provisions of regulation 12(3) a satellite EPIRB complying with the requirements of the Second Schedule.

(2) Every passenger ship to which this subregulation applies shall be provided with means for two-way on-scene radio communication for search and rescue purposes capable of operating solely on the aeronautical frequencies 121.5 MHz and 123.1MHz from the position from which the ship is normally navigated.

11. Additional radio equipment to be provided for area A1 ships

(1) In addition to meeting the requirements of regulation 10, every A1 area ship shall be provided with a radio installation capable of initiating the transmission of ship-to-shore distress alerts by operation from the position from which the ship is normally navigated, operating either—

- (a) on VHF using DSC which requirement may be fulfilled by the VHF EPIRB required by subregulation(3) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated;
- (b) through the polar orbiting-satellite service on 496MHz, which requirement may be fulfilled by the satellite EPIRB, required by regulation 10(1)(f) when it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated;
- (c) where the ship is at sea within coverage of MF coast stations equipped with DSC, on MF using DSC;
- (d) on HF using DSC; or
- (e) through the INMARSAT geostationary satellite service; this service may be fulfilled by—
 - (i) an INMARSAT ship earth station; or
 - (ii) the satellite EPIRB, required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated.

(3) The VHF radio installation, required by regulation 10(1)(a) shall also be capable of transmitting and receiving general radio-communications using radiotelephony.

(4) Area A1 ships may, in lieu of being provided with the satellite EPIRB required by regulation 10(1)(f), be provided with an EPIRB which is—

- (a) capable of transmitting a distress alert using DSC on VHF channel 70 and providing for locating by means of a radar transponder operating in the 9 GHz band;
- (b) installed in an easily accessible position;

[Subsidiary]

- (c) ready to be manually released and capable of being carried by one person into a survival craft;
- (d) capable of floating free if the ship sinks;
- (e) capable of being activated manually; and
- (f) automatically activated when afloat.

12. Additional radio equipment to be provided for area A2 ships

(1) In addition to meeting the requirements of regulation 10, every area A2 ship shall be provided with—

- (a) an MF radio installation capable of transmitting and receiving, for distress and safety purposes, on the frequencies—
 - (i) 2,187.5 kHz using DSC; and
 - (ii) 2,182 kHz using radiotelephony;
- (b) radio installation capable of maintaining a continuous DSC watch on the frequency 2,187.5 kHz; such installation may be separate from, or combined with, that required by subparagraph (a) (i); and
- (a) the equipment specified in sub-regulation (3)(b) ;or
- (b) the satellite EPIRB, where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated;

(2) Means shall be provided to initiate transmission of distress alerts by the radio installations specified in subregulations (1)(a) and (1)(c) from the position from which the ship is normally navigated.

(3) The ship shall, in addition, be capable of transmitting and receiving general radio-communication using radiotelephony or direct-printing telegraphy by either—

- (a) a radio installation operating on working frequencies in the bands between 1,605 kHz and 4,000 kHz or between 4,000 kHz and 27,500 kHz, which requirement may be fulfilled by the addition of this capability to the equipment required by sub-regulation(1)(a); or an INMARSAT ship earth station.

13. Additional radio equipment to be provided for area A3 ships

(1) In addition to meeting the requirements of regulation 10, every area A3 ship shall be provided with either of the following equipment—

ALTERNATIVE A

- (a) an MF radio installation capable of transmitting and receiving, for distress and safety purposes, on the frequencies—
 - (i) 2,187.5 kHz using DSC; and
 - (ii) 2,182 kHz using radiotelephony;
- (b) an INMARSAT ship earth station capable of—
 - (i) transmitting and receiving distress and safety communications using direct printing telegraphy;
 - (ii) initiating and receiving distress priority calls;
 - (iii) maintaining watch for shore-to-ship distress alerts, including those directed to specifically defined geographical areas;
 - (iv) transmitting and receiving general radio-communications, using either radiotelephony or direct-printing telegraphy;
- (c) a radio installation capable of maintaining a continuous DSC watch on the frequency 2,187.5 kHz which may be separate from or combined with that required by sub-regulation(b)(i); and
- (d) means of initiating the transmission of ship-to-shore distress alerts by a radio service operating either—

[Issue 3]

- (i) through the polar orbiting satellite service on 406 MHz; this requirement may be fulfilled by the satellite EPIRB, required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated;
- (ii) on HF using DSC; or
- (iii) through the INMARSAT geostationary satellite service, either by an additional ship earth station or by the satellite EPIRB required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated, or the following equipment—

ALTERNATIVE B

- (b) an MF/HF radio installation capable of transmitting and receiving, for distress and safety purposes, on all distress and safety frequencies in the bands between 1,605 kHz and 4,000 kHz and between 4,000 kHz and 27,500 kHz—
 - (i) using DSC;
 - (ii) using radiotelephony; and
 - (iii) using direct-printing telegraphy;
- (c) equipment capable of maintaining DSC watch on 2,187.5 kHz, 8,414.5 kHz and on at least one of the distress and safety DSC frequencies 4,207.5 kHz, 6312 kHz, 12,577 kHz or 16,804.5 kHz; the equipment shall be such that it shall be possible at any time to select any of these DSC distress and safety frequencies; this equipment may be separate from, or combined with, the equipment required by sub paragraph (a);
- (d) means of initiating the transmission of ship-to-shore distress alerts by a radio-communication service other than HF operating either—
 - (i) through the polar orbiting satellite service on 406 MHz; this requirement may be fulfilled by the satellite EPIRB, required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated; or
 - (ii) through the INMARSAT geostationary satellite service; this requirement may be fulfilled by—
 - (aa) an INMARSAT ship earth station; or
 - (bb) the satellite EPIRB, required by regulation 10(1)(f) where it is installed close to, or capable of remote activation from, the position from which the ship is normally navigated; and
- (c) in addition, means of transmitting and receiving general radio-communications using radiotelephony or direct printing telegraphy shall be provided by an MF/HF radio installation operating on working frequencies in the bands between 1,605 kHz and 4,000 kHz and between 4,000 and 27,500 kHz; this requirement may be fulfilled by the addition of this capability in the equipment required by sub paragraph (a).

(2) Means shall be provided to initiate transmissions of distress alerts from the position from which the ship is normally navigated by the radio installations specified in sub paragraphs (a), (b) and (d) of ALTERNATIVE A and (a) and (c) of ALTERNATIVE B of this regulation.

14. Additional radio equipment to be provided for area A4 ships

(1) In addition to meeting the requirements of regulation 10, every area A4 ship shall be provided with the radio installations and equipment specified in ALTERNATIVE B in regulation 13(1), except that the equipment required by (c)(ii) of ALTERNATIVE B shall not

[Subsidiary]

be accepted as an alternative to that required by regulation (c)(i) of ALTERNATIVE B, which shall always be provided.

(2) ships required to comply with sub-regulation(1) shall in addition comply with the requirements of regulation 13(2).

15. Registration of radio-communication equipment

Every owner and operator of a ship to which these regulations apply shall ensure that every radio-communication equipment carried on the ship (whether or not carried in compliance with statutory requirements) is registered with a competent authority and that the registered particulars are correct.

16. Radio watches

(1) Every ship shall while at sea maintain a continuous watch—

- (a) on VHF DSC channel 70, where the ship, in accordance with the requirements of regulation 10(1)(b), is fitted with VHF radio installation; and
- (b) on the distress and safety DSC frequency 2, 187.5 kHz, where the ship, in accordance with the requirements of regulation 12(1)(b) or subregulation(c) of ALTERNATIVE A in regulation 13, is fitted with an MF radio installation;

17. Installation of a distress panel

(1) There shall be available at all times while the ship is at sea a supply of electrical energy sufficient to operate the radio installations and to charge any batteries used as part of a reserve source or sources of energy for the radio installations.

(2) A reserve source or sources of energy shall be provided on every ship to which this Part applies, to supply radio installations, used for the purpose of conducting distress and safety radio-communications, in the event of failure of the ship's main and emergency sources of electrical power.

(3) The reserve source or sources of energy shall be capable of simultaneously operating—

- (a) the VHF radio installation required by subregulation (1)(a) of regulation 10 and,
 - (b) as appropriate for the sea area or sea areas for which the ship is equipped, either—
 - (i) the MF radio installation required by subregulation (1)(a) of regulation 12,
 - (ii) the MF/HF radio installation required by subregulation (a) of ALTERNATIVE B in regulation 13 or regulation 14, or
 - (iii) the INMARSAT ship earth station required by subregulation(a) of ALTERNATIVE A in regulation 13;
- and any of the additional loads mentioned in sub-regulations (6),

(7) and (10) for a period of at least—

- (a) one hour on ships provided with an emergency source of electrical power; or
- (b) six hours on ships not provided with an emergency source of electrical power,
- (c) where such source of power complies with all the provisions of the relevant regulations made under this Act, as appropriate, including the supply of such power to the radio installations.

(3) The reserve source or sources of energy need not be capable of supplying independent HF and MF radio installations simultaneously.

(4) The reserve source or sources of energy shall be independent of the propelling power of the ship and the ship's electrical system.

(5) Where, in addition to the VHF installation, two or more of the other radio installations, referred to in subregulation(2), can be connected to the reserve source or sources of energy,

such sources shall be capable of simultaneously supplying, for the period specified, as appropriate, in sub regulations (2)(a) or (2)(b) the VHF radio installation and either—

- (a) all other radio installations which can be connected to the reserve source or sources of energy at the same time; or
- (b) where only one of the other radio installations can be connected to the reserve source or sources of energy at the same time as the VHF radio installation, whichever of the other radio installations will consume the most power.

(6) The reserve source or sources of energy may be used to supply the electrical lighting required by regulation 8(1)(d).

(7) Where a reserve source of energy consists of a rechargeable accumulator battery or batteries—

- (a) a means of automatically charging such batteries shall be provided which shall be capable of recharging them to minimum capacity requirements within 10 hours; and
- (b) the capacity of the battery or batteries shall be checked, using an appropriate method, at intervals not exceeding 12 months when the ship is not at sea.

(8) The siting and installation of accumulator batteries which provide a reserve source of energy shall be such as to ensure—

- (a) the highest degree of service;
- (b) a reasonable lifetime;
- (c) reasonable safety;
- (d) that battery temperatures remain within the manufacturer's specifications whether under charge or idle; and
- (e) that when fully charged, the batteries will provide at least the minimum required hours of operation under all weather conditions.

(9) Where an uninterrupted input of information from the ship's navigational or other equipment to a radio installation required by this Part is needed to ensure its proper performance, means shall be provided to ensure the continuous supply of such information in the event of failure of the ship's main or emergency source of electrical power.

(10) For the purpose of calculating the required capacity of the reserve source of energy, the total current used in calculations shall be equal to the highest sum of all the radio installations which simultaneously can be connected to the source of energy, based on the following—

- (a) the current consumption of the VHF receiver;
- (b) one fifth of the current consumption of the VHF transmitter;
- (c) the current consumption of a MF or MF/HF receiver and of the transmitter when it is in condition that operation of the "press to transmit" switch will make it ready for immediate transmission;
- (d) one third of the current which may be drawn by a MF or MF/HF transmitter for speech transmission on the frequency at which the current consumption of the transmitter is at a maximum;
- (e) the current consumption of an INMARSAT ship earth station when it is receiving transmissions;
- (f) one quarter of the current which may be drawn by an INMARSAT ship earth station when it is transmitting in the mode at which the current consumption is at a maximum; and
- (g) the total current consumption of all additional loads to which the reserve source may supply energy in times of distress or emergency.

18. Serviceability and maintenance requirements

[Subsidiary]

- (1) Radio equipment required under this Part shall be so designed that the main units can be replaced readily, without elaborate recalibration or readjustment.
- (2) Where appropriate, equipment shall be so constructed and installed that it is readily accessible for inspection and on-board maintenance purposes.
- (3) Adequate tools and spares shall be provided on board the ship to enable the equipment to be properly operated and maintained.
- (4) Adequate tools and spares shall be provided on board the ship to enable the equipment to be properly operated and maintained.
- (5) The radio equipment must be maintained to provide the availability of the functional requirements specified in regulation 7 and to meet the performance standards recommended by the IMO for such equipment, as specified pursuant to regulation 6(1) (a).
- (6) On ships while at sea the availability of equipment shall be ensured as required in the Third Schedule,
 - (a) The master of every ship to which this Part applies, being a ship that is registered or licensed in the Kenya, must designate a person (in this subregulation called the designated person), being a person qualified as described in regulation 19(2), who is to have the function of carrying out, while the ship is at sea, the appropriate tests and checks specified in the Fourth Schedule.
 - (b) Where any of the radio installations required by these Regulations are not in working order, the designated person shall inform the Master and record details of the deficiencies in the Radio Log referred to in regulation 20 (1).

19. Radio personnel

- (1) Every ship to which this Part applies shall carry the number of radio operators required by the Merchant Shipping (Safe Manning) Regulations, each of whom must be qualified for distress and safety radio communication purposes as specified in subregulations (3) or (4), as appropriate. Such person or persons shall be holders of certificates specified in the Radio Regulations as appropriate.
- (2) A person is qualified for the purposes of subregulation(1) where—
 - (a) On area A1 ships the person qualified as mentioned in subregulation (1) shall hold at least a GMDSS restricted operator's certificate issued in accordance with subsection D of Section IIIA of Article 55 of the Radio Regulations.
 - (b) On area A2, area A3 and area A4 ships the person qualified as mentioned in subregulation(1) shall hold at least a GMDSS general operator's certificate issued in accordance with sub-section C of Section III A of Article 55 of the Radio Regulations, or equivalent.
- (2) The master of every passenger ship to which this Part applies must designate at least one such person as mentioned in subregulation (2) to perform only radiocommunications duties during distress incidents.
- (3) The master of every ship to which this Part applies, other than a passenger ship, must designate one such person as mentioned in subregulation (2) to have primary responsibility for radiocommunications during distress incidents.

20. Radio records

- (1) There shall be kept in respect of every ship to which this Part applies a record, hereinafter referred to as "the GMDSS Radio Log", of the matters specified in the Fifth Schedule.
- (2) The Master shall inspect and sign each day's entries in the GMDSS Radio Log.
- (3) The GMDSS radio log shall form part of the ship's official logbook, but shall be kept separate from the official logbook, and, for the purposes of section 198 of the Act, it shall be deemed to be a document relating to the ship.

[Issue 3]

(4) The Master of a ship shall, on demand, produce to a surveyor or a proper officer, the Radio Log required to be kept on the ship. A master who fails to comply with this regulation shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

21. Position-updating

If radio equipment required by this Part is capable of automatically providing the ship's position when transmitting a distress alert, the ship's position and the time the ship was at that position must be made available for transmission by the radio equipment—

- (a) from a navigation receiver, if one is fitted; or
- (b) manually, at intervals not exceeding four hours, while the ship is at sea.

22. Exemptions from Part II

(1) The Director-General may exempt any ship, on such terms as he/she may specify, from a provision in Regulations 10, 11, 12, 13 or 14.

(2) When considering whether to exempt a ship, the Director-General shall take into account the effect of such exemption on the ship's ability to maintain proper communication for distress and safety purposes.

(3) An exemption may be granted under subregulation (1) only—

- (a) if the circumstances in relation to safety are such as to render the full application of regulation 10, 11, 12, 13 or 14, as the case may be, unreasonable or unnecessary; or
- (b) in exceptional circumstances, for a single voyage outside the sea area or sea areas for which the ship is equipped.

(4) The Director-General may, after reasonable notice, alter or cancel any exemption granted under subregulation (1).

(5) The Authority must, within 30 days after the first day of January in each year, submit to the IMO a report showing all exemptions granted under this regulation during the previous calendar year in respect of ships to which the Safety Convention applies and giving the reasons for granting them.

PART III – NON-GMDSS SHIP REQUIREMENTS

23. Provision of radio equipment

(1) Every ship to which this Part applies must be provided with a VHF radiotelephone installation that includes a transmitter and a receiver.

(2) Every ship to which this Part applies, being—

- (a) a passenger ship;
- (b) a cargo ship of 100 tons or more;
- (c) a cargo ship of less than 100 tons making a voyage more than 40 nautical miles from shore; or
- (d) a class B or C fishing vessel, must be provided with a radiotelephone installation that includes—
 - (i) a transmitter and a receiver;
 - (ii) a radiotelephone alarm signal generating device; and
 - (iii) during the period expiring on the fourth anniversary of the commencement of these regulations, either—

(2) A satellite EPIRB of the kind referred to in regulation 10(1)(f) must be provided—

- (a) on every ship to which this Part applies making a voyage outside waters under Kenyan jurisdiction;

[Subsidiary]

- (b) after the period expiring on the second anniversary of the commencement of these regulations, on every ship to which this part applies, being—
 - (i) a new ship, other than a fishing vessel; or
 - (ii) a class C fishing vessel; and
- (c) after the period expiring on the fourth anniversary of the commencement of these regulations, on every ship to which this Part applies, being—
 - (i) an existing ship, other than a fishing vessel; or a class D fishing vessel.

24. Interference with reception and other installations

(1) At no time while the ship is at sea is the operation of a radio installation required by this Part to prevent in any way the efficient operation of any other equipment installed on board the ship.

(2) At no time while the ship is—

- (a) at sea; or
- (b) in a port when a radio watch is required by the master, is the operation of any equipment in the ship to affect the efficient reception of radio signals by means of a radio installation required by this Part.

(3) Where in respect of any ship to which this Part applies it is impracticable to erect efficient and properly installed antennas for broadcast receivers that do not interfere with the efficiency of the ship's radio installation, the ship must be provided with a communal antenna system for broadcast receivers.

25. Charging of batteries

(1) Where batteries are provided as a source of energy for any part of the radio equipment required by this Part, means must be provided on board the ship for charging such batteries from the ship's main source of electrical power. The charging facilities must be adequate to ensure that the batteries can be fully charged within a period of 16 hours:

Provided that where more than one battery is provided and each has sufficient capacity to comply with regulation 34(2), the charging facilities must be adequate to ensure that each battery can be fully charged within a period of 16 hours, but not necessarily simultaneously.

(2) Where practicable, the batteries must be fully charged on every occasion immediately before the ship leaves port.

26. Serviceability and maintenance requirements

(1) Radio equipment required by this Part must be in an efficient working condition—

- (a) whenever the ship goes to sea; and
- (b) at all times when the ship is at sea, unless there is a defect in the equipment and maintenance is being carried out or such maintenance is not practicable.

(2) Where any additional equipment, which is not required by this Part, is provided, it must be of such design that any malfunction of any part of that equipment will not adversely affect the operation of the radio equipment required by this Part.

(3) Where appropriate, radio equipment required by this Part must be so constructed and installed that it is readily accessible for inspection and on-board maintenance purposes.

(4) Adequate tools, testing equipment and spare parts, but at least those specified in Annex 1 of the First Schedule, must be provided on board the ship to enable the equipment to be maintained.

(5) Spare parts must be appropriately labelled and must be stowed so as to be readily accessible.

(6) Adequate information, at least in the English language, must be provided on board the ship to enable the equipment to be properly operated and maintained.

(7) In respect of ships to which this Part applies, being ships that are registered or licensed in Kenya, there must be available on board—

[Issue 3]

- (a) a rigging plan of the fitted antennas showing—
 - (i) elevation and plan views of the antennas; and
 - (ii) the dimensions of transmitting antennas; and
- (b) complete information on the wiring of the radio installation showing all cable interconnections and terminations.

(8) In all ships to which this Part applies a radiotelephone operator must, while at sea, carry out the appropriate equipment tests and battery and reserve energy checks specified in the Fourth Schedule. Where the ship has two or more radiotelephone operators, the master must designate one of them to carry out those tests and checks.

(9) If any of the radio equipment required by this Part is not in a working condition, the radiotelephone operator discovering the deficiency must without delay report that fact to the master and record the details of the deficiency in the ship's official logbook or in the radio log required by regulation 38, as the case may be required.

27. VHF radiotelephone station

(1) The VHF radiotelephone station must be located in the upper part of the ship. Control of the VHF channels required for navigational safety must be immediately available on the navigation bridge convenient to the conning position and, where necessary, facilities such as portable two-way VHF radio equipment must be available to permit radiocommunications from the wings of the navigation bridge.

(2) A card of instructions giving a clear summary of the distress, urgency and safety procedures must be displayed in full view of each VHF radiotelephone operating position.

28. Provision of VHF radiotelephone antennas

Every ship to which this Part applies must be provided with an antenna suitable for the efficient radiation and reception of signals in the frequency band 156.025-162.025 MHz. The antenna must be

vertically polarised and, so far as practicable, have an unobstructed view in all directions.

29. Sources of energy (VHF radiotelephone installation)

(1) At all times while a ship to which this Part applies is at sea and at all reasonable times when it is in port, there must be available a source of energy sufficient to operate the VHF radiotelephone installation at its nominal rated output power.

(2) Where batteries are provided as a source of energy for any part of the VHF radiotelephone installation, they must have the capacity required by sub-regulation (1) and must be maintained at all times while at sea in such condition as to be able to supply continuously for at least six hours a total current equal to the sum of—

- (a) the current consumption of the VHF receiver; and
- (b) one fifth of the current consumption of the VHF transmitter.

(3) In every ship to which this Part applies, being a fishing vessel of 24 metres or more in length or a passenger ship, means must be provided, where practicable, to operate the VHF radiotelephone installation from an alternative source of energy situated in the upper part of the ship, unless the source of energy referred to in subregulation (1) is situated there. The alternative source of energy may be the reserve source of energy required by regulation 35(3), in which case the VHF usage thereof is to be limited to distress, urgency and safety communications.

(4) Where provision is made for operating the VHF radiotelephone installation from alternative sources of energy, clearly indicated means must be provided for rapid change from one source of energy to another.

30. Use of VHF radiotelephone installation

Every radiotelephone operator using the VHF radiotelephone installation must have practical knowledge of operating the VHF equipment and general knowledge of the Radio

[Subsidiary]

Regulations applying to VHF radiotelephone communications and specifically that part of those Regulations relating to distress signals and traffic, alarm, urgency and safety signals.

31. VHF Radio watches

(1) Every ship to which this Part applies, while at sea, must maintain a continuous watch on the navigation bridge on the frequency 156.8 MHz (VHF channel 16).

(2) This radio watch may be discontinued—

- (a) when the receiver is being used for traffic on a frequency other than 156.8 MHz;
- (b) when the ship is maintaining a watch on a frequency other than 156.8 MHz for the purpose of a port operation, ship movement or safety of navigation service;
- (c) when, at the direction of the master, the watch is being maintained elsewhere in the ship; or
- (d) if, in the opinion of the master, the watch is prejudicial to the safety of the ship.

(3) Where the radio watch is discontinued pursuant to subregulation (2) (c) or (d), entries must be made in the ship's official logbook or in the radio log required by regulation 37, as the case requires, of the times and duration for which the watch on the navigation bridge was discontinued and of the circumstances in which the watch was transferred elsewhere or in which the safety of the ship was prejudiced, as the case may be.

(4) A written summary shall be maintained of all communications relating to distress, urgency and safety traffic received or transmitted on the VHF radiotelephone installation during the radio watch.

(5) Every ship to which this Part applies, while at sea, must maintain a radio watch for broadcasts of maritime safety information on the appropriate channel or channels on which such information is broadcast for the area in which the ship is being navigated.

32. Radiotelephone station

(1) The radiotelephone station must be in the upper part of the ship and must be so sited that it is protected to the greatest possible extent from interference and noise that might impair the accurate reception of messages and signals.

(2) There must be an efficient means of two-way communication, independent of the ship's main communication system and main source of electrical power, between the radiotelephone station and any other place from which the ship is normally navigated.

(3) A reliable clock must be securely mounted in such a position that the entire dial can easily be observed from the radiotelephone operating position. The marking of the silence periods must be clearly visible.

(4) A reliable emergency light, independent of the system that supplies the normal lighting of the radiotelephone installation, must be provided and permanently arranged so as to be capable of providing adequate illumination of the operating controls of the radiotelephone installation, the clock required by subregulation (3) and the card of instructions required by subregulation (6). The emergency light must be controlled by two way switches clearly labelled to indicate their purpose, placed respectively near an entrance to the room in which the radiotelephone installation is fitted and at the operating position in that room;

Provided that where the radiotelephone installation is fitted on the navigation bridge, only the switch at the operating position needs to be provided.

(5) Where a source of energy for the radiotelephone installation consists of a battery or batteries, means must be provided at the radiotelephone station to indicate continuously whether the battery voltage is adequate to supply energy for the radiotelephone installation.

(6) A card of instructions, at least in the English language, giving a clear summary of the radiotelephone distress, urgency and safety procedures must be displayed in full view of each radiotelephone operating position.

[Issue 3]

(7) Means must be provided at the radiotelephone station for testing, without radiation of signals, the proper functioning of—

- (a) the radiotelephone alarm signal generating device, by ensuring that the device can modulate efficiently the radiotelephone transmitter; and
- (b) the muting circuits of the radiotelephone distress frequency watch receiver, if provided.

33. Provision of radiotelephone antennas

(1) Every radiotelephone in a ship must be provided with suitable antennas and insulators. Where wire antennas are suspended between supports liable to whipping, they must be protected against breakage.

In addition, every such ship must carry—

- (a) if the radiotelephone antenna is a supported wire antenna, a spare antenna completely assembled for rapid replacement of the radiotelephone antenna; or
- (b) if the radiotelephone antenna is not a supported wire antenna, a spare antenna of similar electrical characteristics, and the necessary means to erect an antenna.

(2) A suitable antenna must be provided for, and normally be connected to, the radiotelephone distress frequency watch receiver, if provided.

34. Range of radiotelephone transmitter

(1) The normal range of the radiotelephone transmitter required by this Part must not be less than 150 nautical miles on the frequency 2182 kHz. The range is normally to be determined by calculation of the metre-amperes (which is the product of the maximum height of the antenna in metres, measured from the lead-out insulator, and the current in amperes, measured at the base of the antenna), but if an antenna arrangement causes difficulty in determining the range of a transmitter by calculation, it must be determined by trial.

(4) A radiotelephone transmitter is to be taken to comply with subregulation (1) if the product calculated in accordance with that subregulation is not less than—

- (a) 7.5 metre-amperes, in the case of an antenna having a horizontal top-length of not less than 50 per cent of its maximum height, measured from the lead-out insulator; or
- (b) 12.8 metre-amperes, in the case of any other antenna.

(3) The radiotelephone transmitter must have a minimum rated output power of not less than 100 watts peak envelope power, measured between the transmitter final stage and the antenna tuning unit.

35. Sources of energy (Radiotelephone ship)

(1) At all times while a radiotelephone ship is at sea and at all reasonable times when it is in port, there must be available a main source of energy sufficient to operate the radiotelephone installation over the normal range required by regulation 34(1).

(2) Where batteries are provided as a source of energy, they must have the capacity required by subregulation (1) and must be maintained at all times while at sea in such condition as to be able to supply continuously for at least six hours a total current equal to the sum of—

- (a) the current consumption of the radiotelephone receiver and of the transmitter when it is in a condition that operation of the “press to transmit” switch will make it ready for the immediate transmission of speech;
- (b) one third of the current that may be drawn by the radiotelephone transmitter for speech transmission on the frequency at which the current consumption of the transmitter is at a maximum;

[Subsidiary]

- (c) the current consumption of all additional loads to which the battery may supply energy in time of distress or emergency; and
- (d) where the source of energy is also used by the VHF radiotelephone installation, the current consumption of the VHF radiotelephone receiver and one fifth of the current consumption of the VHF radiotelephone transmitter.

(5) In respect of radio installations in radiotelephone ships, being fishing vessels of 24 metres or more in length or passenger ships, a reserve source of energy must be provided in the upper part of the ship unless the main source of energy is situated there.

(6) The reserve source of energy, if provided, may be used to supply only—

- (a) the radiotelephone installation;
- (b) the emergency light required by regulation 32(4);
- (c) the device for generating the radiotelephone alarm signal by automatic means;
- (d) the VHF radiotelephone installation;
- (e) a number of low-power emergency circuits that are wholly confined to the upper part of the ship, if such circuits are adequately fused and capable of being readily disconnected from the reserve source of energy, and that source has sufficient capacity to carry the additional load; and
- (f) the receiver required by items (aa)(B) and (bb) of regulation 23(2)(iii).

36. Radio watch (Radiotelephone ship)

Every radiotelephone ship that is provided with a radiotelephone distress frequency watch receiver must, while at sea, maintain a continuous watch on the radiotelephone distress frequency at the place on board from which the ship is normally navigated.

37. Radiotelephone operators

Subject to section 170(4) of the Act, every ship to which this Part applies must carry the number of appropriately qualified radiotelephone operators as specified in regulation 15 of the Merchant Shipping (Safe Manning) Regulations, 2012.

38. Radio records (Radiotelephone ship)

(1) The radio log required by the Radio Regulations for a radiotelephone ship shall be kept at the place where radio watch is maintained during the voyage.

(2) Every radiotelephone operator and every master, officer or crew member, when carrying out a radio watch in accordance with regulation 36, must enter in the Non GMDSS radio log the information specified in Part 2 of the Fifth Schedule.

(3) The radiotelephone operator or, if there is more than one operator, the one designated by the master, must inspect and sign each day the entries in the radio log for that day, confirming that the requirements of this Part have been complied with.

(4) The master must inspect and sign each day's entries in the radio log.

(5) The master must, on demand, produce the radio log for inspection by a surveyor or a proper officer.

(6) The radio log forms part of the ship's official logbook, but is to be kept separate from the official logbook, and, for the purposes of section 198 of the Act, is deemed to be a document relating to the navigation of the ship.

PART IV – RADIO LIFE-SAVING EQUIPMENT

39. Two-way VHF radiotelephone apparatus

(1) Three portable two-way VHF radiotelephone apparatus must be provided on every Convention ship, other than a cargo ship of less than 500 tons.

(2) Two portable two-way VHF radiotelephone apparatus must be provided—

- (a) on every Convention ship that is a cargo ship of 300 tons or more but less than 500 tons; and
 - (b) on every non-Convention ship that is—
 - (i) a passenger ship;
 - (ii) a cargo ship of 300 tons or more; or
 - (iii) a fishing vessel of 24 metres or more in length.
- (3) One portable two-way VHF radiotelephone apparatus must be provided on every non-Convention ship that is—
- (a) a cargo ship of less than 300 tons; or
 - (b) a fishing vessel of less than 24 metres in length.
- (4) The portable two-way VHF radiotelephone apparatus required by subregulations (1), (2) and (3) must be made watertight through integral design and may also be used for on-board radiocommunication if it is capable of operating on appropriate frequencies.
- (5) If a fixed two-way VHF radiotelephone apparatus is provided in a survival craft, it must comply with the appropriate performance standards specified pursuant to regulation 6.
- (6) The battery included in survival craft fixed radio equipment must not be used for any purpose other than the operation of such equipment and the searchlight carried in the survival craft.

40. Radar transponders

- (1) One radar transponder must be carried on each side of every Convention ship, other than a cargo ship of less than 500 tons.

One radar transponder must be carried:

- (a) on every non-Convention ship; and
- (b) on every Convention ship that is a cargo ship of less than 500 tons.

- (2) The radar transponders required by this regulation must be capable of operating in the 9 GHz band and must be stowed so as to enable rapid placement in a survival craft.

PART V – RADIOCOMMUNICATION REQUIREMENTS FOR SHIPS OF LESS THAN 25 TONS AND PLEASURE VESSELS OF LESS THAN 100 TONS

41. Mandatory communication equipment

- (1) Every ship to which this Part applies while at sea shall be capable of—

- (a) transmitting and receiving ship-to-shore distress alert;
- (b) receiving shore to ship distress alert;
- (c) transmitting and receiving search and rescue co-ordinating communication; and
- (d) transmitting and receiving on-scene communication

- (2) Every ship to which this Part applies must be provided with a VHF radiotelephone installation that includes a transmitter and a receiver.

PART VI – ENFORCEMENT

42. Inspection etc. of Convention ships not registered or licensed Kenya

- (1) When considering whether a Convention ship that is neither registered nor licensed in the Republic of Kenya complies with the requirements of these regulations, a proper officer or a surveyor, as the case may be, need not satisfy himself in relation to—

- (a) regulation 6(1)(a), if the equipment is of a type approved by the competent maritime authority of the State whose flag the ship is entitled to fly and that State is a Convention State; or

- (2) Regulation 6(1)(c), if the ship is entitled to fly the flag of a Convention State.

43. Ships not to be detained in certain cases

[Subsidiary]

No ship may be detained in a port where repair facilities are not readily available, because of malfunction of the equipment for providing general radio communications referred to in regulation 8, if the ship is capable of performing all distress and safety functions as required by that regulation.

44. Offences and penalties

(1) If a radiotelephone operator or a person designated under regulation 19(3) or (4) contravenes any provision of these regulations imposing a duty on him, he commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a period not exceeding six (6) months; and if any person, being the owner or master of the ship, permits such a contravention, he or she also commits an offence commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve (12) months;

(2) If these regulations are contravened in any other respect in relation to any ship, the owner and master of the ship each commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve (12) months.

45. Director-General may impose penalty upon admission of guilt

(1) If a person—

- (a) admits to the Director-General that he has failed to comply with the requirements of these regulations, or that he has failed to comply with any such requirement with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for failure to comply, the Director-General may, after such inquiry as he deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited to the Authority.

(2) The imposition of a penalty under sub-regulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in these regulations shall in any way affect liability to forfeiture of ships, shares therein or goods.

FIRST SCHEDULE

(Rule 6.)

STANDARDS OF PERFORMANCE OF RADIO EQUIPMENT

Equipment	IMO Assembly Resolution	
	Equipment 1 Equipment installed before 23 November 1996	Equipment installed on or after 23 November 1966
Narrow-band direct printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships	A.525 (13)	A.525 (13)
Narrow-band direct-printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships (MSI) by HF	A.700 (17)	A.700 (17)

[Issue 3]

Merchant Shipping

[Subsidiary]

Ship earth stations capable of two-way communications	A.698 (17)	A.808 (19)
Shipborne VHF radio installations capable of voice Communication and digital selective calling	A.609 (15)	A.803 (19)2
Shipborne MF radio installations capable of voice Communication and digital selective calling	A.610 (15)	A.804 (19)3
Shipborne MF radio installations capable of voice Communication and digital selective calling	A.610 (15)	A.804 (19)3
Shipborne MF/HF radio installations capable of voice communication, narrow-band direct printing and digital selective calling	A.613 (15)	A.806 (19)4
Float-free satellite emergency position-indicating radio beacons (EPIRBS) operating on 406 MHz5	A.763 (18)	A.810 (19)
Survival craft radar transponders for use in search and rescue operations	A.697 (17)	A.802 (19)
Float-free VHF emergency position indicating radio beacons	A.612 (15)	A.805 (19)
Inmarsat Standard-C ship earth stations capable of	A.663 (16)	A.807 (19)6
Float-free satellite emergency position indicating radio beacons operating through the geostationary satellite system on 1.6 GHz5	A.661 (16)	A.812 (19)

Notes:

1. All equipment shall conform with the general requirements for shipborne radio equipment forming part of the Global Maritime Distress and Safety System (GMDSS) and for electronic navigational aids, IMO Assembly Resolution A.694 (17).

2. Equipment installed on or after 1 January 2001 to conform with the amendments adopted through IMO Maritime Safety Committee (MSC) Resolution MSC (68)68

Annex 1.

3. Equipment installed on or after 1 January 2001 to conform with the amendments adopted through IMO Maritime Safety Committee (MSC) Resolution MSC (68)68

Annex 2.

4. Equipment installed on or after 1 January 2001 to conform with the amendments adopted through IMO Maritime Safety Committee (MSC) Resolution MSC (68)68

[Issue 3]

Merchant Shipping

[Subsidiary]

Annex 3.

5. Float-free release and activation arrangements for emergency radio equipment shall conform with the Assembly resolution A.662(16).

6. Equipment installed on or after 1 January 2001 to conform with the amendments adopted through IMO Maritime Safety Committee (MSC) Resolution MSC (68)68

Annex 4.

7. Equipment installed before 4 November 1994 may conform with IMO Assembly resolution A.695(17).

Standards of Performance for marine radio equipment to be installed on Kenya Ships

<i>Installation</i>	<i>IMP Resolution Number</i>	<i>Sub-system</i>	<i>Specifications (Note 1 and 2)</i>
Narrow-band direct-printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships	A. 525 (13)	Not applicable	ETS 300:065 September 1992 or MPT 1257
Narrow-band direct-printing telegraph equipment for the reception of navigational and meteorological warnings and urgent information to ships (MSI) by HF.	A. 700 (17)	Not applicable	ETS 300:065 September 1992
Ship earth stations capable of two-way communications (Note 3) INMARSAT "A" and "B"	A. 808 (19)	Not applicable	INMARSAT
Performance standards for float-free release and activation arrangements for emergency radio equipment	A. 882 (16)	Not applicable	Specification incorporated in equipment standards
Performance standards for enhanced group call equipment	A. 884 (16)	Not applicable	Specification incorporated in equipment standards for INMARSAT standard-C
			equipment standards for INMARSAT standard-C
Survival craft radar transponders for use	A.802 (19)	Not applicable	BS EN 61097-1:1993 or ETS 300:151

[Issue 3]

Merchant Shipping

[Subsidiary]

in search and rescue operations			
Shipborne VHF radio installations capable of voice communication and digital selective calling	A.803 (19)	Transceiver Facility (Fixed)	Draft prETS 300:162 February 1997 Edition 2 or MPT 1252
		Digital Selective Calling Facility	ETS 300:338 November 1995 or MPT 1262
		Watchkeeping Facility	PrEN 301:033 May 1997 Edition 1.1.1 (Note 4)
Shipborne MF radio installations capable of voice communication and digital selective calling	A.806(19)	Transceiver Facility	ETS 300:373 August 1995 or MPT 1262
		Digital Selective Calling Facility	ETS 300:338 November 1995 or MPT 1262
		Watchkeeping Facility	PrEN 301:033 May 1997 Edition 1.1.1 (Note 4)
Shipborne MF/HF radio installations capable of voice communication, narrow-band direct-printing and digital selective calling	A. 808 (19)	Transceiver Facility	ETS 300:373 August 1995 or MPT 1224
		Digital Selective Calling Facility	ETS 300:338 November 1995 or MPT 1262
		Narrow Band Direct Printing Facility	ETS 300:067 November 1990 of MPT 1257
		Watchkeeping Facility	PrEN 301:033 May 1997 Edition 1.1.1 (Note 4)
Float-free VHF emergency position-indicating radio beacons	A. 805 (19)	Not applicable	Refer to [Country] maritime administration
Inmarsat standard-C ship earth station capable of Transmitting and Receiving direct printing communications (Note 2)	A.807(19)	Not applicable	ETS 300:460 May 1996 or MPT 1260
Performance standard for survival craft two-way VHF apparatus	A.809 (19)	Not applicable	ETS 300:225 April 1997 Edition 2 or MPT 1274 and 1277

Merchant Shipping

[Subsidiary]

Float-free emergency position-indicating radio beacons (EPIRBs) operating on 406 MHz	A.810 (19)	Not applicable	ETS 300:066 September 1996 Edition 2 or MPT 1259
Performance standards for a shipborne integrated radiocommunications system (IRCS) when used in the GMDSS	A.811 (19)		Tested by inspection on board ship. No type approval
Float-free emergency position indicating radio beacons operating through the geostationary Inmarsat satellite system on 1.6 GHz (Note 3)	A.812 (19)	Not applicable	ETS 300:372 May 1996

Notes:

1. All equipment must conform to the general requirements for shipborne radio equipment forming part of the Global Maritime Distress and Safety System (GMDSS) and for electronic navigational aids, IMO Assembly Resolution A.694(17).

2. The equipment installed is required to conform with the requirements of the relevant IMO performance standards and/or the requirements of the ITU in force, as appropriate.

3. All INMARSAT installations and ancillary equipment are to be of a type approved by INMARSAT.

4. Or as incorporated in the DSC facility.

SECOND SCHEDULE

[Rule 10(1)(f).]

SATELLITE EPIRBs

Every satellite EPIRB provided pursuant to these Regulations shall be—

1. capable of transmitting a distress alert either through the polar orbiting satellite service operating in the 406 MHz band or, alternatively, in sea areas A1, A2 and A3 only, through the INMARSAT geostationary satellite service operating in the 1.6 GHz band;

2. installed in an easily accessible position;

3. ready to be manually released and capable of being carried by one person into a survival craft;

4. capable of floating free if the ship sinks;

5. capable of being activated manually; and

6 automatically activated when afloat.

THIRD SCHEDULE

[Rule 18(6).]

SERVICEABILITY AND MAINTENANCE REQUIREMENTS OF RADIO EQUIPMENT UNDER THE GLOBAL MARITIME DISTRESS AND SAFETY SYSTEM (GMDSS)

[Issue 3]

1. This Schedule sets out the requirements for ensuring the availability of radio equipment on vessels entering the GMDSS as provided by Regulation 17(6) of the Regulations.

Requirements for ensuring availability

2.1 Every ship, subject to this Regulation, shall ensure availability by using at least one; and for area A3 or area A4 ships at least two, of the following methods—

2.1.1 duplication of equipment;

2.1.2 shore-based maintenance;

2.1.3 at-sea electronic maintenance capability; or

2.1.4 any other method or combination approved by the Director-General.

2.2 Irrespective of the methods used to ensure the availability of the equipment, but subject to the exception of Regulation 20, a ship should not depart from any port unless and until the ship is capable of performing all distress and safety communications.

2.3 Irrespective of the methods used by the ship, all manufacturers' instruction manuals and maintenance manuals for each piece of equipment required should be available on board. In the case of Kenya ships these manuals must be in the English language. Adequate tools, spare parts and test equipment appropriate to the methods used by the ship should be provided. The manuals, tools, spare parts and test equipment, as applicable, should be readily accessible.

Duplication of equipment ensuring availability

2.1 Where availability is ensured by using duplication, either singly or in combination with other approved methods, the following radio installations, in addition to those required by Regulations 10, 11, 12, 13 and 14 as appropriate, and complying with Regulation 6, should be available on board ships engaged on voyages in —

3.1.1 Sea-Area A1 -a VHF radio installation complying with the requirements of Regulation 10(1)(a);

3.1.2 Sea Areas A1 and A2 -a VHF radio installation complying with the requirements of Regulation 10(1)(a) and an MF radio installation complying with the requirements of Regulation 12(l)(a);

3.1.3 Sea Areas A1, A2 and A3 -a VHF radio installation complying with the requirements of Regulation 10(1)(a) and either an MF /HP radio installation complying with the requirements of Regulation 13(1) ALTERNATIVE B(a) and being able to fully comply with the watch requirements of Regulation 15(1)(c); or an INMARSAT Ship Earth Station (SES) complying with the requirements of Regulation 13(1) ALTERNATIVE A(a). The MF/HF installation or INMARSAT SES installed for duplication should also comply with Regulation 13(2);

3.1.4 Sea Areas A1, A2, A3 and A4 -a VHF radio installation complying with the requirements of Regulation 10 (1)(a) and an MF/HF radio installation complying with the requirements of Regulation 13(1) ALTERNATIVE B(a) and being able to comply fully with the watch requirements of Regulation 15(1)(c). For ships operating in sea area A4 only occasionally and having originally installed an MF/HF radio installation, the additional MF/HF radio installation may be substituted by an INMARSAT SES complying with the requirements of Regulation 13(1) ALTERNATIVE A(a). The MF/HF radio installation or INMARSAT SES installed for duplication should also comply with Regulation 13(2).

3.2 The additional radio installations specified in paragraphs 3.1.1 to 3.1.4 above should each be connected to a separate antenna and be installed and ready for immediate operation.

3.3 It should be possible to connect the additional radio installations specified in paragraphs 3.1.1 to 3.1.4, hereinafter referred to as 'duplicated equipment', to the reserve

[Subsidiary]

source or sources of energy required by Regulation 16(2), in addition to the appropriate radio equipment specified in that regulation, hereinafter referred to as 'basic equipment'. The capacity of the reserve source or sources of energy should be sufficient to operate the particular installation, that is, the 'basic equipment' or the 'duplicated equipment', with the highest power consumption, for the appropriate period specified in Regulation 16(2)(b)(iii). However, the arrangement for the reserve source or sources of energy should be such that a single fault in this arrangement should not be able to affect both the basic and the duplicated equipment. Where the reserve source of energy is a battery the charging arrangements should be duplicated. Alternatively, a suitable alarm system should be installed to indicate a failure in the charging arrangement and provision should be made to connect the equipment direct to a suitable alternative supply.

Shore-based maintenance for ensuring availability

a. Where availability is ensured by using a combination of methods which include shore-based maintenance, an arrangement acceptable to the Kenya Maritime Authority should be established to ensure adequate support of the ship for the maintenance and repair of its radio installations. Acceptable arrangements are -

4.1.1 a signed declaration from the Owner or his Representatives setting out the arrangement with a company or companies covering the trading area of the ship to provide maintenance and repair facilities on a call-out basis;

4.1.2 provision of facilities at the main base of ships engaged on a regular trading pattern.

Note: Records of Equipment should include an indication of the types of arrangements for shore-based maintenance.

At-sea electronic maintenance capability for ensuring availability

5.1 Where availability is ensured by using a combination of methods which includes at sea electronic maintenance capability, adequate additional technical documentation, tools, test equipment and spare parts must be carried on board in order to enable the maintainer to perform tests and localise and repair faults in the radio equipment. The extent of this additional technical documentation, tools, measuring equipment and spare parts to be carried on board should be consistent with the equipment installed.

An indication of such approval should be entered in the Records of Equipment.

5.2 The person designated to perform functions for at-sea electronic maintenance should hold an appropriate certificate as specified by the Radio Regulations or have equivalent at-sea electronic maintenance qualifications.

5.3 In the case of Kenya ships, for the purpose of the Regulations an officer or crew member shall be deemed qualified to carry out radio maintenance where he or she holds—

5.3.1 a Radio Maintenance Certificate granted by the Minister with responsibility for telecommunications, or

5.3.2 a certificate recognised by the Kenya Maritime Authority as being equivalent to the certificate in 5.3.1 above.

Acceptable combinations (or Equivalent)

6.1 Any INMARSAT SES equipment providing the enhanced group calling (EGC) capability may be accepted as fulfilling the basic requirement of Regulation 10(l)(e) for EGC reception.

6.2 Any INMARSAT SES or any MF/HF radio telephone installed for duplication may also satisfy the basic requirements of Regulations 12(1)(c), 13(1) ALTERNATIVE A(d) and 13(1) ALTERNATIVE B(c) for another radio service to initiate the transmission of ship-to-shore distress alerts.

[Issue 3]

Merchant Shipping

[Subsidiary]

6.3 Any INMARSAT SES or any MF/HF radiotelephone may be installed for duplication irrespective of whether the basic radio installation complies with regulation 13(1) ALTERNATIVE A(a) or regulation 13(1) ALTERNATIVE B(a).

FOURTH SCHEDULE

(Rule 18(7))

EQUIPMENT TESTS AND RESERVE POWER CHECKS

Daily

1.1 The proper functioning of the DSC facilities shall be tested at least once each day, without radiation of signals, by use of the means provided on the equipment.

1.2 Batteries providing a source of energy for any part of the radio installations shall be tested daily and, where necessary, brought up to the fully charged condition.

Weekly

2.1 The proper operation of the DSC facilities shall be tested at least once a week by means of a test call, when within communication range of a coast station fitted with DSC equipment. Where a ship has been out of communication range of a coast station fitted with DSC equipment for a period of longer than one week, a test call shall be made on the first opportunity that the ship is within communication range of such a coast station.

2.2 Where the reserve source of energy is not a battery, for example, a motor generator, the reserve source of energy shall be tested weekly.

Monthly

3.1 Each EPIRB and satellite EPIRB shall be examined at least once a month to determine its capability to operate properly, particularly its ability to float free, where required to do so, in the event of the ship sinking, its security and for signs of damage.

3.2 Each search and rescue radar transponder shall be checked at least once a month for security and signs of damage.

3.3 Each survival craft two-way VHF equipment shall be tested at least once a month on a frequency other than 156.8 MHz (VHF Channel 16).

3.4 A check shall be made at least once a month on the security and condition of all batteries providing a source of energy for any part of a radio installation. The battery connections and compartment shall also be checked.

FIFTH SCHEDULE

[Rule 20(1).]

GMDSS RADIO LOG

The following shall be recorded in the GMDSS Radio Log as they occur—

- (a) a summary of communications relating to distress, urgency and safety traffic and the time such communications occurred;
 - (b) a record of important incidents connected with the radio service and the time such incidents occurred; and
 - (c) where appropriate, the position of the ship at least once a day and the time at which the ship was in that position.
-

THE MERCHANT SHIPPING (CO-OPERATION WITH
SEARCH AND RESCUE SERVICES) REGULATIONS, 2014

ARRANGEMENT OF REGULATIONS

PART I – GENERAL

1. Short Title and Commencement.
 2. Interpretation.
 3. Application.
 4. Duty to prepare a plan
 5. Periodic testing of plan.
 6. Approval of plan.
 7. Ships to carry plan.
 8. Penalties.
 9. Offences.
 10. Authority may impose penalty upon admission of guilt.
-

THE MERCHANT SHIPPING (CO-OPERATION WITH SEARCH AND RESCUE SERVICES) REGULATIONS, 2014

[L.N. 88/2014.]

1. Short Title and Commencement

These Regulations may be cited as the Merchant Shipping (Co-operation with Search and Rescue Services) Regulations, 2014.

2. Interpretation

(1) In these Regulations—

"appropriate search and rescue services" means, in relation to a ship, the search and rescue services responsible for the initiation and co-ordination of all search and rescue activity for the area of operation of the ship;

"Authority" has the same meaning under these regulations as in section 2 of the Kenya Maritime Authority Act, 2006;

"owner" includes, in relation to a ship, any operator, manager, charterer or agent of the ship;

"passenger ship" means any ship certified to carry more than 12 passengers;

"regular scheduled service" means an advertised service which provides for the carriage of passengers at specified intervals along specified routes through or within Kenyan waters.

(2) Where a ship is managed by a person other than the owner (whether on behalf of the owner, of some other person or on his own behalf, a reference in these Regulations to the owner shall be construed as including a reference to that person.

(3) Any approval given pursuant to these Regulations shall be given in writing and shall specify the date on which it takes effect and the conditions, if any, on which it is given.

3. Application

These Regulations shall apply to all ships registered under the Merchant Shipping Act, 2009, and—

- (a) Kenyan passenger ships wherever they may be; and
- (b) other passenger ships operating on regular scheduled services while they are within Kenyan waters.

4. Duty to prepare a plan

(1) The owner of a ship to which these Regulations apply shall prepare a plan in respect of the ship, setting out the steps to be taken by those on board for co-operating with the appropriate search and rescue services if the ship requires the assistance of those search and rescue services.

(2) In preparing the plan referred to in sub-regulation (1) above the owner of the ship shall consult the Authority.

5. Periodic testing of plan

(1) The plan referred to in regulation 4(1) above shall include provision for the performance of periodic exercises, to be conducted at reasonable intervals, by the ship and the appropriate search and rescue services in order to test the effectiveness of the plan.

(2) The periodic exercises under subregulation (1) shall be undertaken only with the prior agreement of the appropriate search and rescue services.

6. Approval of plan

[Subsidiary]

(1) The owner of the ship shall submit the plan prepared pursuant to regulation 4(1) above in respect of the ship to the Director- General for approval.

(2) The Director-General may either—

- (a) reject the plan; or
- (b) approve the plan with or without modifications

7. Ships to carry plan

Ships to which these Regulations apply shall carry on board a plan approved in accordance with regulation 6.

8. Penalties

Where there is a breach of regulation 7 in relation to a ship the owner and master of the ship shall each be guilty of an offence and liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

9. Power to detain

In any case where a ship does not comply with the requirements of these Regulations the ship shall be liable to be detained and section 435 of the Act, shall have effect in relation to the ship.

10. Director-General may impose penalty upon admission of guilt

(1) If any person—

- (a) admits to the Director-General that he has failed to comply with any provision of these regulations, or that he has failed to comply with any such provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question,

the Director-General may, after such an enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by the way of a penalty the whole or any part of the said deposit to be forfeited.

(2) The imposition of a penalty under sub-regulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

THE MERCHANT SHIPPING (SURVEY AND CERTIFICATION) REGULATIONS 2014

ARRANGEMENT OF REGULATIONS

PART I – GENERAL

1. Citation.
 2. Interpretation.
 3. Application.
 4. Survey of passenger ships.
 5. Surveys of cargo ship safety equipment.
 6. Surveys of cargo ship radio installations.
 7. Surveys of cargo ship structure, machinery and equipment.
- Schedule

**THE MERCHANT SHIPPING (SURVEY AND
CERTIFICATION) REGULATIONS 2014**

[L.N. 89/2014.]

1. Short Title and Commencement

These Regulations may be cited as the Merchant Shipping (Survey and Certification) Regulations 2014.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Authority" means the Kenya Maritime Authority;

"cargo ship", "passenger ship", "Safety Convention", and "tons" have the meanings given by section 2 of the Act.

3. Application

(1) Subject to sub-regulation (2), these Regulations apply to—

- (a) Kenyan passenger ships and cargo ships, wherever they may be; and
- (b) other passenger ships and cargo ships, when in any port in Kenya.

(2) These Regulations do not apply to cargo ships of less than 500 tons not engaged on international voyages or passenger ships of less than 24 metres in length.

4. Survey of passenger ships

A Kenyan passenger ship shall be subject to the following surveys:

- (a) before the ship is put in service, a passenger ship initial survey as set out in the Schedule,
- (b) before the end of every period of 12 months following the issue of the ship's Passenger Ship Safety Certificate, a passenger ship renewal survey as set out in the Schedule,
- (c) inspections of the ship's bottom, out of the water, to take place:
 - (i) within any five year period, and
 - (ii) at intervals not exceeding 36 months, and
- (d) after a repair resulting from investigations prescribed in the Act, or whenever any important repairs or renewals are made, an additional survey as set out in the Schedule.

5. Surveys of cargo ship safety equipment

A Kenyan cargo ship of 500 tons or more engaged on international voyages shall be subject to the following surveys of its life-saving appliances and other equipment:

- (a) before the ship is put in service, a cargo ship safety equipment initial survey as set out in the Schedule;
- (b) at the intervals specified in the Schedule which, subject to the provisions of the Act, shall be no more than five years, a cargo ship safety equipment renewal survey as set out in the Schedule;
- (c) within three months before or after the second or third anniversary date of a Cargo Ship Safety Equipment Certificate first being issued, a cargo ship safety equipment periodical survey as set out in the Schedule;
- (d) within three months before or after each anniversary date of the issue of the ship's Cargo Ship Safety Equipment Certificate, other than where a periodical survey is required to be carried out within that period, an annual survey as set out in the Schedule; and

[Subsidiary]

- (e) after a repair resulting from investigations prescribed in the Act, or whenever any important repairs or renewals are made, an additional survey as set out in the Schedule.

6. Surveys of cargo ship radio installations

A Kenyan cargo ship of 300 tons or more engaged on international voyages shall be subject to the following surveys of its radio installations:

- (a) before the ship is put in service, a cargo ship radio installations initial survey as set out in the Schedule,
- (b) at the intervals specified in the Schedule which, subject to the provisions of the Act, shall be no more than five years, a cargo ship radio installations renewal survey as set out in the Schedule,
- (c) within three months before or after each anniversary date of the issue of the ship's Cargo Ship Safety Radio Certificate, a cargo ship radio installations periodical survey as set out in the Schedule; and
- (d) after a repair resulting from investigations prescribed in the Act, or whenever any important repairs or renewals are made, an additional survey as set out in the Schedule.

7. Surveys of cargo ship structure, machinery and equipment

(1) A Kenyan cargo ship shall be subject to the following surveys of its structure, machinery and equipment, other than equipment to which regulations 5 and 6 apply:

- (a) before the ship is put in service, a cargo ship structure etc. initial survey, including an inspection of the outside of the ship's bottom, as set out in the Schedule;
- (b) at the intervals specified in the Schedule (which subject to the Act, shall be no more than five years), a cargo ship structure etc. renewal survey as set out in the Schedule;
- (c) within three months before or after the second or third anniversary date of a Cargo Ship Safety Construction Certificate being issued, a cargo ship structure etc. intermediate survey as set out in the Schedule;
- (d) within three months before or after each anniversary date of the issue of the ship's Cargo Ship Safety Construction Certificate, other than where a cargo ship structure etc. renewal or intermediate survey is required to be carried out within that period, a cargo ship structure etc. annual survey as set out in the Schedule;
- (e) two inspections of the ship's bottom, as set out in the Schedule, to take place:
 - (i) subject to sub-regulation (2), within any five year period, and
 - (ii) at intervals not exceeding 36 months; and
- (f) after a repair resulting from investigations prescribed in the Act, or whenever any important repairs or renewals are made, an additional survey as set out in the Schedule.

(2) For the purpose of sub-regulation (1)(e), where a cargo ship structure. renewal survey takes place within three months after the end of the five year period of validity of a Convention Certificate, and that certificate has been extended in accordance with the Act, the period of extension of the certificate shall be deemed to be within the five year period.

SCHEDULE

TYPES OF SURVEY

INTRODUCTION

1. There are seven types of survey—

1.1 Initial Survey;

[Issue 3]

- 1.2 Renewal Survey;
- 1.3 Periodical Survey;
- 1.4 Intermediate Survey;
- 1.5 Annual Survey;
- 1.6 Inspection of the Outside of the Ship's Bottom;
- 1.7 Additional Survey

SCOPE OF SURVEYS

1. Passenger ships

2.1 An initial survey of a passenger ship shall consist of a complete inspection of the ship's structure, machinery and equipment, including the outside of the ship's bottom and the inside and outside of the boilers, such as to ensure that the arrangements, materials and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in life-saving appliances, fire protection, fire safety systems and appliances, life-saving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots, lights, shapes, means of making sound and distress signals and other equipment fully comply with the requirements of the relevant regulations, and that the workmanship of all parts of the ship and its equipment is in all respects satisfactory.

2.2 A renewal survey of a passenger ship shall include an inspection of the structure, boilers and other pressure vessels, machinery and equipment, including the outside of the ship's bottom, such as to ensure that the arrangements, materials and scantlings of the structure, boilers and other pressure vessels and their appurtenances, main and auxiliary machinery, electrical installation, radio installations including those used in life-saving appliances, fire protection, fire safety systems and appliances, lifesaving appliances and arrangements, shipborne navigational equipment, nautical publications, means of embarkation for pilots, lights, shapes, means of making sound and distress signals and other equipment is in satisfactory condition and is fit for the service for which it is intended, and fully complies with the requirements of the relevant regulations.

2.3 An additional survey, either general or partial, according to the circumstances, shall be made following a repair or renewal. The survey shall be such as to ensure that the necessary repairs or renewals have been effectively carried out, that the material and workmanship are in all respects satisfactory, and that the ship complies with the provisions of the relevant regulations.

CARGO SHIPS

2. Cargo ship safety equipment

2.1 An initial survey of cargo ship safety equipment shall include an inspection of the fire safety systems and appliances, life-saving appliances and arrangements except radio installations, the shipborne navigational equipment, means of embarkation for pilots and other equipment to which Chapters II-1, II-2, III and V of the Safety Convention apply, to ensure that they comply with the requirements of the relevant regulations, and they are in satisfactory condition and are fit for the service for which the ship is intended. In addition the fire control plans, nautical publications, lights, shapes, means of making sound signals and distress signals shall also be subject to this survey.

2.2 An annual survey shall include a general inspection of the equipment referred to above to ensure that it has been maintained to conform with the provisions of the relevant regulations to ensure that the ship in all respects will remain fit to proceed to sea without danger to the ship or persons on board and that it remains satisfactory for the service for which the ship is intended.

2.3 A renewal survey and a periodical survey shall include an inspection of the equipment referred to in the initial survey to ensure that it complies with the relevant requirements of

[Subsidiary]

the relevant regulations, is in satisfactory condition and is fit for the service for which the ship is intended.

3 Cargo ship radio installations

3.1 An initial survey of cargo ship radio installation equipment shall include a complete inspection of the radio installations of cargo ships, including those used in lifesaving appliances, to ensure that they comply with the requirements of the relevant regulations.

3.2 A renewal survey and a periodical survey will include an inspection of the radio installations of cargo ships, including those used in life-saving appliances, to ensure that they comply with the requirements of the relevant regulations.

4 Cargo ship structure, machinery and equipment

4.1 An initial survey shall include a complete inspection of the structure, machinery and equipment, including an inspection of the outside of the ship's bottom, before the ship enters service. The survey shall be such as to ensure that the arrangements, materials, scantling and workmanship of the structure, boilers and other pressure vessels, their appurtenances, main and auxiliary machinery including steering gear and associated control systems, electrical installation and other equipment, and in the case of tankers, the pump-rooms, cargo, bunker and ventilation piping systems and associated safety devices comply with the requirements of the relevant regulations, are in satisfactory condition and are fit for the service for which the ship is intended and that the required stability information is provided. In the case of tankers such a survey shall also include an inspection of the pump-rooms, cargo, bunker and ventilation piping systems and associated safety devices.

4.2 A renewal survey will include an inspection of the ship's structure, machinery and equipment such as to ensure that they comply with the requirements of the relevant regulations, are in satisfactory condition and are fit for the service for which they are intended.

4.3 An intermediate survey will include an inspection of the structure, boilers and other pressure vessels, machinery and equipment, the steering gear and the associated control systems and electrical installations, and in the case of tankers, the pump-rooms, cargo, bunker and ventilation piping systems and associated safety devices and the testing of insulation resistance of electrical installations in dangerous zones to ensure that they remain satisfactory for the service for which the ship is intended.

4.4 An annual survey will include a general inspection of the structure, machinery and equipment referred to above to ensure that they have been maintained to conform with the provisions of the relevant regulations to ensure that the ship in all respects will remain fit to proceed to sea without danger to the ship or persons on board, and that they remain satisfactory for the service for which the ship is intended.

5 Inspection of the outside of the ship's bottom

The inspection of the outside of the ship's bottom is a separate survey.

5.1 Passenger ships: For passenger ships the inspection is required every year. On the years in which the out of water inspection does not take place, an in water inspection of the ship's bottom shall be carried out. As a minimum, two of these surveys in any five year period, at intervals not exceeding 36 months, shall be conducted with the ship out of the water.

5.2 Cargo ships: For cargo ships there shall be a minimum of two inspections during any five year period at intervals not exceeding 36 months. Inspections should normally be carried out with the ship out of the water, however consideration may be given to alternate inspections being carried out with the ship afloat.

6. OUTLINE OF HSSC

The main points of the Harmonised System of Survey and Certification (see Annex for a diagrammatic overview) are as follows:

6.1 The maximum period of validity of all certificates except the passenger ship safety certificate is five years. The passenger ship safety certificate shall be renewed annually.

6.2 Each full term of five years (or one year) will follow directly on from the previous one (unless a ship is laid up or undergoing major repairs); each certificate will be dated from the expiry date of the previous one.

6.3 In order to provide the necessary flexibility, the renewal survey may be carried out up to three months before the expiry of the existing certificate. The new certificate will still be dated from the expiry date of the old certificate.

6.4 A certificate may also be extended by a period of up to three months (or for ships engaged on short voyages there is a period of grace of one month) in order that the renewal survey may be carried out. However, the new certificate will still be dated from the expiry date of the old certificate before the extension was granted.

6.5 Where a renewal survey has been completed and a certificate cannot be issued or placed aboard the ship before the expiry date of the existing certificate, the existing certificate may be endorsed and shall be accepted as the new certificate for a period of up to five months from the expiry date.

6.6 A certificate (other than a passenger certificate) that has been issued initially for a period of less than five years may be extended to the maximum period of five years provided that the minimum pattern of surveys is maintained.

6.7 Every certificate will be subject to an Annual, Intermediate or Periodical survey each year within three months of its anniversary date (the day and month of each year corresponding to the date of expiry) as follows:

6.7.1 The Passenger Certificate (PC) requires a Renewal survey each year.

6.7.2 The Cargo Ship Safety Radio Certificate (RADIO) requires a Periodical survey each year.

6.7.3 The International Load Line Certificate (LOADLINE) requires an Annual survey each year.

6.7.4 The Cargo Ship Safety Equipment Certificate (SEC) requires an Annual survey every year. On either the second or third year this is replaced with a Periodical survey.

6.7.5 The Cargo Ship Safety Equipment Certificate (SAFCON), the International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk (IGC/GC), the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk (IBC/BCH), the International Oil Pollution Prevention Certificate (IOPPC) and the International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk all require Annual surveys each year. On either the second or third year this is replaced with an Intermediate survey.

6.8 Where an Annual, Intermediate or Periodical Survey is completed more than three months before the anniversary date, the anniversary date may be amended to suit and the expiry date of the certificate brought forward by a corresponding period or, if the expiry date is to remain unchanged, additional surveys, as appropriate, carried out so that the pattern of surveys remains the same and the maximum intervals between the various types of surveys are not exceeded.

6.9 A new Cargo Ship Safety Certificate (CSSC), which includes provision for recording all the surveys required for the Cargo Ship Safety Equipment Certificate, the Cargo Ship Safety Radio Certificate and the Cargo Ship Safety Construction Certificate, may be issued as an alternative to the existing cargo ship safety certificates.

Merchant Shipping

[Subsidiary]

6.10 In conducting the surveys referred to in these Regulations surveyors shall follow the Survey Guidelines referred to in the Harmonised System of Survey and Certification adopted by IMO Resolution A.746 (18), as amended or replaced.

7. Declarations of survey

In complying with the provisions of paragraph 5(l) as they apply to the Cargo Ship Safety Certificate, the Certifying Authority should ensure that they have in their possession declarations of satisfactory survey before the issue of the CSSC.

ANNEX

THE HARMONISED SYSTEM OF SURVEY AND CERTIFICATION

Diagrammatic Arrangement

	Years 0 Months 0	1 9, 12, 15	2 21, 24, 27	3 33, 36, 39	4 45, 48, 51	5 57, 60, 63
PASSENGER		R	R	R	R	R
		↔	↔	↔	↔	↔
SEC		A	A or P	P or A	A	R
		↔	↔	↔	↔	↔
RADIO		↔	P#P	P#	P#	R#
SAFCON		↔	A#A or I	I#A	A#	R#
IGC/GC		↔	#A or I	#I or A	A#	R#
LOADLINE		↔	A#A	#A	A#	R#
MARPOL		↔	A#A or I	I or A#	A ↔	R ↔
Annex I						
MARPOL		↔	A or I#	I or A ↔	A ↔	R ↔
Annex II						
Legend	R-Renewal	P-Periodical	I-Intermediate	A-Annual		
Annual						

This diagram can be found in the Survey Guidelines cited in Paragraph 7.10 above.

THE MERCHANT SHIPPING (CASUALTY REPORTING
AND INVESTIGATION) REGULATIONS 2014

ARRANGEMENT OF REGULATIONS

PART I – GENERAL

1. Short title and commencement date.
2. Interpretation.
3. Meaning of Accident.
4. Application.
5. Objective of investigation.
6. Duty to report casualties, dangerous occurrences and serious injuries.
7. Ordering of investigation.
8. Subsequent or re-opened investigations.
9. Preservation of evidence.
10. Conduct of investigation.
11. Disclosure of records.
12. Reports of investigations.
13. Summary of inquiry.
14. Recommendations.
15. Extension of time.
16. Service of documents.
17. Penalties.
18. Director-General may impose fine upon admission of guilt.

**MERCHANT SHIPPING (CASUALTY REPORTING
AND INVESTIGATION) REGULATIONS, 2014**

[L.N. 90/2014.]

1. Short title and commencement

These Regulations may be cited as the Merchant Shipping (Marine Casualty Reporting and Investigation) Regulations, 2014.

2. Interpretation

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

"access" means the process of embarking on or disembarking from a ship, by whatever means employed;

"Board" means a Board appointed by the Minister to conduct formal investigation pursuant to section 421(2) of the Act;

"Cabinet Secretary" the Cabinet Secretary responsible for transport;

"marine casualty" means accident;

"Director-General" means the Director-General of the Kenya Maritime Authority;

"disabled" in relation to a vessel means not under command for a period of more than 12 hours, or for any lesser period where, as a result, the vessel needs assistance to reach port;

"grounding" means making involuntary contact with the ground, except for touching briefly so that no damage is caused, and "goes aground" shall be construed accordingly;

"hazardous incidents" means any event, other than an accident, associated with the operation of a ship which involves circumstances indicating that an accident nearly occurred;

"incapacity" means inability to undertake the full range of activities normally undertaken ;

"Inspector" means the inspector of marine accidents appointed by the Director-General under section 421 of the Act, and any deputy inspector;

"inquiry" means a formal investigation in terms of section 422 of the Act;

"major injury" means—

- (a) any fracture, other than to the fingers or toes;
- (b) any loss of a limb or part of a limb;
- (c) dislocation of the shoulder, hip, knee or spine;
- (d) loss of sight (whether temporary or permanent);
- (e) penetrating injury to the eye; or
- (f) any other injury—
 - (i) leading to hypothermia or to unconsciousness;
 - (ii) requiring resuscitation; or
 - (iii) requiring admittance to a hospital or to an offshore sickbay for more than 24 hours or, where at sea, requiring confinement to bed for more than 24 hours;

"Maritime Safety Administration" means the Kenya Maritime Authority;

"preliminary inquiry" means the initial part of an investigation which may be held to establish the causes and circumstances of an accident with a view to deciding whether any further investigation is warranted;

[Subsidiary]

"senior surviving officer" means the senior surviving officer in the deck department and if there is no surviving officer in the deck department, the senior surviving officer engineer officer;

"serious injury" means an injury, other than a major injury, to a person employed or carried in a Kenyan ship which occurs on board or during access which results in incapacity for more than three consecutive days excluding the day of the accident, or as a result of which the person concerned is put ashore and the ship sails without him, unless the incapacity is known or advised to be of three consecutive days or less excluding the day of the accident;

"ship's boat" includes a life raft, painting punt and any boat normally carried by a ship;

"voyage data recorder" means the electronic or mechanical equipment which may be installed on a ship to record key navigational and control information.

(2) Where a ship is managed by a person other than her owner or some other person or on his own behalf, a reference in these Regulations to the owner shall be construed as including a reference to that person.

3. Meaning of "Accident"

For the purposes of these Regulations and of section 421 of the Act, "accident" means any occurrence on a ship or involving a ship whereby—

- (a) there is loss of life or major injury to any person on board, or any person is lost or falls overboard from, the ship or one of its ship's boats;
- (b) a ship—
 - (i) causes any loss of life, major injury or material damage,
 - (ii) is lost or presumed to be lost,
 - (iii) is abandoned;
 - (iv) is materially damaged by fire, explosion, weather or other cause;
 - (v) grounds,
 - (vi) is in collision,
 - (vii) is disabled, or
 - (viii) causes significant harm to the environment; or
- (c) any of the following occur:—
 - (i) a collapse or bursting of any pressure vessel, pipeline or valve;
 - (ii) a collapse or failure of any lifting equipment, access equipment, hatch-cover, staging or boatswain's chair or any associated load-bearing parts;
 - (iii) a collapse of cargo, unintended movement of cargo or ballast sufficient to cause a list, or loss of cargo overboard;
 - (iv) a snagging of fishing gear which results in the vessel heeling to a dangerous angle;
 - (v) a contact by a person with loose asbestos fibre except when full protective clothing is worn; or
 - (vi) an escape of any harmful substance or agent,

where the occurrence, taking into account its circumstances, might have caused serious injury to the health of any person.

4. Application

- (1) These Regulations shall apply to accidents involving or occurring on board—
 - (a) any Kenyan ship, except that Regulation 6 shall not apply in relation to—

[Issue 3]

- (i) a pleasure vessel,
- (ii) a recreational craft which is hired on a bareboat basis, or
- (iii) any other craft or boat, other than one carrying passengers, which is in commercial use in a harbour or in an inland waterway and is less than eight (8) metres overall in length unless in case of a craft or a boat mentioned in sub paragraph (ii) and (iii) the accident involved any of the following—
 - (aa) explosion,
 - (bb) fire,
 - (cc) death,
 - (dd) capsizing of a power-driven craft or boat, or,
 - (ee) explosion,
 - (ff) pollution causing significant harm to the environment; and,

(b) any other ship within Kenya or Kenyan waters save that regulation 6 and 9 (1) to (3) shall only apply to such a ship if:

- (a) the ship is within a port in Kenya;
- (b) the ship is employed in carrying passengers to or from a port in Kenya;
- (c) an inspector or other person acting on his behalf, requires that any of the evidence mentioned in regulation 9(1) or (2) be preserved.

(2) These Regulations shall apply in respect of serious injuries and hazardous incidents as they apply to accidents except that:

- (a) regulation 6 (with the exception of paragraph (5)) and regulation 9 shall not apply to serious injuries; and
- (b) regulation 6 and 9 shall not apply to hazardous incidents.

(3) For the purpose of this regulation, "hired on a bareboat basis" means hired without a professional master, skipper or crew.

5. Objective of investigation

(1) The sole objective of the investigation of an accident under these Regulations shall be the prevention of future accidents through the ascertainment of its causes and circumstances.

(2) It shall not be the purpose of an investigation to determine liability nor, except so far as is necessary to achieve its objective, to apportion blame.

6. Duty to report Accidents, Dangerous Occurrences and Serious Injuries

(1) When an accident occurs the following persons associated with the ship shall send a report to the Authority as soon as is practicable following the accident and by the quickest means available:—

- (a) the master or, if he has not survived, the senior surviving officer, and
- (b) the ship's owner, unless he has ascertained to his satisfaction that the master or the senior surviving officer has reported the accident in accordance with paragraph (a).

(2) In addition to any report made under subregulation (1), the following persons shall report to the Authority as soon as is practicable and by the quickest means available any accident of which they are aware—

- (a) in the case of an accident within or adjacent to the limits of any port, the port authority for that port;
- (b) in the case of an accident on any inland waterway in Kenya, the person, Authority or body having responsibility for that waterway; or
- (c) an official of the Authority in respect of an accident within Kenyan waters.

Merchant Shipping

[Subsidiary]

(3) A person making a report pursuant to subregulation (1) or (2) shall in so far as is practicable include the following information—

- (a) the name of ship and IMO, official or fishing vessel number;
- (b) the name and address of the owner;
- (c) the name of master, skipper or person in charge;
- (d) the date and time of the accident;
- (e) where from and where bound;
- (f) the latitude and longitude or geographical position in which the accident occurred;
- (g) the part of the ship where accident occurred if on board;
- (h) the weather conditions;
- (i) the name and port of registry of any other ship involved;
- (j) the number of people killed or injured, together with their names, addresses and gender;
- (k) brief details of the accident, including, where known, the sequence of events leading to the accident, extent of damage and whether the accident caused pollution or a hazard to navigation;
- (l) if the ship is fitted with a voyage data recorder, the make and model of the recorder.

(4) In addition to making a report under the preceding subregulations, the persons specified in subregulation (1) shall, so far as is reasonably practicable ensure that the circumstances of every accident are examined and that a report giving the findings of such examination stating any measures taken or proposed to prevent a recurrence, shall be provided to the Authority as soon as is practicable.

(5) The master and the ship's owner shall, so far as is reasonably practicable, ensure that the circumstances of every serious injury are examined and one of them shall, within fourteen days, provide the Authority with a report giving the findings of such examination and stating any measures taken or proposed to prevent a recurrence.

(6) This regulation shall not apply—

- (a) to an accident when the person killed or injured is a stevedore or shore-based worker and the accident occurs in a port in Kenya; or
- (b) to an accident which occurs in a shipyard in Kenya.

(7) No report made under this regulation shall be admissible in evidence against the maker in any proceedings except proceedings in pursuance of these regulations.

7. Ordering of investigation

(1) The Director-General may cause a preliminary inquiry into the accident to be held.

(2) Where a report has been received under subregulations (1), (2), (4) or (5) of regulation 6, the Director-General shall decide whether or not a preliminary inquiry should be carried out and shall notify the parties to the accident of his decision within 14 days following receipt by him of the report.

(3) Before deciding whether a preliminary inquiry should be carried out and if so, what form it should take, the Director-General may cause to be obtained such information as he considers necessary concerning the accident and any remedial action taken as a result, and any person mentioned in regulation 6(1) or (2), as well as any other person who is in possession of it and has been requested to do so by an inspector, shall provide such information to the best of their ability and knowledge.

(4) In the case of an accident to which regulation 3 (1)(a) applies, the Director-General may decide not to carry out a preliminary inquiry if he is satisfied, or it is otherwise established to his satisfaction, that—

- (a) any loss of life resulted from suicide or natural causes, or

[Issue 3]

- (b) any major injury resulted from attempted suicide, and in such circumstances he may discontinue any inquiry which has already been commenced.

(5) Public notice that a preliminary inquiry has been commenced may be given in such manner as the Director-General may think fit, and may invite any persons who so desire to present relevant evidence to the Inspector in such a manner and within such a time as is specified in the notice.

(6) The Cabinet Secretary may cause a formal investigation to be held by a Board appointed for that purpose.

(7) The board appointed under subregulation (1) may be required to investigate any accident or to expand the scope of an investigation to include any further consequences of an accident, including—

- (a) salvage and pollution aspects; or
- (b) the conduct of search and rescue operations,

and in such circumstances the Board may conduct an investigation into the further consequences of an accident which may be separate and distinct from the investigation into the initial accident.

8. Subsequent or reopened investigation

(1) Notwithstanding a decision by the Director-General under regulation 7(2) not to investigate by way of a preliminary inquiry, the Director-General may at any subsequent time cause an investigation to be carried out if he is then satisfied there is good reason in the interests of future safety to do so.

(2) The Director-General may cause any investigation to be reopened if, following its completion, and in his opinion, new and important evidence is discovered which could have a material effect on any safety recommendations made.

(3) Any investigation may be re-opened either in whole or in part and a re-opened investigation shall be subject to and conducted in accordance with the provisions of these Regulations.

9. Preservation of Evidence

(1) Following an accident involving a Kenyan ship which is reportable under regulation 6, the persons referred to in subregulation (3) shall so far as is practicable ensure that—

- (a) all charts;
- (b) all log books;
- (c) all electronic and magnetic recording and video tapes, including information from a voyage data recorder or recording system relating to the period preceding, during and after the accident; and
- (d) all documents or other records which might reasonably be considered pertinent to the accident

are kept and that no alteration is made to any recordings or entries in them.

(2) In the case of an accident involving a Kenyan ship, the persons mentioned in subregulation (3) shall in addition to subregulation (1), ensure that—

- (a) all information from a voyage data recorder or recording system relating to the circumstances of an accident is saved and preserved, in particularly by taking steps, where necessary, to prevent such information from being overwritten; and
- (b) any other equipment which might reasonably be considered pertinent to the investigation of the accident is so far as practicable left undisturbed.

(3) The persons referred to in subregulations (1) and (2) are—

- (a) the master or, if he has not survived, the senior surviving officer, and
- (b) the ship's owner, unless he has ascertained to his satisfaction that the master or senior surviving officer has taken the action in question.

[Subsidiary]

(4) The duty under subregulation (1) to ensure that documents, information or records are kept and not altered and to ensure under subregulation (2) that information is saved and preserved, or that equipment is left undisturbed, shall continue until—

- (a) notification is received from the Director-General that no investigation is to take place or that the investigation has been completed;
- (b) 14 days have passed since the Director-General received the report referred to in regulation 6(1) and no notice has been sent by the Director-General that he has decided to investigate the matter; or
- (c) the Director-General or an inspector carrying out the investigation gives written notification that he no longer requires them.

(5) Following an accident in Kenyan waters involving a ship which is not a Kenyan ship, the persons mentioned in subregulation (3) shall comply with the requirements of subregulations (1) and (2) if requested to do so by or on behalf of the Director-General.

(6) An inspector may, pending investigation, prohibit persons from gaining access to, or interfering with, any ship, ship's boat or other equipment involved in an accident.

(7) Following an accident, the Director-General may, if he considers it reasonably necessary for the collection or preservation of evidence in connection with any investigation, including preliminary examination, relating to the accident, require any of the master or, if he has not survived, the senior surviving officer and the ship's owner to ensure that a ship is accessible within Kenyan waters to any inspector or members of the board engaged in the preliminary inquiry or investigation of such accident, until the process of collecting or preserving the evidence has been completed to the satisfaction of the inspector or the board.

(8) The Director-General shall not require a ship to remain in Kenyan waters any longer than is necessary for the collection or preservation, as the case may be, of the evidence mentioned in subregulation (7) and shall take all reasonable steps to ensure that such evidence is collected or preserved expeditiously.

(9) No requirement under subregulation (7) shall be made unless the Director-General has reasonable grounds for concern that if the ship leaves Kenyan waters, access to it, to any member of the crew, or to any evidence on board relating to the investigation may subsequently be denied to him or any inspector or members of the Board conducting such investigation.

10. Conduct of investigations

(1) If the Director-General decides pursuant to regulation 7(1) that a preliminary inquiry shall be carried out, it shall be undertaken by an inspector and one or more deputy inspectors at such times and places and in such manner as appear to them most conducive to achieving the objective set out in regulation 5.

(2) The Director-General may in addition to subregulation (1) appoint one or more persons who are not inspectors appointed under the Act for the purpose of carrying out a preliminary inquiry in circumstances where inspectors appointed under the Act are not conveniently available or where the persons appointed have special qualifications or experience, and such persons shall have the powers conferred on an inspector by section 411 of the Act.

(3) An investigation or a preliminary inquiry may extend to cover all events and circumstances preceding the accident together with subsequent events and circumstances which in the opinion of an inspector may have been relevant to its cause or outcome.

(4) Any person, not being an advocate of the High Court of Kenya or other professional legal adviser acting solely on behalf of the person required to attend, who—

- (a) is allowed by an inspector to be present; or
- (b) is nominated to be present by a person required to attend at an oral examination before an inspector,

may at any time be excluded from being present by the inspector with the agreement of the Director-General, if—

[Issue 3]

- (i) both the inspector and Director-General have substantial reason to believe that his presence would hamper the investigation with the result that the objective in regulation 5 is likely to be hindered and future safety thereby endangered; and
- (ii) the Director-General is satisfied, having regard to all the circumstances, that it is proper to exclude that person.

(5) Where a person nominated to be present has been excluded in accordance with subregulation (4), the person required to attend shall be entitled to nominate another person to be present at the oral examination in place of the excluded person and subregulation (4) shall then apply to that other person.

(6) Any document, record or information mentioned in regulation 9, properly required by an inspector to be produced for the purposes of an inquiry (whether on board the ship involved or otherwise), may be retained by him until the inquiry is completed.

(7) In relation to any investigation—

- (a) where a preliminary inquiry has been conducted the Director-General may decide, having regard to the objective set out in regulation 5, whether it is appropriate in all the circumstances to conduct further investigation leading to publication of a report;
- (b) the Director-General may subsequently make recommendation to the Cabinet Secretary to appoint a Board to undertake formal investigations.

11. Disclosure of records

(1) Subject to the following paragraphs, the names, addresses or any other details of anyone who gives evidence to an inspector shall not be disclosed.

(2) The following documents or records shall not be made available for purposes other than the investigation, unless a court orders otherwise:—

- (a) subject to subregulation (3), all declarations or statements taken from persons by an inspector or supplied to him in the course of his inquiry, together with any notes or voice recordings of interviews;
- (b) medical or confidential information regarding persons involved in an accident;
- (c) any report made under regulation 6(4) or (5);
- (d) copies of the report other than the final report except as mentioned in regulation 12 (3) (a), (4), or (8).

(3) A person who gives a declaration or statement to an inspector in the course of an inquiry may make available a copy of his declaration or statement to another person as he sees fit.

(4) Any independent technical analysis commissioned by the Director-General and opinions expressed in such analysis may be made publicly available if the Director-General it appropriate to do so.

(5) Subject to subregulation (6), no order shall be made under paragraph (2) unless the Court is satisfied, having regard to the views of the Director-General, that the interests of justice in disclosure outweigh any prejudice, or likely prejudice, to—

- (a) the investigation into the accident to which the document or record relates,
- (b) any future accident investigation undertaken in Kenya, or
- (c) relations between Kenya and any other State, or international organization.

(6) The provisions of this regulation shall be without prejudice to any rule of law which authorises or requires the withholding of any document or record or part thereof on the ground that disclosure of it would be injurious to the public interest.

(7) Copies of information obtained from a voyage data recorder or from other recording systems, pertinent to the accident, including voice recordings (other than any recordings mentioned in subregulation (2)(a)), video recordings and other electronic or magnetic

[Subsidiary]

recordings and any transcripts made from such information or recordings, may be provided at the discretion of the Director-General to the police or other official authorities.

12. Reports of investigations

(1) Subject to subregulation (3), the Board shall cause a report of an investigation into an accident conducted pursuant to regulation 10 (7) (a) and (b), other than an accident the investigation of which is being undertaken on behalf of a State other than Kenya, to be submitted to the Cabinet Secretary who shall make the report publicly available in the shortest time possible and in such a manner as he thinks fit.

(2) The report submitted under subregulation shall set out—

- (a) conclusions relating to the facts of the accident;
- (b) where the facts cannot be clearly established, analysis and professional judgment to determine the probable facts; and
- (c) recommendations for future safety

(3) the Minister shall not make the report publicly available until he has—

- (a) served a notice under this regulation upon any person who, or organization which, could be adversely affected by the report or, if that person is deceased, upon such person or persons as appear to the Minister, at the time he proposes to serve notice pursuant to this paragraph, as best to represent the interests and reputation of the deceased in the matter, and
- (b) considered the representations relating to the facts or analysis contained in the report which may be made to him in accordance with paragraph (5) by or on behalf of the persons served with such notice, and amend the report in such manner as he thinks fit.

(4) The notice referred to in subregulation (3) (a) shall be accompanied by a draft copy of the report.

(5) The representations referred to in subregulation (3)(b) shall be in writing and shall be served on the Minister within 28 days of service of the notice referred to in paragraph (3) (a) or within such further period as may be allowed under regulation 15.

(6) Subject to any Court order under regulation 11, no person shall disclose any information—

- (a) which has been furnished to him pursuant to subregulation (4) of this regulation; or
- (b) which has otherwise been furnished to him by or on behalf of the Cabinet Secretary in advance of the publication of a report and whose confidentiality is protected by regulation 11,

or permit such information to be disclosed, save with the prior consent in writing of the Cabinet Secretary, to any other person, except to such advisers as are necessary in order to make representations to the Cabinet Secretary, referred to in subregulation (3)(b), and those advisers shall similarly be subject to the duty not to disclose the information or permit it to be disclosed.

(7) A copy of the report when made publicly available shall be given by the Cabinet Secretary to—

- (a) any person who has been served with a notice pursuant to subregulation (3) (a);
- (b) the persons or bodies to whom recommendations have been addressed in that report;
- (c) the Director-General;
- (d) the International Maritime Organisation; and
- (e) any other person or organization whom the Cabinet Secretary considers may find the report useful or of interest.

[Issue 3]

(8) Where an inquest or inquiry into a fatal accident is to be held following an accident which has been the subject of an investigation, a draft report may be made available in confidence to the presiding officer having the conduct of the inquest by the Cabinet Secretary.

(9) If any part of the report or analysis in the draft report is based on information obtained pursuant to an inspector's powers under Section 411 of the Act, the report shall be inadmissible in any judicial proceedings whose purpose or one of whose purposes is to attribute or apportion liability or blame unless a Court or tribunal, having regard to the factors mentioned in regulation 11(5)(b) or (c), determines otherwise.

(10) In this regulation, "Judicial proceedings" includes any civil or criminal proceedings before any court, tribunal or person having by law the power to hear, receive and examine evidence on oath.

13. Summary of Inquiry

(1) The Director-General may, at his discretion and to implement any lessons learned, from time to time publish a collective summary report of inquiry into accidents which have not been the subject of a report published under regulation 12(1).

(2) Upon application, a copy of the report, or extracts thereof, of any accident which has been the subject of an inquiry may be made available to any person requesting it who satisfies the Director-General of his legitimate interest.

(3) A summary shall not be published or otherwise made available where prosecution against any person in connection with the subject accident has begun, unless the Director-General is satisfied that nothing in its content would prejudice a fair trial.

(4) The Director-General may submit a report to the Cabinet Secretary on any matter arising from his analysis of marine accident inquiry.

14. Recommendations

(1) The Director-General may as a result of one or more investigations, whether or not completed, at any time make recommendations as to how future accidents may be prevented.

(2) The actions recommended shall be addressed to those persons or bodies who, in the opinion of the Director-General, are most fitted to implement them.

(3) Recommendations shall be made publicly available if the Director-General considers that to do so is in the interests of safety or preventing pollution.

(4) Any person to whom a recommendation is addressed pursuant to subregulation (2) shall, without delay—

- (a) take that recommendation into consideration;
- (b) send to the Director-General—
 - (i) details of the measures, if any, he has taken or proposes to take to implement the recommendation and, in a case where he proposes to implement measures, the timetable for securing that implementation, or
 - (ii) an explanation as to why the recommendation is not to be the subject of measures to be taken to implement it,

and any details or timetable pursuant to sub-paragraph (i) or explanation pursuant to sub-paragraph (ii) shall be provided to the Director-General within 28 days following receipt of the recommendation; and

- (c) give notice to the Director-General if at any time any information provided to the Director-General in pursuance of subparagraph (4)(b)(i) concerning the measures he proposes to take or the timetable for securing their implementation is rendered inaccurate by any change of circumstances.

(5) Subject to subregulations (6) and (7) the Director-General shall, annually or at such other intervals as he sees fit, make information publicly available in respect of the

[Subsidiary]

matters, including any explanation, mentioned in subregulation (4)(b) and (c) which have been communicated to him and shall inform the Cabinet Secretary of those matters.

(6) The Director-General shall not publish information under paragraph (5) unless he has first notified any person mentioned in the information and considered any representations relating to the information which may be made to him in accordance with subregulation (7) by or on behalf of any person so notified, and amended the information in such manner as he thinks fit.

(7) Any representations made pursuant to subregulation (6) shall be in writing and shall be served on the Director-General within twenty-eight days of receipt of the notification referred to in that subregulation or within such further period as may be allowed under regulation 15.

15. Extension of time

(1) The Cabinet Secretary shall have the power to extend the period of twenty-eight days prescribed in regulation 12(5), but shall do so only if he considers that there are good reasons warranting such an extension, having regard to the requirement in regulation 12(1) for a report of an investigation to be made available in the shortest time possible.

(2) The Director-General may extend the period of twenty-eight days prescribed in regulation 14(7) where he considers it appropriate to do so.

(3) The powers under this regulation may be exercised notwithstanding that the prescribed period has expired.

16. Service of documents

Any notice or other document required or authorized by any provision of these Regulations to be served on or given to any person may be served or given:

- (a) by delivering it to that person;
- (b) by leaving it at his usual or last-known residence or place of business, whether in Kenya or elsewhere;
- (c) by sending it to him by post at that address; or
- (d) by sending it to him at the address by telex, facsimile, or other means which produces a document containing a text of the communication, or by electronic mail in which event the document shall be regarded as having been served when it is sent.

17. Penalties

(1) A person shall commits an offence if—

- (a) being a person mentioned in regulation 6(1), (2)(a) or (b), he fails without reasonable cause to report an accident as required by regulation 6, or
- (b) being a master or ship's owner, he fails without reasonable cause to comply with regulation 6(5), or
- (c) being a person referred to in paragraph (a), he fails without reasonable cause to provide information as required by regulation 7(3), or
- (d) he falsely claims to have any additional information or new evidence pertaining to any accident or serious injury, and such person shall be liable upon conviction to a fine not exceeding two hundred thousand or to imprisonment for a person not exceeding two years or both such fine and imprisonment.

(2) If any person fails without reasonable cause to comply with any requirement, duty or prohibition in regulation 9(1), (2) or (5) to (7), such person commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand or to imprisonment for a period not exceeding five years or both such fine and imprisonment.

If any person without reasonable cause discloses or permits to be disclosed any information in contravention of regulations 11(1) or 12(6), or makes available any documents

or records in contravention of regulation 12(2), such person commits an offence and shall be liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a period not exceeding two years or both such fine and imprisonment.

18. Director-General may impose fine upon admission of guilt

(1) If any person—

- (a) admits to the Director-General that he has failed to comply with any provision of these regulations or the Act, or that he has failed to comply with any such provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question,

the Director-General may, after such an enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by way of a penalty the whole or any part of the said deposit to be forfeited.

(2) There shall be the right of appeal to the Cabinet Secretary from a determination or order by the Director-General under subregulation (1) whereby a penalty exceeding fifty thousand shillings is imposed, provided such right is exercised within a period of three months from the date of such determination or order.

(3) The imposition of a penalty under sub-regulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(4) nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

THE MERCHANT SHIPPING (CASUALTY REPORTING
AND INVESTIGATION) REGULATIONS 2014

ARRANGEMENT OF REGULATIONS

PART I – GENERAL

1. Short title and commencement.
2. Interpretation.
3. Application.
4. Responsibilities of owners and masters.
5. Watchkeeping standards.
6. Hours of work: general duty of owners, masters and other seafarers.
7. Hours of work: schedules of duties.
8. Hours of work: exception for emergencies.
9. Employment of personnel holding foreign certificates.
10. Recognition of foreign certificates.
11. Employment of certificated deck officers on ships other than fishing vessels.
12. Employment of certificated engineer officers on ships other than fishing vessels.
13. Employment of certificated radio operators.
14. Employment of certificated ratings on ships other than fishing vessels.
15. Employment of qualified personnel on tankers and passenger ships.
16. Employment of electro-technical officers.
17. Employment of electro-technical ratings.
18. Employment of qualified fire-fighting personnel.
19. Employment of qualified personnel on ships equipped with fast rescue boats.
20. Exemptions.
21. Equivalence of certificates and endorsements.
22. Safe manning document.
23. Carriage of documents.
24. Offences, penalties and defences.
25. Director General may impose penalty upon admission of guilt.
26. Revocation of L. N. 47/2012.

FIRST SCHEDULE —

MINIMUM SAFE MANNING REQUIREMENTS

SECOND SCHEDULE —

WATCHKEEPING PRINCIPLES AND
ARRANGEMENTS

MERCHANT SHIPPING (SAFE MANNING) REGULATIONS, 2014

[L.N. 91/2014.]

1. Short Title

These Regulations may be cited as the Minimum Safe Manning Regulations, 2014.

2. Interpretation

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

"able seafarer deck" means a rating qualified and certificated for service on board sea going ships under regulation 48 of the Merchant Shipping (Training and Certification) Regulations, 2014;

"able seafarer engine" means a rating qualified and certificated for service on board seagoing ships under Regulation 50 of the Merchant Shipping (Training and Certification) Regulations, 2014;

"accredited institution" means a training institution accredited under Regulation 80 of the Merchant Shipping (Training and Certification) Regulations, 2014;

"approved" means approved by the Authority;

"Authority" means the Kenya Maritime Authority established under the Kenya Maritime Authority Act, 2006;

"certificated", except in relation to * radio operator, means duly certificated under the Act or deemed under the Act to be so certificated, and, in relation to a radio operator, means holding a valid appropriate certificate of proficiency issued or recognized by or on behalf of the Communications Commission of Kenya;

"contravene" in relation to a provision of these Regulations, includes failing or refusing to comply with that provision;

"coxswain" in relation to a provision of these Regulations, means a person certificated under Regulation 66 of the Merchant Shipping (Training and Certification) Regulations, 2014;

"deck officer" means a person who is qualified for service as a ship's officer in the deck department on a ship, and includes the master;

"electro-technical officer" means an officer who is qualified and certificated for service on board seagoing ships under the relevant regulations;

"electro-technical rating" means a rating qualified for service on a seagoing ship at a support level to an electro-technical officer;

"engineer officer" means a person who is qualified for service as a ship's officer in the engine-room department on a ship;

"examiner" means a person appointed under section 170 of the Act;

"fast rescue boat" means a rigid or semi-rigid inflatable boat used for rescue work and capable of manoeuvring, for at least 4 hours, at a speed of 20 knots in calm water with a crew of at least three persons and at a speed of at least 8 knots with a full complement;

"foreign ship" means any ship that is not a registered or a licensed Kenyan ship;

"GMDSS" means the global maritime distress and safety system;

"GT" in relation to a ship, means its gross tonnage calculated in accordance with the tonnage measurement regulations made pursuant to the Act;

"Kenyan waters" means waters comprising—

[Subsidiary]

- (a) the internal and territorial waters of Kenya; and
- (b) the exclusive economic zone of Kenya

"length", in relation to a ship, has the same meaning as in the tonnage measurement regulations made pursuant to the Act;

"offshore exploration operations" means the exploitation, whether by mining or otherwise, of mineral resources of the seabed or subsoil thereof, including oil and gas resources;

"officer" means a person engaged as an officer on a ship;

"offshore", means seaward measured from the low-water mark along a coast;

"owner", in relation to a ship, includes any person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner;

"port operations" means voyages confined to the sea area within a 15 Nautical Miles radius of a port;

"propulsion power" means the total maximum continuous rated output power in kilowatts of all a ship's main propulsion machinery appearing on the ship's certificate of registry or other official document;

"radio operator" means a person having responsibility for the operation of the radio installations on a ship; voyages confined to the sea area within a 15 Nautical Miles radius of a port;

"rating" means a seafarer other than an officer;

"ro-ro passenger ship" means a passenger ship with ro-ro cargo spaces or special category spaces;

"safe manning document" means a document that describes the minimum manning considered necessary to ensure that a ship is sufficiently and efficiently manned, and that is issued—

- (a) in the case of a Kenyan ship, by the Authority; and
- (b) in the case of any other ship, by or under the authority of the flag State;

"seagoing ship" means a ship other than one that navigates exclusively in inland waters or in a sea area contemplated in the definition of port operations;

"ship to which the Safety Convention applies" means any seagoing ship, except

—

- (a) warships, naval auxiliaries or other ships owned or operated by a state and engaged only on government non-commercial service;
- (b) ships of less than 500 GT, other than passenger ships;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of traditional build;
- (e) ships used solely for sport or recreation; and
- (f) fishing vessels;

"ship to which the STCW Convention applies" means any seagoing ship, except

—

- (a) warships, naval auxiliaries or other ships owned or operated by a State and engaged only on government non-commercial service;
- (b) fishing vessels;
- (c) ships used solely for sport or recreation; and
- (d) wooden ships of traditional build;

"STCW Convention" means the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended and "Convention" shall be construed accordingly;

"STCW Code" means the Seafarers' Training, Certification and Watchkeeping Code, as amended;

"tanker" means a ship—

- (a) constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the latest edition of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk, 1983 published by the International Maritime Organization, as amended from time to time;
- (b) constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the latest edition of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, 1983 published by the International Maritime Organization, as amended from time to time; or
- (c) constructed and used for the carriage in bulk of petroleum or petroleum products;

"the Code" means the Kenyan Maritime Code of Qualification published by the Authority;

"the Training and Certification Regulations" means the Merchant Shipping (Training and Certification) Regulations, 2014;

"unlimited voyage" means a voyage other than one contemplated in the definitions of near-coastal voyage and port operations;

(2) A reference in these Regulations to the holder of any certification or document or to holding any certification or document shall be read as a reference to the lawful holder of the certification or document or to lawfully holding the certification or document, as the case may be.

(3) For the purposes of these Regulations, a ship shall be taken to be at sea at any time when it is not securely ashore or moored in a safe berth, provided that a ship shall not be taken to be at sea by reason only that the ship has been got under way for the purpose of moving the ship from one berth in a port to another berth in the port.

3. Application

(1) Subject to sub-regulation (2) and (3)—

- (a) these Regulations shall apply to every Kenyan ship wherever it may be;
- (b) Regulation 22 shall apply, in addition to every Kenyan ship wherever it may be, to every foreign ship to which the Safety Convention applies, when in Kenyan waters; and
- (c) Regulations 6, 7, 23 and 24 shall apply, in addition to every Kenyan ship wherever it may be, to every foreign ship to which the STCW Convention applies, when in Kenya or its territorial waters.

(2) A provision of these Regulations shall not apply to a Kenyan ship in the waters of another State where the provision is inconsistent with a law of that State that, by its terms, applies to the ship when in the waters of that State.

(3) These Regulations do not apply to—

- (a) vessels of less than 25 GT;
- (b) any vessel of less than 100 GT that is used solely for sport or recreation; or
- (c) any vessel of 100 GT or more that is classified in terms of the life-saving equipment regulations as a class XII yacht if there is employed on the vessel

[Subsidiary]

an adequate number and description of persons to ensure that the vessel is sufficiently and efficiently manned.

4. Responsibilities of owners and masters

(1) The owner of every ship shall ensure that—

- (a) no ship's officer takes charge of a navigational or engineering watch on the ship unless he holds appropriate valid certification entitling him to do so;
- (b) no rating forms part of a navigational or engineering watch on the ship unless he holds appropriate valid certification entitling him to do so;
- (c) the master and every ship's officer have appropriate experience of the type of ship on which he is employed;
- (d) the master and every seafarer employed on the ship, before being allowed to assume his assigned duties, are familiarized with their specific duties and with all the ship's arrangements, installations, equipment, procedures and characteristics relevant to their routine and emergency duties;
- (e) every rating employed on the ship and designated to have safety or pollution prevention duties holds documentary evidence of having—
 - (i) served in a capacity designated to have safety and pollution prevention duties for a period of at least 12 months during the preceding five years; or
 - (ii) successfully completed approved training relating to those duties during the preceding five years;
- (f) the ship's crew can effectively co-ordinate activities in an emergency situation and in performing functions vital to safety and to the prevention or mitigation of pollution;
- (g) documentation and data relevant to the master and seafarers employed on the ship are maintained and readily available for inspection, including documentation and data relevant to their experience, training, medical fitness and competency in assigned duties; and
- (h) every seafarer employed on the ship and going to sea for the first time holds documentary evidence of having successfully completed approved safety induction training and, in the case of a fishing vessel, that the master and every seafarer (other than a seafarer going to sea for the first time) employed on the ship hold such evidence for a period not later than 24 months preceding the engagement of such master or seafarer on the ship.

(2) Without limiting the owner's obligations under sub-regulation (1), it is the duty of the master to ensure that the requirements of that sub-regulation are complied with in relation to the seafarers employed on the ship.

(3) Nothing in sub-regulation (1) (a) to (f) prohibits the allocation of tasks for training under supervision or in the event of *force majeure*.

(4) The owner and the master of every ship shall ensure that, in addition to the ship's officers and other persons prescribed by these Regulations or elsewhere in terms of the Act, there are employed as crew of the ship an adequate number and description of persons to ensure that the ship is sufficiently and efficiently manned.

(5) For the purposes of paragraph (4) a ship shall be taken to be sufficiently and efficiently manned if, in the opinion of the proper officer, it has as crew suitably qualified persons to enable it to go to sea with due regard to the requirements of the life-saving equipment regulations, the collision regulations, the radio regulations, and any other safety provisions that may be applicable to the ship.

(6) The proper officer shall, when determining the adequacy of the crew in accordance with this Sub-regulation, take the following into account—

- (a) the complement normally carried by similar ships employed on similar voyages or operations;

[Issue 3]

- (b) the complement that the ship in question has recently carried on previous voyages or operations;
- (c) the complement adequate to ensure compliance with Regulations 6 and 7 (if applicable); and
- (d) the nature of the service for which the ship is intended.

(7) The Authority shall, as and when necessary, issue a marine notice specifying the number of persons to constitute the crew of a ship and the capacities in which those persons are to serve other than persons prescribed in these regulations or elsewhere in terms of the Act.

5. Watchkeeping standards

The owner and master of a ship shall ensure that the Watchkeeping Standards set out in the Second Schedule are complied with on the ship at all times.

6. Hours of work: general duty of owners, masters and other seafarers

(1) The owner of every ship shall ensure, so far as is reasonably practicable, that the master and seafarers employed on the ship do not work more hours than is safe in relation to the safety of the ship and the master's and the seafarers' performance of their duties.

(2) The master of every ship shall ensure, so far as is reasonably practicable, that the seafarers employed on the ship do not work more hours than is safe in relation to the safety of the ship and the seafarers' performance of their duties.

(3) Every master and seafarer shall, so far as is reasonably practicable, ensure that he is properly rested when commencing duty on a ship, and that he obtains adequate rest during periods when he is off duty.

7. Hours of Work: Schedules of duties

(1) The owner of every ship of 100 GT or more shall produce a schedule of duties complying with this Regulation

(2) Where the owner of a ship is not the employer of the master and all the seafarers working on board his ship, the owner shall consult any other person who is an employer of the master or any of the seafarers before producing the schedule.

(3) The owner of a ship may arrange with any employer that the employer is to produce a schedule of duties complying with this regulation and in such a case, that employer shall also be subject to the duties of the owner under this regulation.

(4) Before producing a schedule, the owner shall seek the views of the master, and the master shall seek, and convey to the owner, the views of—

- (a) the ship's safety committee; or
- (b) the seafarers or their representatives; or
- (c) a trade union with one or more members aboard ship.

(5) A schedule shall be deemed to comply with this Regulation if—

- (a) it sets out the hours of work for—
 - (i) masters and seafarers whose work includes regular watchkeeping duties or ship handling; and
 - (ii) the ship's chief engineer, chief mate and second engineer, so as to provide that they do not work more hours than is safe in relation to the safety of the ship and the master's and seafarers' performance of their duties;
- (b) it specifies the maximum period of continuous Watchkeeping, the minimum rest period between watches, and the total daily, weekly and monthly hours of work; and
- (c) it provides a minimum of ten hours of rest in any 24-hour period, which period may be divided into no more than two periods, one of which shall be at least

[Subsidiary]

six hours duration: Provided that the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that any such reduction shall not extend beyond two days and not less than seventy hours of rest are provided in each seven day period.

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

(7) The schedule may be changed by the owner, or by an employer who by virtue of sub-regulation (3) is subject to the duties of the owner, on condition that—

- (a) other employers and the owner, as the case may be, have been consulted;
- (b) the owner or the employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the owner the views of persons mentioned in sub-regulation (4)(a), (b) or (c); and
- (c) the schedule as changed complies with sub-regulation (5).

(8) The owner shall ensure that the schedule is displayed prominently in the crew accommodation for the information of all seafarers.

(9) It is the duty of the master to ensure, as far as reasonably practicable, that the hours of work specified in the schedule are not exceeded.

(10) The owner and the master shall keep on board the ship a copy of the schedule and a record of all deviations from its requirements.

(11) The owner for the time being shall ensure that a copy of the schedule and of the record of all deviations from its requirements are preserved for a period of five years from the date the schedule was introduced, and that they are available for inspection by a proper officer or a surveyor. If during the five year period there ceases to be an owner in relation to the ship, the duty to preserve the copies of the schedule and of the record shall remain with the last such owner.

8. Hours of work: exception for emergencies

(1) The requirements for rest periods provided for in regulation 7(5) (c) need not be maintained in case of emergency or drill or in other overriding operational conditions.

(2) When in pursuance of sub-regulation (1) the master or a seafarer has worked within a rest period provided for by the schedule, the master shall cause to be entered in the ship's official logbook the master's or seafarer's name, as the case may be, together with the reason why he so worked.

9. Employment of persons holding foreign certificates

For the purposes of section 170 of the Act, the owner of a ship to which the STCW Convention applies shall not employ on the ship, as master or ship's officer, any person who holds a certificate issued by or on behalf of the government of another country, unless—

- (a) that person's certificate has been endorsed in accordance with Regulation 10 (3); or
- (b) in the absence of such an endorsement, the certificate was issued and is valid in accordance with the STCW Convention, the period of employment does not exceed three months and the owner makes application to the Authority within that period for an endorsement in accordance with regulation 10(2).

(2) For the purposes of section 170(5) of the Act, the owner of a ship to which the STCW Convention does not apply shall not employ on the ship, as master or ship's officer, any person who holds a certificate of competency issued by or on behalf of the government of another country, unless the Authority has, under section 170(5) of the Act, authorized that person's employment on such ship.

(3) Application for an authorization under section 170(5) of the Act shall be made by the owner of the ship and shall be directed to the proper officer nearest to the ship's intended port of departure. The application shall—

- (a) be made before the person assumes duty on the ship; and

[Issue 3]

- (b) be accompanied by the person's original certificate (together with a certified translation into the English language where the certificate is in a language other than English), a medical examination report complying with the requirements specified by marine notice and attesting to the person's medical fitness and, in the case of a deck officer, a valid eyesight test certificate.

(4) The proper officer may require the person to appear before an examiner, who shall satisfy himself that the person is adequately qualified and that he has the ability to converse, issue and understand orders and written instructions in the English language.

(5) An authorization granted under section 170 of the Act shall be in writing and shall specify the period, not exceeding six months, for which it is to remain in force.

(6) The Authority may revoke an authorization granted under section 170 of the Act if—

- (a) the person in question shows, through any inability, that he is not adequately qualified or that he is not able to converse, issue and understand orders and written instructions in the English language;
- (b) the person's certificate expires or is cancelled or suspended by or on behalf of the government under whose authority the certificate was originally issued;
- (c) the person fails to comply with any condition on which the authorization was granted;
- (d) an admiralty court holding a marine inquiry or a disciplinary hearing recommends the revocation of the authorization; or
- (e) the person is convicted of an offence in terms of the Act or any other law administered by the Authority.

10. Recognition of foreign certificates

(1) The holder of a certificate as master or ship's officer, being a certificate issued in terms of the STCW Convention by or on behalf of another party to that Convention, may apply to the Authority, in accordance with sub-regulation (2), for the certificate to be recognized as equivalent to a certificate of competency issued under the Act.

(2) An application contemplated in Sub-regulation (1) shall be accompanied by—

- (a) a letter of motivation requesting the specific equivalency;
- (b) a statement by the applicant, confirmed by or on behalf of another party to the STCW Convention, that his level of proficiency in the English language meets the relevant requirements of the STCW Convention;
- (c) a medical certificate, issued by an approved medical practitioner, declaring that the medical fitness of the applicant complies with the medical standards set out in the Code;
- (d) a certified copy of the applicant's original certificate;
- (e) two passport-size photographs of the applicant; and
- (f) if the applicant is applying for an equivalency as master, chief mate, chief engineer officer or second engineer officer, documentary proof that he has attained the level of knowledge of the relevant administration State's maritime legislation required for the equivalent certificate desired. A certificate issued by an accredited institution stating that the applicant has satisfied the institution's examiner that he has attained the required level of knowledge shall be accepted as sufficient proof of such knowledge.

(3) The Authority may issue an endorsement recognizing an applicant's certificate, which endorsement shall have effect as an authorization under section 170 of the Act, if it is satisfied that—

- (a) the certificate is authentic and valid;
- (b) the level of competence and knowledge evidenced by the certificate is not inferior to that required for the equivalent certificate issued under the Act;

[Subsidiary]

- (c) the applicant, if applying for an equivalency as master, chief mate, chief engineer officer or second engineer officer, has attained the level of knowledge of the Kenyan maritime legislation required for the equivalent certificate issued under the Act: and
- (d) prompt notification will be given to the Authority of any significant change in the arrangements for training and certification provided in compliance with the STCW Convention.

(4) Every endorsement issued under Sub-regulation (3) shall be a separate document and shall state, with reference to the Training and Certification Regulations and the STCW Convention, the capacity in which the holder is entitled to serve.

(5) The Authority may cancel an endorsement issued under subregulation (3) if—

- (a) the holder shows, through any inability, that he or she does not meet the level of competency or knowledge required for the equivalent certificate of competency, or that his or her level of proficiency in the English language does not meet the relevant requirements of the STCW Convention;
- (b) the holder's certificate expires or is cancelled or suspended by or on behalf of the government under whose authority the certificate was originally issued;
- (c) an admiralty court marine inquiry or a disciplinary hearing recommends the cancellation of the endorsement; or
- (d) the holder is convicted of an offence in terms of the Act or any other law administered by the Authority.

(6) Where the Authority cancels an endorsement under subregulation (5), it shall inform the government under whose authority the certificate was originally issued of the cancellation.

11. Employment of certificated deck officers on ships other than fishing vessels

(1) The owner and the master of every ship, other than a fishing vessel or a ship referred to in sub-regulation (2), shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated deck officers specified in the applicable item of Table A, set out in the First Schedule.

(2) The owner and the master of every ship of 100 GT or more that—

- (a) is engaged in offshore exploitation operations within waters under Kenyan jurisdiction; and
- (b) so operates at anchor for two-thirds or more of the time spent at sea between port calls, and shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificate deck officers specified in the applicable item of Table A under First Schedule.

12. Employment of certificated engineer officers on ships other than fishing vessels

(1) The owner and the master of every ship, other than a fishing vessel or a ship referred to in sub-regulation (2), shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of Table B under the Schedule.

(2) The owner and the master of every ship of 100 GT or more that—

- (a) is engaged in mining operations within waters under Kenyan jurisdiction; and
- (b) so operates at anchor for two-thirds or more of the time spent at sea between port calls; and shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated engineer officers specified in the applicable item of Table B under the Schedule.

13. Employment of certificated radio operators

[Issue 3]

Merchant Shipping

[Subsidiary]

The owner and the master of every ship shall ensure that there is employed on the ship the number and description of appropriately certificated radio operators specified in the applicable item of the table set out hereunder, provided that—

- (a) if the ship is of 300 GT or more, is engaged on a near-coastal voyage and is not equipped in accordance with GMDSS requirements of the radio regulations, there shall be employed on the ship at least two radio operators who are appropriately certificated for the type of radio installation on the ship;
- (b) if the ship is equipped in accordance with the GMDSS requirements of the radio regulations and at-sea maintenance of radio equipment is to be conducted to ensure availability, at least one radio operator on the ship shall hold a valid Radio Electronic Certificate (First Class), or a recognized equivalent certificate;
- (c) if the ship is fitted with radio equipment capable of operating within the GMDSS (whether or not so fitted in compliance with statutory requirements), there shall be employed on the ship at least one radio operator who is the holder of a valid GMDSS General Operators Certificate, or a recognized equivalent certificate;
- (d) when the radio equipment on the ship is being used for general communications, other than distress, urgency or safety communications, such general communications shall not be conducted by the deck officer on watch.

<i>Item</i>	<i>Voyage/ Operation</i>	<i>Tonnage/length of ship</i>	<i>Appropriate certification and number of persons to be employed</i>	
			<i>Certification</i>	<i>Number</i>
1	Port Operations	>25GT	Restricted Radiotelephone Operator	1
2	Near-Coastal	>25 GT but < 300 GT	Restricted Radiotelephone Operator	2
3		> 300 GT	M SS General Operator	
4	Fishing operations within 40 nautical mile offshore	>25GT	Restricted Radio telephone Operator (VHF only)	1
5	Fishing operations beyond 40 but within 200 nautical miles offshore	25GT	Restricted Radiotelephone Operator	2
	Fishing operations beyond 200 nautical miles offshore	> 25GT but < 45 metres	Restricted Radiotelephone Operator	2
7	Fishing operations beyond 200 nautical miles offshore	> 45 metres	GMDSS General Operator	2

Merchant Shipping

[Subsidiary]

8	Unlimited	> 100 GT but 300 GT	Restricted Radio/telephone Operator	2
		> 300 GT	GMDSS General Purpose Rating	2

14. Employment of certificated ratings on ships other than fishing vessels

The owner and the master of every ship other than a fishing vessel shall ensure that there is employed on the ship in their appropriate capacities the number and description of appropriately certificated ratings respectively specified in Table A set out under the Schedule provided that—

- (a) where a combination of ratings qualified as ratings forming part of navigational watch and able seafarers deck, at least half the combined number of ratings so employed shall be qualified as able seafarer deck;
- (b) where a combination of ratings qualified as ratings forming part of an engineering watch, at least one of the ratings so employed shall be qualified as an able seafarer engine;
- (c) on passenger ships the prescribed number of ratings qualified as proficient in survival craft and as proficient in fast rescue boats shall be in addition to the number of ratings qualified as able seafarer deck and able seafarer engine;
- (d) on ships having only inflatable appliances as survival craft there may be employed, instead of the number of ratings qualified as proficient in survival craft, an equal number of ratings qualified as proficient in inflatable appliances only;
- (e) owners and masters (bearing in mind that Tables A, B and C under the First Schedule specifies minimum requirements only) shall have regard to the requirements of regulation 4(4) when determining the appropriate manning;
- (f) in respect of a ship engaged solely in port operations, and instead of meeting the requirements specified in the table below, application may be made to the proper officer at the ship's port of operation for the number of certificated ratings to be determined, with the necessary changes, in accordance with regulation 4(4);
- (g) on ships engaged solely in port operations, there may be employed, instead of the number of ratings qualified as able seafarers deck and able seafarers engine, an equal number of ratings holding the qualification as General Purpose Rating.

15. Employment of qualified personnel on tankers and passenger ships

(1) The owner and the master of every tanker shall ensure that—

- (a) every seafarer assigned specific duties and responsibilities related to cargo or cargo equipment on the ship; and
- (b) the master, chief engineer officer, chief mate, second engineer officer and every other seafarer with immediate responsibility for loading, discharging and care in transit or handling of cargo on the ship, hold—
 - (i) the appropriate certificate or endorsement evidencing compliance with the provisions of regulations 56 and 57 of the Merchant Shipping (Training and Certification) Regulations, 2014 relative to their capacity, duties and responsibilities on the ship; or
 - (ii) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation VI of that Convention relative to their capacity, duties and responsibilities on the ship.

(2) The owner and the master of every ro-ro passenger ship shall ensure that the master and every seafarer employed on the ship hold—

- (a) the appropriate certificate or endorsement evidencing compliance with the provisions of regulation 58 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
- (b) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of regulation V/2 of that Convention relative to their capacity, duties and responsibilities on the ship.

(3) The owner and the master of every passenger ship, other than a ro-ro passenger ship, engaged on unlimited voyages shall ensure that the master and every seafarer employed on the ship hold—

- (a) the appropriate certificate or endorsement evidencing compliance with the provisions of Regulation 59 of the Training and Certification Regulations relative to their capacity, duties and responsibilities on the ship; or
- (b) the appropriate certificate or endorsement, issued by or on behalf of another party to the STCW Convention, evidencing compliance with the provisions of Regulation V/2 of that Convention relative to their capacity, duties and responsibilities on the ship.

16. Employment of electro-technical officers

The owner and the master of every ship on an unlimited voyage shall ensure that there is employed an electro-technical officer on the ship.

17. Employment of electro-technical ratings

The owner and the master of every ship on an unlimited voyage and on which there is employed an electro-technical officer, shall ensure that there is employed an electro-technical rating on the ship

18. Employment of qualified fire-fighting personnel

(1) The owner and the master of every ship shall ensure that every seafarer designated to take charge of a fire-fighting party on the ship holds—

- (a) in the case of a ship of 100 GT or more, a valid Fire-Fighting Certificate issued in accordance with the Code, or an approved equivalent qualification;
- (b) in the case of a tanker of 100 GT or more, a valid Tanker Fire-Fighting Certificate issued in accordance with the Code, or an approved equivalent qualification; and
- (c) in the case of a ship of less than 100 GT, a valid Fire-Fighting (Small Vessels) Certificate issued in accordance with the Code, or an approved equivalent qualification.

(2) The owner and the master of every ship to which the STCW Convention applies shall ensure that every seafarer designated to control fire-fighting operations on the ship holds—

- (a) a valid Advanced Fire-Fighting Certificate issued in accordance with the Code; or
- (b) a valid certificate in advanced fire-fighting issued in accordance with section A-VI/3 of the STCW Convention by or on behalf of another party to the Convention

(3) Every person who is designated the duties referred to in sub- Regulation (1) or (2) shall undertake approved refresher training at intervals not exceeding five years.

19. Employment of qualified personnel on ships equipped with fast rescue boat

The owner and master of every ship that is equipped with one or more fast rescue boats shall ensure that there are employed on the ship at least two persons per boat who hold—

Merchant Shipping

[Subsidiary]

- (a) a valid certificate of proficiency as proficient in fast rescue boats issued in accordance with regulation 52 of the Merchant Shipping (Training and Certification) Regulations, 2014; or
- (b) a valid certificate of proficiency in fast rescue boats issued in accordance with section A-VI/2, of the STCW Convention by or on behalf of another party to that Convention.

20. Exemptions

(1) The Director General may, if in his opinion no danger would result to persons, property or the environment, grant exemption, on such terms, if any, as it may specify, from any of the provisions of these regulations (as may be specified in the exemption) for classes of cases or individual cases.

(2) However, an exemption permitting a person to serve in a capacity for which he is not certificated—

- (a) may be granted only if the person is certificated to serve in the next lower capacity, provided that if the next lower capacity is an uncertificated capacity, exemption may be granted only if the person's knowledge and experience, in the opinion of the Authority, are appropriate for the capacity to be filled;
- (b) shall not be granted in respect of—
 - (i) the capacity of master of a passenger ship; or
 - (ii) the capacities of master or chief engineer of any ship to which the STCW Convention applies, except in the event of *forcemajeure* and then only for the shortest possible time; and
- (c) shall, in all cases, cease to have effect on the earlier of the following two dates—
 - (i) the date of expiry if any in terms of the exemption; or
 - (ii) the date on which the period of six months after the grant of exemption expires.

(3) The Director-General may, after reasonable notice, alter or cancel any exemption granted under this regulation.

21. Equivalence of certificates and endorsements

(1)(a) Subject to paragraph (b), each certificate or endorsement specified in column 1 of an item in Table D set out under the Schedule shall be taken to be equivalent to the certificate or endorsement, as the case may be, specified in column 2 of Table D.

- (a) If the certificate or endorsement specified in column 3 of an item in Table D set out under the First Schedule is subject to additional qualification requirements in terms of the Merchant Shipping (Training and Certification) Regulations, 2014 documentary evidence of compliance with those requirements, or so much thereof as the Authority requires, is to be produced within the time and in the manner that the Authority directs.

(2) Where the holder of a certificate of competency issued under the Act before the commencement of these regulations has served in a certificated capacity for at least 12 months in the preceding five years but is prohibited from continued employment in that capacity owing to the tonnage, propulsion power or area of operation of the ship exceeding the applicable tonnage, propulsion power or area of operation limitation, the Authority may endorse the certificate, or the equivalent certificate in terms of this regulation, as the case may be, so as to entitle the holder to continued employment in the capacity concerned on a ship having an appropriately greater tonnage, propulsion power or area of operation.

22. Safe manning document

(1) The owner of every ship shall ensure that—

- (a) a safe manning document is in force in respect of the ship;
- (b) the safe manning document is kept on board the ship at all times; and

[Issue 3]

- (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 every ship shall ensure that the ship does not go to sea unless there is on board and in force in respect of the ship a valid safe manning document and the manning of the ship complies with that document.

23. Carriage of documents

Without prejudice to Regulation 4, the owner and the master of every ship shall ensure that there are carried at all times on board the ship all original certificates and other documents issued pursuant to the Act or the STCW Convention, as the case may be, showing the qualification of the master and any member of the crew to perform functions which they are required to perform aboard ship in the course of their designated duties

24. Offences, penalties and defences

(1) Every owner who contravenes Regulation 4(1), (4), 6,7 (1),9 ,22(1) or 23 commits an offence.

(2) Every employer, being an employer who in terms of regulation 7(3) has become subject to the duties of the owner under that regulation, and who contravenes regulation 6 commits an offence.

(3) Every master who contravenes regulation 4(2) or (4), 6, 7(9) or (10), 9, 22(2) or 23 commits an offence.

(4) Every seafarer who contravenes regulation 6(3) commits an offence.

(5) A person who commits an offence in terms of sub-regulation (1), (2) or (3) is liable on conviction to a fine of one hundred thousand shillings or to imprisonment for a period not exceeding 12 months, or both.

(6) A person who commits an offence in terms of sub-regulation (4) is liable on conviction to a fine of fifty thousand shillings or to imprisonment for a period not exceeding six months, or both.

(7) In proceedings for an offence in terms of this Regulation it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

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

25. Director General may impose penalty upon admission of guilt

(1) If any person—

- (a) admits to the Director General that he has contravened any provision of these Regulations or Act, or that he has failed to comply with any such provision with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Director General; and
- (c) deposits with the Authority such sum as may be required of him , but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

the Director General may, after such enquiry as he deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(2) No prosecution shall be conducted for an offence in to which subregulation (1) applies.

(3) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or cargo.

[Subsidiary]

26. Revocation of L.N 47/2012

The Merchant Shipping (Safe Manning) Regulations, 2012 are revoked.

Merchant Shipping

[Subsidiary]

FIRST SCHEDULE

(R. 11(2))

TABLE A: MINIMUM SAFE MANNING REQUIREMENTS FOR DECK OFFICERS

TRADE AREA	Description of ship in	STCW II/2 Master	STCW II/2 Chief mate	STCW II/3 Master near coastal	STCW II/3 Officer in Charge of Navigational Watch	STCW II/1 Officer in Charge of Navigational Watch	Master Port Operations	Coxswain Level 2	Coxswain level I	STCW II/4	STCW II/5	General purpose rating port operation
Port Operations	Below 200 Tons							1				1*
	200 below 500 Tons						1	1				1*
	500 Tons and above			1				1				1
	Passenger ships			1			1	1				2
	Ro-Ro Passenger			1			1	1				2
Near Coastal	100 Tons and below							1				1
	100 #500 Tons			1		1				1	1	
	500 Tons and above		1	1		1				1	1	
Unlimited	Below 500 Tons											
	500 and above	1	1			1				2	1	
	Passenger Ships	1	1			2				4	2	
	Ro-Ro Passenger	1	1			2				4	2	

TABLE B: MINIMUM SAFE MANNING REQUIREMENTS FOR ENGINEER OFFICERS

(R 12(2)(c))

TRADE AREA	REGISTRATION	STCW II/3	STCW III/1	Chief engineer	STCW II/3	STCW III/1	2nd Engineer	STCW II/5	STCW III/4	General purpose
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[Issue 3]

Merchant Shipping

[Subsidiary]

	POWER (kw)	Chief Engineer	Chief Engineer (upto 3000kw)	Officer in Charge of Engineering Watch	(Port Operations)	2nd Engineer (upto 3000kw)	Officer in Charge of Engineering Watch	(Port Operations)		rating port operation
Port Operations	Below 750							1		1
	750 and above									1
Unlimited tonnage	Below 750					1	1*		1	
	750–3000			1	1	1		1	1	
	Above 3000	1					1	1	2	
Unlimited tonnage	Below 750							1		
	750–3000			1	1	1*				
	Above 3000	1	1			1			1	

TABLE C: MINIMUM SAFE MANNING REQUIREMENTS FOR OFFICERS AND RATINGS ON PASSENGER SHIPS AND RO-RO PASSENGER SHIPS

TRADING AREA	Description of ship in	STCW II/2 Master	STCW II/2 Chief mate	STCW II/3 Mate near coastal	STCW II/3 Officer in Charge of Navigational Watch	STCW II/1 Officer in Charge of Navigational Watch	Master Port Operations	Coxswain Level	Coxswain level 1	STCW II/4	STCW II/5	General purpose rating port operation
Port Operations	Below 200 Tons								1			1*
	200 below 500 Tons						1		1			1*
	500 Tons and above			1				1				1
	Passenger ships			1			1	1				2
	Ro-Ro Passenger			1			1	1				2
Near Coastal	100 Tons and below							1				1

[Issue 3]

Merchant Shipping

[Subsidiary]

	100 #500 Tons		1		1				1	1	
	500 Tons and above		1	1		1			1	1	
Unlimited	Below 500 Tons										
	500 and above	1	1			1			2	1	
	Passenger Ships	1	1			2			4	2	
	Ro-Ro Passenger	1	1			2			4	2	

*where the vessel is more than 24m length

TABLE D: EQUIVALENCE OF CERTIFICATES AND ENDORSEMENTS

Item	Column 1	Column 2	Column 3
	<i>Title of certificate issued before commencement of these regulations</i>	<i>Equivalent certificate or endorsement under any the Merchant Shipping (safe Manning) Regulations, 2012</i>	<i>Equivalent certificate or endorsement under Merchant Shipping (Training and Certification) Regulations, 2014</i>
1	Master of a foreign going ship	Deck Officer Class 1	Master
2		Deck Officer class 2 endorsed master (Limited Trade)	Chief Mate endorsed Master of a ship of less than 3000 GT on unlimited voyages.
3	Chief navigating Officer of a foreign-going ship	Deck Officer Class 2 endorsed Master (Short Sea Trade)	Chief Mate endorsed Master of a ship of less than 500 Gt on near-coastal voyages
4		Deck Officer Class 2	Chief Mate
5		Deck Officer class 3 endorsed Master (Limited Trade)	Chief Mate endorsed - Master of a ship of less than 501 GT on unlimited voyages.
			Chief Mate of a ship of less than 3 000 GT on unlimited voyages,
6		Deck Officer Class 3 endorsed Master (Limited trade)	Deck Officer endorsed Master of a ship of less than 500 GT on near-coastal voyages.
			Chief Mate of a ship of less than 3000 GT on unlimited voyages.
7	Second navigation Officer of a foreign going ship	Deck Officer Class 3	Deck Officer

Merchant Shipping

[Subsidiary]

8	.	Deck Officer class 4 endorsed Master (Limited Trade)	Deck Officer endorsed
			<i>Master of a ship of less than 500 GT on unlimited voyages</i>
9	Master of a coasting ship of 100 GT or more	Deck Officer class 4 endorsed Master (Short Sea Trade)	Deck Officer endorsed <i>Master of a ship of less than 501 GT on near-coastal voyages.</i>
10		Deck Officer class 4 endorsed Master (Port Operations)	Deck Officer endorsed
			<i>Master of a ship of any tonnage operating within a port operation, area.</i>
11		Deck Officer class 4 endorsed Port Operator Service	Master (Port Operations)
12		Deck Officer Class 4	Deck Officer
13		Deck officer class 5 endorsed Master (Short Sea trade)	Mate (Coastal) endorsed <i>Master of a ship of less than 500 GT on near-coastal voyages</i>
14		Deck officer class 5 endorse< Master (Port Operations)	Mate (Coastal) endorsed - <i>Master of a ship of any tonnage operating within a port operation, area.</i>
15		Deck officer class 5 endorser Master (Short Sea trade)	Master (Port Operations)
16	Navigating Officer of r coasting ship of 100 GT or more	Deck Officer Class 5	Mate (Coastal)
17		Deck Officer Class (Unlimited Trade)	Coxswain (Unlimited)
18		Deck Officer Class 6 (Short Sea Trade)	Coxswain (Coastal)
19		Deck Officer Class 6 (Restricted trade)	Coxswain (Port Operations)
20		Electro-technical Officer	Electro-technical Officer
20	Chief Engineer of a foreign-going ship	Marine Engineer-Officer Class 1	Chief Engineer Officer (> 3000(kw)
21	Second Engineer Officer of a foreign-going ship	Marine Engineer-Officer Class 2	Second Engineer officer (> 3000 kW) endorsed
			- <i>Chief Engineer officer of a ship less than 3 000 kW propulsion power</i>

[Issue 3]

Merchant Shipping

[Subsidiary]

22		Marine Engineer Officer class 3 with a Service Endorsement	Second Engineer officer (< 3 00(kW) endorsed: <i>Chief Engineer officer of a ship less than 750 kW propulsion power</i>
			<i>Chief Engineer Officer of a ship of any kilowatt propulsion power operating within a port operation area</i>
23	Chief Engineer Officer of a coasting Ship	Marine Engineer-Office class 3	(a) Second Engineer officer (< 3 000 kW) endorsed: <i>Chief Engineer Officer of a ship of any kilowatt propulsion power operating within a port operation: area</i>
			(b) Chief Engineer Officer (Port Operations)
24	Second Engineer Officer of a coasting ship	Marine Engineer-Office Class 4	(a) Engineer Officer endorsed <i>Chief Engineer Officer of a ship of less than 1 500 kW propulsion power operating within a port operations area</i> (b) Second Engineer Officer (Port Operations)

SECOND SCHEDULE

[R.5)

WATCHKEEPING PRINCIPLES AND ARRANGEMENTS

PART I — Planning the voyage

1. The intended voyage shall be planned in advance, taking into consideration all pertinent information, and any course laid down shall be checked before the voyage commences.
2. The chief engineer officer shall, in consultation with the master, determine in advance the needs of the intended voyage, taking into consideration the requirements for fuel, water, lubricants, chemicals, expendable and other spare parts, tools, supplies and any other requirements.
3. Before each voyage the master of a ship shall ensure that the intended route from the port of departure to the first port of call is planned using adequate and appropriate charts and other nautical publications necessary for the intended voyage, containing accurate, complete and up-to-date information regarding those navigational limitations and hazards that are of a permanent or predictable nature and that are relevant to the safe navigation of the ship.

[Issue 3]

[Subsidiary]

4. When the route planning is verified taking into consideration all pertinent information, the planned route shall be clearly displayed on appropriate charts and shall be continuously available to the officer in charge of the watch, who shall verify each course to be followed before using it during the voyage.

5. If a decision is made during a voyage to change the next port of call of the planned route, or if it is necessary for the ship to deviate substantially from the planned route for other reasons, then an amended route shall be planned before deviating substantially from the route originally planned.

Watchkeeping at sea

6. Owners, masters, chief engineer officers and Watchkeeping personnel shall observe the following principles to ensure that safe watches are maintained at all times.

7. The master of a ship shall ensure that Watchkeeping arrangements are adequate for maintaining a safe navigational watch. Under the master's general direction, the officers of the navigational watch are responsible for navigating the ship safely during their periods of duty, when they will be particularly concerned with avoiding collision and stranding.

8. The chief engineer officer of a ship shall, in consultation with the master, ensure that Watchkeeping arrangements are adequate to maintain a safe engineering watch.

9. The master, officers and ratings shall be aware of the serious effects of operational or accidental pollution of the marine environment and shall take all possible precautions to prevent such pollution, particularly within the framework of relevant international and port regulations.

PART II — PRINCIPLES TO BE OBSERVED IN KEEPING NAVIGATIONAL WATCH

10. The officer in charge of the navigational watch is the master's representative and is primarily responsible at all times for the safe navigation of the ship and for complying with the collision regulations.

11. A proper look-out shall be maintained at all times in compliance with rule 5 of the annex to the collision regulations, and shall serve the purpose of—

- (a) maintaining a continuous state of vigilance by sight and hearing as well as by all other available means, with regard to any significant change in the operating environment;
- (b) fully appraising the situation and the risk of collision, stranding and other dangers to navigation; and
- (c) detecting ships or aircraft in distress, shipwrecked persons, wrecks, debris and other hazards to safe navigation.

12. The look-out shall be able to give full attention to the keeping of a proper lookout and no other duties shall be undertaken or assigned which could interfere with that task.

13. The duties of the look-out and helmsman are separate and the helmsman shall not be considered to be the look-out while steering, except in small ships where an unobstructed all-round view is provided at the steering position and there is no impairment of night vision or other impediment to the keeping of a proper look-out. The officer in charge of the navigational watch may be the sole look-out in daylight provided that on each such occasion—

- (a) the situation has been carefully assessed and it has been established without doubt that it is safe to do so;
- (b) full account has been taken of all relevant factors, including, but not limited to—
 - (i) state of weather;
 - (ii) visibility;
 - (iii) traffic density;
 - (iv) proximity of dangers to navigation; and

[Issue 3]

- (v) the attention necessary when navigating in or near traffic separation schemes; and
- (c) assistance is immediately available to be summoned to the bridge when any change in the situation so requires.

14. In determining that the composition of the navigational watch is adequate to ensure that a proper look-out can continuously be maintained, the master shall take into account all relevant factors, including those described in this annex, as well as the following factors:

- (a) the hours of darkness, requiring in addition to the watchkeeping officer, a look-out;
- (b) visibility, state of weather and sea;
- (c) traffic density, and other activities occurring in the area in which the ship is navigating;
- (d) the attention necessary when navigating in or near traffic separation schemes and other routeing measures;
- (e) the additional workload caused by the nature of the ship's functions, immediate operating requirements and anticipated manoeuvres;
- (f) the fitness for duty of any crew members on call who are assigned as members of the watch;
- (g) knowledge of and confidence in the professional competence of the ship's officers and crew;
- (h) the experience of each officer of the navigational watch, and the familiarity of that officer with the ship's equipment, procedures, and manoeuvring capability;
- (i) activities taking place on board the ship at any particular time, including radio communication activities, and the availability of assistance to be summoned immediately to the bridge when necessary;
- (k) rudder and propeller control and ship manoeuvring characteristics;
- (l) the size of the ship and the field of vision available from the conning position;
- (m) the configuration of the bridge, to the extent that such configuration might inhibit a member of the watch from detecting by sight or hearing any external development; and
- (n) any other relevant standard, procedure or guidance relating to Watchkeeping arrangements and fitness for duty which has been promulgated by regulation.

15. When deciding the composition of the watch on the bridge, which may include appropriately qualified ratings, the following factors, *inter alia*, shall be taken into account—

- (a) at no time shall the bridge be left unattended;
- (b) weather conditions, visibility and whether there is daylight or darkness;
- (c) proximity of navigational hazards which may make it necessary for the officer in charge of the watch to carry out additional navigational duties ;
- (d) use and operational condition of navigational aids such as radar or electronic position indicating devices and any other equipment affecting the safe navigation of the ship;
- (e) whether the ship is fitted with automatic steering;
- (f) whether there are radio duties to be performed;
- (g) Unmanned Machinery Space (UMS) controls, alarms and indicators provided on the bridge, procedures for their use and limitations; and
- (h) any unusual demands on the navigational watch that may arise as a result of special operational circumstances.

[Subsidiary]

16. The officer in charge of the navigational watch shall not hand over the watch to the relieving officer if there is reason to believe that the latter is not capable of carrying out the Watchkeeping duties effectively, in which case the master shall be notified.

17. The relieving officer shall ensure that the members of the relieving watch are fully capable of performing their duties, particularly as regards their adjustment to night vision. Relieving officers shall not take over the watch until their vision is fully adjusted to the light conditions.

18. Before taking over the watch, relieving officers shall satisfy themselves as to the ship's estimated or true position and confirm its intended track, course and speed, and UMS controls as appropriate and shall note any dangers to navigation expected to be encountered during their watch.

19. Relieving officers shall personally satisfy themselves regarding—

- (a) standing orders and other special instructions of the master relating to navigation of the ship;
- (b) position, course, speed and draught of the ship;
- (c) prevailing and predicted tides, currents, weather, visibility and the effect of these factors upon course and speed;
- (d) procedures for the use of main engines to manoeuvre when the main engines are on bridge control; and
- (e) navigational situation, including but not limited to—
 - (i) the operational condition of all navigational and safety equipment being used or likely to be used during the watch;
 - (iii) the errors of gyro- and magnetic compasses;
 - (iv) presence and movement of ships in sight or known to be in the vicinity,
 - (v) the conditions and hazards likely to be encountered during the watch, and
 - (vi) the possible effects of heel, trim, water density and squat on under-keel clearance.

20. If at any time the officer in charge of the navigational watch is to be relieved when a manoeuvre or other action to avoid any hazard is taking place, the relief of that officer shall be deferred until such action has been completed.

21. The officer in charge of the navigational watch shall—

- (a) keep the watch on the bridge;
- (b) in no circumstances leave the bridge until properly relieved;
- (c) continue to be responsible for the safe navigation of the ship, despite the presence of the master on the bridge, until informed specifically that the master has assumed that responsibility and this is mutually understood; and
- (d) notify the master when in any doubt as to what action to take in the interest of safety

22. During the watch the course steered, position and speed shall be checked at sufficiently frequent intervals, using any available navigational aids necessary, to ensure that the ship follows the planned course.

23. The officer in charge of the navigational watch shall have full knowledge of the location and operation of all safety and navigational equipment on board the ship and shall be aware and take account of the operating limitations of such equipment.

24. The officer in charge of the navigational watch shall not be assigned or undertake any duties which would interfere with the safe navigation of the ship.

25. Officers of the navigational watch shall make the most effective use of all navigational equipment at their disposal.

[Issue 3]

26. When using radar, the officer in charge of the navigational watch shall bear in mind the necessity to comply at all times with the provisions on the use of radar contained in the collision regulations.

27. In cases of need, the officer in charge of the navigational watch shall not hesitate to use the helm, engines and sound signalling apparatus. However, timely notice of intended variations of engine speed shall be given where possible or effective use made of UMS engine controls provided on the bridge in accordance with the applicable procedures.

28. Officers of the navigational watch shall know the handling characteristics of their ship, including its stopping distances, and should appreciate that other ships may have different handling characteristics.

29. A proper record shall be kept during the watch of the movements and activities relating to the navigation of the ship.

30. It is of special importance that at all times the officer in charge of the navigational watch ensures that a proper look-out is maintained. In a ship with a separate chartroom the officer in charge of the navigational watch may visit the chartroom, when essential, for a short period for the necessary performance of navigational duties, but shall first ensure that it is safe to do so and that proper look-out is maintained.

31. Operational tests of shipboard navigational equipment shall be carried out at sea as frequently as practicable and as circumstances permit, in particular before hazardous conditions affecting navigation are expected. Whenever appropriate, these tests shall be recorded. Such tests shall also be carried out before port arrival and departure.

32. The officer in charge of the navigational watch shall make regular checks to ensure that—

- (a) the person steering the ship, or the automatic pilot, is steering the correct course;
- (b) the standard compass error is determined at least once a watch and, when possible, after any major alteration of course; the standard and gyro-compasses are frequently compared and repeaters are synchronized with their master compass;
- (c) the automatic pilot is tested manually at least once a watch;
- (d) the navigation and signal lights and other navigational equipment are functioning properly;
- (e) the radio equipment available in the bridge is functioning properly in accordance with paragraph 82 of this annex; and
- (f) the UMS controls, alarms and indicators are functioning properly.

33. The officer in charge of the navigational watch shall bear in mind the necessity to comply at all times with the requirements in force of the Safety Convention. The officer in charge of the navigational watch shall take into account—

- (a) the need to station a person to steer the ship and to put the steering into manual control in good time to allow any potentially hazardous situation to be dealt with in a safe manner; and
- (b) that with a ship under automatic steering it is highly dangerous to allow a situation to develop to the point where the officer in charge of the navigational watch is without assistance and has to break the continuity of the look-out in order to take emergency action.

34. Officers of the navigational watch shall be thoroughly familiar with the use of all electronic navigational aids carried, including their capabilities and limitations, and shall use each of these aids when appropriate and shall bear in mind that the echo sounder is a valuable navigational aid.

[Subsidiary]

35. The officer in charge of the navigational watch shall use the radar whenever restricted visibility is encountered or expected, and at all times in congested waters, having due regard to its limitations.

36. The officer in charge of the navigational watch shall ensure that range scales employed are changed at sufficiently frequent intervals so that echoes are detected as early as possible. It shall be borne in mind that small or poor echoes may escape detection.

37. Whenever radar is in use, the officer in charge of the navigational watch shall select an appropriate range scale and observe the display carefully, and shall ensure that plotting or systematic analysis is commenced in ample time.

38. The officer in charge of the navigational watch shall notify the master immediately—

- (a) if restricted visibility is encountered or expected;
- (b) if the traffic conditions or the movements of other ships are causing concern;
- (c) if difficulty is experienced in maintaining course;
- (d) on failure to sight land, a navigational mark or to obtain soundings by the expected time;
- (e) if, unexpectedly, a land or a navigation mark is sighted or a change in sounding occurs;
- (f) on breakdown of the engines, propulsion machinery remote control, steering gear or any essential navigational equipment, alarm or indicator;
- (g) if the radio equipment in the bridge malfunctions;
- (h) in heavy weather, if in any doubt about the possibility of weather damage;
- (i) if the ship meets any hazard to navigation, such as ice or a derelict; and
- (j) in any other emergency or if in any doubt.

39. Despite the requirement to notify the master immediately in the foregoing circumstances, the officer in charge of the navigational watch shall in addition not hesitate to take immediate action for the safety of the ship, where circumstances so require.

40. The officer in charge of the navigational watch shall give Watchkeeping personnel all appropriate instructions and information which will ensure the keeping of a safe watch, including a proper look-out.

41. In clear weather the officer in charge of the navigational watch shall take frequent and accurate compass bearings of approaching ships as a means of early detection of risk of collision and bear in mind that such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large ship or a tow or when approaching a ship at close range. The officer in charge of the navigational watch shall also take early and positive action in compliance with the applicable collision regulations and subsequently check that such action is having the desired effect.

42. In clear weather, whenever possible, the officer in charge of the navigational watch shall carry out radar practice.

43. When restricted visibility is encountered or expected, the first responsibility of the officer in charge of the navigational watch is to comply with the relevant rules of the collision regulations with particular regard to the sounding of fog signals, proceeding at a safe speed and having the engines ready for immediate manoeuvre. In addition, the officer in charge of the navigational watch shall—

- (a) inform the master;
- (b) post a proper look-out;
- (c) exhibit navigation lights; and
- (d) operate and use the radar.

44. During the hours of darkness the master and the officer in charge of the navigational watch, when arranging lookout duty, shall have due regard to the bridge equipment

[Issue 3]

and navigational aids available for use, their limitations and procedures and safeguards implemented.

45. In coastal and congested waters the largest scale chart on board, suitable for the area and corrected with the latest available information, shall be used. Fixes shall be taken at frequent intervals, and shall be carried out by more than one method whenever circumstances allow. The officer in charge of the navigational watch shall positively identify all relevant navigational marks.

46. Despite the duties and obligations of pilots, their presence on board does not relieve the master or officer in charge of the navigational watch from their duties and obligations for the safety of the ship. The master and the pilot shall exchange information regarding navigation procedures, local conditions and the ship's characteristics. The master and/or the officer in charge of the navigational watch shall co-operate closely with the pilot and maintain an accurate check on the ship's position and movement.

47. In any doubt as to the pilot's actions or intentions, the officer in charge of the navigational watch shall seek clarification from the pilot and, if doubt still exists, shall notify the master immediately and take whatever action is necessary before the master arrives.

48. While at anchor, the officer in charge of the navigational watch shall—

- (a) determine and plot the ship's position on the appropriate chart as soon as practicable;
- (b) when circumstances permit, check at sufficiently frequent intervals whether the ship is remaining securely at anchor by taking bearings of fixed navigational marks or readily identifiable shore objects;
- (c) ensure that proper look-out is maintained;
- (d) ensure that inspection rounds of the ship are made periodically;
- (e) observe meteorological and tidal conditions and the state of the sea;
- (f) notify the master and undertake all necessary measures if the ship drags anchor;
- (g) ensure that the state of readiness of the main engines and other machinery is in accordance with the master's instructions;
- (h) if visibility deteriorates, notify the master;
- (i) ensure that the ship exhibits the appropriate lights and shapes and that appropriate sound signals are made in accordance with all applicable regulations;
- (j) take measures to protect the environment from pollution by the ship and comply with applicable pollution regulations; and
- (k) maintain a listening watch on VHF channel 16 and/or the port operations working channel.

PART III — PRINCIPLES TO BE OBSERVED IN KEEPING ENGINEERING WATCH

49. The term *engineering watch* as used in parts 2, 6 and 8 of this annex means either a person or a group of personnel comprising the watch or a period of responsibility for an officer during which the physical presence in machinery spaces of that officer may or may not be required.

50. The officer in charge of the engineering watch is the chief engineer officer's representative and is primarily responsible, at all times, for the safe and efficient operation and upkeep of machinery affecting the safety of the ship and is responsible for the inspection, operation and testing, as required, of all machinery and equipment under the responsibility of the engineering watch.

51. The composition of the engineering watch shall, at all times, be adequate to ensure the safe operation of all machinery affecting the operation of the ship, in either automated or manual mode, and be appropriate to the prevailing circumstances and conditions.

[Subsidiary]

52. When deciding the composition of the engineering watch, which may include appropriately qualified ratings, the following criteria, *inter alia*, shall be taken into account—

- (a) The type of ship and the type and condition of the machinery;
- (b) the adequate supervision, at all times, of machinery affecting the safe operation of the ship;
- (c) any special modes of operation dictated by conditions such as weather, ice, contaminated water, shallow water, emergency conditions, damage containment or pollution abatement;
- (d) the qualifications and experience of the engineering watch;
- (e) the safety of life, ship, cargo and port, and protection of the environment;
- (f) the observance of international, national and local regulations; and
- (g) maintaining the normal operations of the ship.

53. The officer in charge of the engineering watch shall not hand over the watch to the relieving officer if there is reason to believe that the latter is obviously not capable of carrying out the Watchkeeping duties effectively, in which case the chief engineer officer shall be notified.

54. The relieving officer of the engineering watch shall ensure that the members of the relieving engineering watch are apparently fully capable of performing their duties effectively.

55. Before taking over the engineering watch, relieving officers shall satisfy themselves regarding at least the following—

- (a) the standing orders and special instructions of the chief engineer officer relating to the operation of the ship's systems and machinery;
- (b) the nature of all work being performed on machinery and systems, the personnel involved and potential hazards;
- (c) the level and, where applicable, the condition of water or residues in bilges, ballast tanks, slop tanks, reserve tanks, fresh water tanks, sewage tanks and any special requirements for use or disposal of the contents thereof;
- (d) the condition and level of fuel in the reserve tanks, settling tanks, day tanks and other fuel storage facilities;
- (e) any special requirements relating to sanitary system disposals;
- (f) condition and mode of operation of the various main and auxiliary systems, including the electrical power distribution system;
- (g) where applicable, the condition of monitoring and control console equipment, and which equipment is being operated manually;
- (h) where applicable, the condition and mode of operation of automatic boiler controls such as flame safeguard control systems, limit control systems, combustion control systems, fuel-supply control systems and other equipment related to the operation of steam boilers;
- (i) any potentially adverse conditions resulting from bad weather, ice, or contaminated or shallow water;
- (j) any special modes of operation dictated by equipment failure or adverse ship conditions;
- (k) the reports of engine-room ratings relating to their assigned duties;
- (l) the availability of fire-fighting appliances; and
- (m) the state of completion of engine-room log.

56. The officer in charge of the engineering watch shall ensure that the established Watchkeeping arrangements are maintained and that, under direction, engine-room ratings, if forming part of the engineering watch, assist in the safe and efficient operation of the propulsion machinery and auxiliary equipment.

[Issue 3]

57. The officer in charge of the engineering watch shall continue to be responsible for machinery-space operations, despite the presence of the chief engineer officer in the machinery spaces, until specifically informed that the chief engineer officer has assumed that responsibility and this is mutually understood.

58. All members of the engineering watch shall be familiar with their assigned Watchkeeping duties. In addition, every member shall, with respect to the ship they are serving in, have knowledge of—

- (a) the use of appropriate internal communication systems;
- (b) the escape routes from machinery spaces;
- (c) the engine-room alarm systems and be able to distinguish between the various alarms, with special reference to the fire-extinguishing media alarm; and
- (d) the number, location and types of fire-fighting equipment and damage-control gear in the machinery spaces, and their use and the various safe precautions to be observed.

59. Any machinery not functioning properly, expected to malfunction or requiring special service shall be noted along with any action already taken. Plans shall be made for any further action if required.

60. When the machinery spaces are in the manned condition, the officer in charge of the engineering watch shall at all times be readily capable of operating the propulsion equipment in response to needs for changes in direction or speed.

61. When the machinery spaces are in the periodic unmanned condition, the designated duty officer in charge of the engineering watch shall be immediately available and on call to attend the machinery spaces.

62. All bridge orders shall be promptly executed. Except in ships of less than 500 GT, changes in direction or speed of the main propulsion units shall be recorded. The officer in charge of the engineering watch shall ensure that the main propulsion unit controls, when in the manual mode of operation, are continuously attended under stand-by or manoeuvring conditions.

63. Due attention shall be paid to the ongoing maintenance and support of all machinery, including mechanical, electrical, electronic, hydraulic and pneumatic systems, their control apparatus and associated safety equipment, all accommodation service systems, equipment and the recording of stores and spare gear usage.

64. The chief engineer officer shall ensure that the officer in charge of the engineering watch is informed of all preventive maintenance, damage control, or repair operations to be performed during the engineering watch. The officer in charge of the engineering watch shall be responsible for the isolation, bypassing and adjustment of all machinery under the responsibility of the engineering watch that is to be worked on, and shall record all work carried out.

65. When the engine-room is put in a stand-by condition, the officer in charge of the engineering watch shall ensure that all machinery and equipment which may be used during manoeuvring is in a state of immediate readiness and that an adequate reserve of power is available for steering gear and other requirements.

66. Officers in charge of an engineering watch shall not be assigned or undertake any duties which would interfere with their supervisory duties in respect of the main propulsion system and ancillary equipment. They shall keep the main propulsion plant and auxiliary systems under constant supervision until properly relieved, and shall periodically inspect the machinery in their charge. They shall also ensure that adequate rounds of the machinery and steering-gear spaces are made for the purpose of observing and reporting equipment malfunctions or breakdowns, performing or directing routine adjustments, required upkeep and any other necessary tasks.

[Subsidiary]

67. Officers in charge of an engineering watch shall direct any other member of the engineering watch to inform them of potentially hazardous conditions which may adversely affect the machinery or jeopardize the safety of life or of the ship.

68. The officer in charge of the engineering watch shall ensure that the machinery space watch is supervised, and shall arrange for substitute personnel in the event of the incapacity of any engineering watch personnel. The engineering watch shall not leave the machinery spaces unsupervised in a manner that would prevent the manual operation of the engine-room plant or throttles.

69. The officer in charge of the engineering watch shall take the action necessary to contain the affects of damage resulting from equipment breakdown, fire, flooding, rupture, collision, stranding, or other cause.

70. Before going off duty, the officer in charge of the engineering watch shall ensure that all events related to the main and auxiliary machinery which have occurred during the engineering watch are suitably recorded.

71. The officer in charge of the engineering watch shall co-operate with any engineer in charge of maintenance work during all preventive maintenance, damage control or repairs. This shall include but not necessarily be limited to—

- (a) isolating and bypassing machinery to be worked on;
- (b) adjusting the remaining plant to function adequately and safely during the maintenance period;
- (c) recording, in the engine-room log or other suitable document, the equipment worked on and the personnel involved, and which safety steps have been taken and by whom, for the benefit of relieving officers and for record purposes; and
- (d) testing and putting into service, when necessary, the repaired machinery or equipment.

72. The officer in charge of the engineering watch shall ensure that any engine-room ratings who perform maintenance duties are available to assist in the manual operation of machinery in the event of automatic equipment failure.

73. The officer in charge of the engineering watch shall bear in mind that changes in speed, resulting from machinery malfunction, or any loss of steering, may imperil the safety of the ship and life at sea. The bridge shall be immediately notified in the event of fire and of any impending action in machinery spaces that may cause reduction in the ship's speed, imminent steering failure, stoppage of the ship's propulsion system or any alteration in the generation of electric power, or similar threat to safety. This notification, where possible, shall be accomplished before changes are made, in order to afford the bridge the maximum available time to take whatever actions possible to avoid a potential marine casualty.

74. The officer in charge of the engineering watch shall notify the chief engineer officer without delay—

- (a) when engine damage or a malfunction occurs which may be such as to endanger the safe operation of the ship;
- (b) when any malfunction occurs which, it is believed, may cause damage or breakdown of propulsion machinery, auxiliary machinery or monitoring and governing systems; and
- (c) in any emergency or if in any doubt as to what decision or measures to take.

75. Despite the requirement to notify the chief engineer officer in the foregoing circumstances, the officer in charge of the engineering watch shall not hesitate to take immediate action for the safety of the ship, its machinery and crew where circumstances require.

76. The officer in charge of the engineering watch shall give the watchkeeping personnel all appropriate instructions and information which will ensure the keeping of a safe engineering

[Issue 3]

watch. Routine machinery upkeep, performed as incidental tasks as a part of keeping a safe watch, shall be set up as an integral part of the watch routine. Detailed repair maintenance involving repairs to electrical, mechanical, hydraulic, pneumatic or applicable electronic equipment throughout the ship shall be performed with the cognizance of the officer in charge of the engineering watch and chief engineer officer. These repairs shall be recorded.

77. In restricted visibility the officer in charge of the engineering watch shall ensure that permanent air or steam pressure is available for sound signals and that at all times bridge orders relating to changes in speed or direction of operation are immediately implemented and, in addition, that auxiliary machinery used for manoeuvring is readily available.

78. In coastal and congested waters the officer in charge of the engineering watch shall ensure that all machinery involved with the manoeuvring of the ship can immediately be placed in the manual mode of operation when notified that the ship is in congested waters. The officer in charge of the engineering watch shall also ensure that an adequate reserve of power is available for steering and other manoeuvring requirements. Emergency steering and other auxiliary equipment shall be ready for immediate operation.

79. At an unsheltered anchorage the chief engineer officer shall consult with the master whether or not to maintain the same engineering watch as when under way.

80. When a ship is at anchor in an open roadstead or in any other virtually "at-sea" condition, the engineer officer in charge of the engineering watch shall ensure that—

- (a) an efficient engineering watch is kept;
- (b) periodic inspection is made of all operating and stand-by machinery;
- (c) main and auxiliary machinery is maintained in a state of readiness in accordance with orders from the bridge;
- (d) measures are taken to protect the environment from pollution by the ship, and that applicable pollution-prevention regulations are complied with; and
- (e) all damage-control and fire-fighting systems are in readiness.

PART IV — PRINCIPLES TO BE OBSERVED IN KEEPING RADIO WATCH

81. In deciding the arrangements for the radio watch, the master of every seagoing ship shall—

- (a) ensure that the radio watch is maintained in accordance with the relevant provisions of the radio regulations and the Safety Convention;
- (b) ensure that the primary duties for radio Watchkeeping are not adversely affected by attending to radio traffic not relevant to the safe movement of the ship and safety of navigation; and
- (c) take into account the radio equipment fitted on board and its operational status.

82. The radio operator performing radio Watchkeeping duties shall—

- (a) ensure that watch is maintained on the frequencies specified in the radio regulations and, where applicable, the Safety Convention;
- (b) while on duty, regularly check the operation of the radio equipment and its sources of energy and report to the master any observed failure of this equipment; and
- (c) maintain and keep the appropriate radio log.

83. The maintenance of radio records, in compliance with the requirements of the radio regulations and where applicable, the Safety Convention, is the responsibility of the radio operator designated as having primary responsibility for radio communications during distress incidents. The following shall be recorded, together with the times at which they occur—

- (a) a summary of distress, urgency and safety radio-communications;
- (b) important incidents relating to the radio service;

Merchant Shipping

[Subsidiary]

- (c) where appropriate, the position of the ship at least once per day; and
- (d) a summary of the condition of the radio equipment, including its sources of energy.

84. The radio records shall be kept at the distress communications operating position, and shall be made available—

- (a) for inspection by the master; and
- (b) for inspection by any authorized official during a port state inspection and during a radio equipment survey.

PART V — WATCHKEEPING IN PORT

85. On any ship safely moored or safely at anchor under normal circumstances in port, the master shall arrange for an appropriate and effective watch to be maintained for the purpose of safety. Special requirements may be necessary for special type of ships' propulsion systems or ancillary equipment and for ships carrying hazardous, dangerous, toxic or highly flammable materials or other special types of cargo.

86. Arrangements for keeping a deck watch when the ship is in port shall at all times be adequate to—

- (a) ensure the safety of life, of the ship, the port and the environment, and the safe operation of all machinery related to cargo operations,
- (b) observe international, national and local rules; and
- (c) maintain order and the normal routine of the ship.

87. The master shall decide the composition and duration of the deck watch depending on the conditions of mooring, type of the ship and character of duties.

88. If the master considers it necessary, a qualified officer shall be in charge of the deck watch.

89. The necessary equipment shall be so arranged as to provide for efficient watchkeeping.

90. The chief engineer officer, in consultation with the master, shall ensure that engineering watchkeeping arrangements are adequate to maintain a safe engineering watch while in port. When deciding the composition of the engineering watch, which may include appropriate engine-room ratings, the following points are among those to be taken into account—

- (a) on all ships of 3 000 kW propulsion power or more there shall always be an officer in charge of the engineering watch;
- (b) on ships of less than 3 000 kW propulsion power there may be, at the master's discretion and in consultation with the chief engineer officer, no officer in charge of the engineering watch; and
- (c) officers, while in charge of an engineering watch, shall not be assigned or undertake any task or duty which would interfere with their supervisory duty in respect of the ship's machinery system

91. Officers in charge of the deck or engineering watch shall not hand over the watch to their relieving officer if they have any reason to believe that the latter is obviously not capable of carrying out watchkeeping duties effectively, in which case the master or chief engineer shall be notified accordingly. Relieving officers of the deck or engineering watch shall ensure that all members of their watch are apparently fully capable of performing their duties effectively.

92. If, at the moment of handing over the deck or engineering watch, an important operation is being performed it shall be concluded by the officer being relieved, except when ordered otherwise by the master or chief engineer officer.

PART VI - TAKING OVER DECK WATCH

93. Before taking over the deck watch, the relieving officer shall be informed of the following by the officer in charge of the deck watch as to—

[Issue 3]

- (a) the depth of the water at the berth, the ship's draught, the level and time of high and low waters; the securing of the moorings, the arrangement of anchors and the scope of the anchor chain, and other mooring features important to the safety of the ship; the state of main engines and their availability for emergency use;
- (b) all work to be performed on board the ship; the nature, amount and disposition of cargo loaded or remaining, and any residue on board after unloading the ship;
- (c) the level of water in bilges and ballast tanks;
- (d) the signals or lights being sounded or exhibited;
- (e) the number of crew members required to be on board and the presence of any other persons on board;
- (f) the state of fire-fighting appliances;
- (g) any special port regulations;
- (h) the master's standing and special orders;
- (i) the lines of communication available between the ship and shore personnel, including port authorities, in the event of an emergency arising or assistance being required;
- (j) any other circumstances of importance to the safety of the ship, its crew, cargo or protection of the environment from pollution; and
- (k) the procedures for notifying the appropriate authority of any environmental pollution resulting from ship activities.

94. Relieving officers, before assuming charge of the deck watch, shall ensure that—

- (a) the securing of moorings and anchor chain is adequate;
- (b) the appropriate signals or lights are properly sounded or exhibited;
- (c) safety measures and fire protection regulations are being maintained;
- (d) they are aware of the nature of any hazardous or dangerous cargo being loaded or discharged and the appropriate action to be taken in the event of any spillage or fire;
- (e) no external conditions or circumstances imperil the ship and that it does not imperil others; and
- (f) they are aware of any ballasting/de-ballasting operations in progress and the current status of anti-heeling pumps and systems (where installed).

PART VII — TAKING OVER ENGINEERING WATCH

95. Before taking over the engineering watch, the relieving officer shall be informed by the officer in charge of the engineering watch as to—

- (a) the standing orders of the day, any special orders relating to the ship operations, maintenance functions, repairs to the ship's machinery or control equipment;
- (b) the nature of all work being performed on machinery and systems on board ship, personnel involved and potential hazards;
- (c) the level and condition, where applicable, of water or residue in bilges, ballast tanks, slop tanks, sewage tanks, reserve tanks and special requirements for the use or disposal of the contents thereof;
- (d) any special requirements relating to sanitary system disposals;
- (e) the condition and state of readiness of portable fire extinguishing equipment and fixed fire-extinguishing installations and fire-detection systems;
- (f) authorized repair personnel on board engaged in engineering activities, their work locations and repair functions and other authorized persons on board and the required crew;

Merchant Shipping

[Subsidiary]

- (g) any port regulations pertaining to ship effluents, fire-fighting requirements and ship readiness, particularly during potential bad weather conditions;
- (h) the lines of communication available between the ship and shore personnel, including port authorities, in the event of an emergency arising or assistance being required;
- (i) any other circumstances of importance to the safety of the ship, its crew, cargo or the protection of the environment from pollution; and
- (j) the procedures for notifying the appropriate authority of environmental pollution resulting from engineering activities.

96. Relieving officers, before assuming charge of the engineering watch, shall satisfy themselves that they are fully informed by the officer being relieved, as outlined above, and shall—

- (a) be familiar with existing and potential sources of power, heat and lighting and their distribution;
- (b) know the availability and condition of ship's fuel, lubricants and all water supplies; and
- (c) be ready to prepare the ship and its machinery, as far as is possible, for stand-by or emergency conditions as required.

PART VIII — PERFORMING DECK WATCH

97. The officer in charge of the deck watch shall—

- (a) make rounds to inspect the ship at appropriate intervals;
- (b) pay particular attention to—
 - (i) the condition and securing of the gangway, anchor chain and moorings, especially at the turn of the tide and in berths with a large rise and fall, if necessary, taking measures to ensure that they are in normal working condition;
 - (ii) the draught, under-keel clearance and the general state of the ship, to avoid dangerous listing or trim during cargo handling or ballasting;
 - (iii) the weather and sea state;
 - (iv) the observance of all regulations concerning safety and fire protection;
 - (v) the water level in bilges and tanks;
 - (vi) all persons on board and their location, especially those in remote or enclosed spaces; and
 - (vii) the exhibition and sounding, where appropriate, of lights and signals;
- (c) in bad weather, or on receiving a storm warning, take the necessary measures to protect the ship, persons on board and cargo;
- (d) take every precaution to prevent pollution of the environment by the ship;
- (e) in an emergency threatening the safety of the ship, raise the alarm, inform the master, take all possible measures to prevent any damage to the ship, its cargo and persons on board, and, if necessary, request assistance from the shore authorities or neighbouring ships;
- (f) be aware of the ship's stability condition so that, in the event of fire, the shore fire fighting authority may be advised of the approximate quantity of water that can be pumped on board without endangering the ship;
- (g) offer assistance to ships or persons in distress;
- (h) take necessary precautions to prevent accidents or damage when propellers are to be turned; and
- (i) enter in the appropriate log-book all important events affecting the ship.

PART IX — PERFORMING ENGINEERING WATCH

[Issue 3]

98. Officers in charge of the engineering watch shall pay particular attention to—

- (a) the observance of all orders, special procedures and regulations concerning hazardous conditions and their prevention in all areas in their charge;
- (b) the instrumentation and control systems, monitoring of all power supplies, components and systems in operation;
- (c) the techniques, methods and procedures necessary to prevent violation of the pollution regulations of the local authorities; and
- (d) the state of the bilges.

99.

Officers in charge of the engineering watch shall—

- (a) in emergencies, raise the alarm when in their opinion the situation so demands, and take all possible measures to prevent damage to the ship, persons on board and cargo;
- (b) be aware of the deck officer's needs relating to the equipment required in the loading or unloading of the cargo and the additional requirements of the ballast and other ship stability control systems;
- (c) make frequent rounds of inspection to determine possible equipment malfunction or failure, and take immediate remedial action to ensure the safety of the ship, of cargo operations, of the port and the environment;
- (d) ensure that the necessary precautions are taken, within their area of responsibility, to prevent accidents or damage to the various electrical, electronic, hydraulic, pneumatic and mechanical systems of the ship; and
- (e) ensure that all important events affecting the operation, adjustment or repair of the ship's machinery are satisfactorily recorded.

PART X — WATCH IN PORT ON SHIPS CARRYING HAZARDOUS CARGO

100. The master of a ship carrying cargo that is hazardous, whether explosive, flammable, toxic, health-threatening or environment polluting, shall ensure that safe Watchkeeping arrangements are maintained. On ships carrying hazardous cargo in bulk, this will be achieved by the ready availability on board of a duly qualified officer or officers, and ratings where appropriate, even when the ship is safely moored or safely at anchor in port.

101.

102. On ships carrying hazardous cargo other than in bulk, the master shall take full account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions on board, afloat and ashore.

THE MERCHANT SHIPPING (INTERNATIONAL SAFETY
MANAGEMENT (ISM CODE) REGULATIONS, 2015

ARRANGEMENT OF REGULATIONS

PART I – GENERAL

1. Short title and commencement date.
2. Interpretation.
3. Application.
4. Duty to comply with the ISM Code.
5. Duty to hold certificates.
6. Duty to carry certificates.
7. Duty of master.
8. Designated person ashore.
9. Issue of Document of Compliance and Safety Management Certificate.
10. Interim certificate.
11. Issue and endorsement of Safety Management Certificate by another government.
12. Issue of certificates on behalf of other governments.
13. Annual audit of Document of Compliance.
14. Intermediate audit of Safety Management Certificate.
15. Renewal of certificates.
16. Powers of audit, inspection, suspension of service and detention.
17. Exemptions.
18. Suspension or cancellation of Documents of Compliance and Safety Management Certificates.
19. Violations, offences and penalties.
20. Director General may impose penalty upon admission of guilt.

THE MERCHANT SHIPPING (INTERNATIONAL SAFETY MANAGEMENT (ISM CODE) REGULATIONS, 2015

[L.N. 150/2015.]

PART I – GENERAL

1. Short title and commencement

These Regulations may be cited as the Merchant Shipping (International Safety Management (ISM) Code) Regulations, 2015 and shall be deemed to have come into effect on the date as the Cabinet Secretary may, by notice in the Gazette, appoint.

2. Interpretation

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

“**anniversary date**” means the day and month of each year that corresponds to the date of expiry of the relevant document or certificate;

“**audit**” means a systematic and independent examination to determine whether the safety management system is suitable to meet the objectives set out in section 1 of the Code, and, so far as the system has been operated, that the system has been implemented effectively. Such audits shall take into account the Guidelines on the Implementation of the ISM Code by administrations, adopted by IMO pursuant to Assembly Resolution A. 788 (19);

“**authorised person**” means a person authorised by the Director-General to carry out inspections and audits for the purpose of these Regulations and includes any surveyor of ships appointed in terms of the Act or any Regulation.

“**bulk carrier**” means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers;

“**cargo ship**” means a cargo ship within the meaning of the Merchant Shipping (Cargo Ship Construction) Regulations, 2011;

“**chemical tanker**” means a cargo ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the International Bulk Chemical Code;

“**company**” means the owner of the ship or any other organization or person such as the Manager, or the bareboat Charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all duties and responsibilities imposed by the Code;

“**Document of Compliance**” means the “Document of Compliance” issued to a Company which complies with the requirements of the ISM Code;

“**gas carrier**” means a cargo ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the International Gas Carrier Code;

“**high speed craft**” means a craft capable of a maximum speed, in metres per second (m/s), equal to or exceeding:

3.7 $\nabla^{0.1667}$

“**where: ∇** = volume of displacement corresponding to the design waterline (m³);

“**IMO**” means the International Maritime Organization;

“**ISM Code**” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by IMO by Resolution A.741 (18), together with any amendments which may be in effect in respect of Kenya;

[Subsidiary]

"major non-conformity" means an identifiable deviation that causes a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement of these regulations;

"mobile offshore drilling unit (MODU)" means a vessel capable of engaging in drilling operations for the exploration of resources beneath the sea-bed such as liquid or gaseous hydrocarbons, sulphur or salt;

"non-conformity" means an observed situation where objective evidence indicates the non-fulfilment of a special requirement;

"objective evidence" means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a safety management system element, which is based on observation, measurement or test and which can be verified;

"observation" means a statement of fact made during a safety management audit and substantiated by objective evidence;

"oil tanker" means a cargo ship constructed or adapted and used for the carriage of any bulk hydrocarbon product;

"passenger ships of Classes I, II and III" means passenger ships so classified within the meaning of the Convention;

- (i) Class I — a passenger ship engaged on voyages which are not short international voyages;
- (ii) Class II — a passenger ship engaged on short international voyages; and
- (iii) Class III — a passenger ship, other than ships of Class IV, V and VI engaged on voyages other than international voyages.

"Safety Convention" means the International Convention for the Safety of Life at Sea, 1974 as amended;

"Safety Management Certificate" means a document issued to a ship which signifies that the Company and its shipboard management operate in accordance with the approved safety management system;

"safety management system" means a structured and documented system enabling company personnel to effectively implement the company safety and environmental protection policy;

"ship" includes hovercraft, and "master" shall be construed accordingly.

(2) In interpreting the ISM Code—

- (a) the requirements of the ISM Code having been made mandatory under regulation 5 the language thereof shall be construed accordingly; and
- (b) references to the Administration shall, in relation to Kenyan ships, be references to the Kenya Maritime Authority.

3. Application

Subject to sub-regulations (2) and (3), these Regulations apply to—

- (a) Kenyan ships wherever they may be; and
- (b) other ships while they are within Kenyan waters.

(2) These Regulations apply to—

- (a) passenger ships of Classes I, II and III¹; (International sea going passenger vessels);
- (b) oil tankers, chemical tankers, gas carriers, bulk carriers, and cargo high-speed craft of 500 gross tonnage or more, which engage in international voyages; and

- (c) other cargo ships and mobile offshore drilling units of 500 gross tonnage or more, which engage in international voyages.

(3) These Regulations apply to every company operating a ship to which these Regulations apply.

(4) These Regulations shall not apply to naval vessels, auxiliaries and government operated ships used for non-commercial purposes.

4. Duty to comply with the ISM Code

Every company shall comply with the requirements of the ISM Code as it applies to that company and to any ship owned by it or for which it has responsibility.

5. Duty to hold certificates

(1) No Company shall operate a ship unless that company holds a valid certificate of compliance issued under regulation 9.

(2) No company shall operate a ship unless there is in force in respect of that ship a valid Safety Management Certificate.

(3) No Kenyan ship shall be operated unless—

- (a) the company holds a Document of Compliance issued by the Director-General in the form set out in the Schedule or accepted by the Director-General; and
- (b) there is in force in relation to the ship a Safety Management Certificate issued by the Authority in the form set out in the Schedule.

(4) For the purposes of this regulation a certificate of Compliance or Safety Management Certificate is not valid if it has not been endorsed, in the circumstances required by the ISM Code, showing, in the case of a certificate of Compliance, satisfactory annual audits, or in the case of a Safety Management Certificate, a satisfactory intermediate audit.

6. Duty to carry certificates

It shall be the duty of every company to ensure that a valid Safety Management Certificate and a copy of the Document of Compliance are carried on board each ship to which these Regulations apply.

7. Duty of master

The master of every ship shall operate the ship in accordance with the safety management system on the basis of which the Safety Management Certificate was issued.

8. Designated person

(1) The company shall designate a person ashore who shall be responsible for monitoring the safe and efficient operation of each ship with particular regard to the safety and pollution prevention aspects, and in particular to—

- (a) take such steps as are necessary to ensure compliance with the company safety management system on the basis of which the Certificate of Compliance was issued; and
- (b) ensure that proper provision is made for each ship to be so manned, equipped and maintained that it is fit to operate in accordance with the safety management system and with statutory requirements.

(2) The company shall ensure that the designated person ashore—

- (c) is provided with sufficient Administration and resources; and
- (d) has appropriate knowledge and sufficient experience of the operation of ships at sea and in port, to enable him to comply with sub-regulations (1) and (2).

9. Issue of Document of Compliance and Safety Management Certificate

[Subsidiary]

(1) Where the Authority is satisfied that a company operating Kenyan ships complies with the requirements of the ISM Code the company may be issued with a Document of Compliance valid for a period not exceeding five years.

(2) Where the Authority is satisfied that a ship is operated by a company to which a Document of Compliance has been issued and that the company and its shipboard management operate in accordance with the safety management system that has been approved, the Authority shall issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

(3) Where a company operating ships which are registered in more than one country, but at least one of which is registered in Kenya, complies with the requirements of the ISM Code the Authority may accept a Document of Compliance issued by the government of one of those countries to which the Safety Convention applies, if prior to the issue of that document it has agreed to accept it. Conditions for acceptance may include completion of a satisfactory audit of the company by an authorised person.

(4) Where a company newly registers a ship in Kenya, the Authority may accept a Document of Compliance issued by the government of a country to which the Safety Convention applies in which ships operated by the company are registered. Conditions for acceptance may include completion of a satisfactory audit by an authorised person.

(5) Where the Authority is satisfied that a Kenyan ship is operated by a company which has a Document of Compliance accepted by the Authority under paragraph (3) or (4) above and that its shipboard management operates in accordance with a safety management system which complies with the ISM Code the Authority shall issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

10. Interim certificate

(1) Where a company is newly established, or the company assumes, for the first time, the responsibility for operating a ship type not covered by a Document of Compliance the company already holds, an interim Document of Compliance may be issued to facilitate implementation of the ISM Code.

(2) An interim Document of Compliance in the form set out in the Schedule, valid for no more than twelve months, may be issued to a company following a demonstration that the company has a safety management system that meets the objectives of section 1.2.3 of the ISM Code. The company shall demonstrate plans to implement a safety management system meeting the full requirements of the ISM Code within the period of validity of the interim Document of Compliance.

(3) An interim Safety Management Certificate, valid for not more than six months, may be issued in respect of a new ship on delivery, when a company takes on the responsibility for the management of a ship which is new to the company or when a ship is transferred between flag states. The Administration, may, as it considers appropriate, extend the validity of the interim Safety Management Certificate for a further six months.

(4) An interim Safety Management Certificate shall only be issued when the Authority is satisfied that—

- (a) the Document of Compliance, or the interim Document of Compliance, is relevant to that ship type;
- (b) the safety management system provided by the company for the ship includes all key elements of the ISM Code and has been assessed during the audit for issuance of the Document of Compliance or issuance of the interim Document of Compliance in the form set out in the Schedule;
- (c) the master and relevant senior officers are familiar with the safety management system and the planned arrangements for its implementation;
- (d) instructions which have been identified as essential to be provided prior to sailing have been given;
- (e) plans for audit, by the company, of the ship within three months exist; and

[Issue 3]

- (f) the relevant information on the safety management system is given in a working language or languages understood by the ship's personnel.

11. Issue and endorsement of Safety Management Certificate by another government

The Authority may request, through a proper officer or otherwise, the government of a country to which the Safety Convention applies—

- (a) to conduct an audit of the safety management system operated onboard a Kenyan ship; and
- (b) where satisfied that the requirements of the ISM Code are complied with, to issue to the ship a Safety Management Certificate or authorise such issue or, where appropriate endorse such certificates in accordance with the requirements of the Safety Convention after intermediate audit. A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Authority.

12. Issue of certificates on behalf of other governments

The Authority may, at the request of a government of a country to which the Safety Convention applies, audit the safety management systems of companies and ships registered in that country and, if satisfied that the requirements of the ISM Code are complied with, and that the audit has been satisfactorily completed in accordance with these Regulations, issue to the company a Document of Compliance or, in respect of the ship a Safety Management Certificate, or, where appropriate, endorse such certificates in accordance with the requirements of the Safety Convention after annual or intermediate audits. A certificate issued in accordance with such a request shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Authority.

13. Annual audit of Document of Compliance

The Authority shall carry out an annual audit of the safety management system of every company to which he has issued a Document of Compliance, within three months of the anniversary date of the Document of Compliance.

14. Intermediate audit of Safety Management Certificate

The Authority shall carry out an intermediate audit of each ship, to ensure that the conditions for the continued validity of the Safety Management Certificate are being met, between the second and third anniversaries of the Safety Management Certificate issued by it, and at other times if it thinks fit.

15. Renewal of certificates

Before the renewal of any certificate the Authority shall carry out a renewal audit of the company or ship during the six month period preceding the expiry date of the Document of Compliance or Safety Management Certificate as the case may be, to ensure that compliance with the requirements of the ISM Code is maintained.

16. Powers of audit, inspection, suspension of service and detention

- (1) (a) Any authorized person may audit the safety management system of any company.
- (2) where an authorized person considers that a company, notwithstanding that it holds a Document of Compliance, is unable to operate ships without creating a risk of—
 - (a) serious danger to safety of life; or
 - (b) serious damage to property; or
 - (c) serious harm to the environment,

[Subsidiary]

or that the company does not hold a Document of Compliance, he may suspend the operation of ships by that company until such time as any such risk is removed or a valid Document of Compliance is held.

(3) Where a service is to be suspended pursuant to paragraph (2) the authorized person shall serve on the company a notice stating that the operation of the service specified in the notice shall be suspended.

(4) Any authorised person may inspect any ship, and any such inspection may include an audit of its safety management system.

(5) Where an authorised person is satisfied on inspecting a ship that there is a failure to comply in relation to that ship with the requirements of regulation 4 or 5 he may detain the ship.

(6) In any case where a ship is liable to be detained, section 435 of the Act (which relates to the detention of the ship) shall have effect in relation to the ship;

(7) Where a ship is detained in relation to a failure to comply with a requirement of these Regulations the Act shall apply to the notice of detention, and as if for references to the ship being dangerously unsafe there were substituted references to it being in breach of these Regulations.

(8) An authorized person exercising functions under this regulation shall have the powers conferred on a surveyor by the Act.

17. Exemptions

The Director-General may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as he or she may specify, and may, subject to giving reasonable notice, alter or cancel any such exemption.

18. Suspension or cancellation of Documents of Compliance and Safety Management Certificates

(1) The Director-General may by notice in writing suspend or cancel any Document of Compliance or Safety Management Certificate issued by him or at his request under these Regulations where it has reason to believe that—

- (a) the certificate was issued on false or erroneous information; or
- (b) since any audit required by these Regulations, the management structure of either the company or ship has changed substantively, or where any audit of a company or ship has revealed a failure to comply with regulation 4.

(2) Any such notice shall contain the grounds for the suspension or cancellation of the certificate.

(3) A notice shall not be given unless the holder has been given the opportunity to make representations, except where the Director-General considers that urgent safety or pollution prevention considerations require the notice to be given immediately.

(4) The Director-General may require that any Document of Compliance or Safety Management Certificate, issued by it under these Regulations, which has expired or has been suspended or cancelled, be surrendered as directed.

(5) No person shall—

- (a) intentionally alter a Document of Compliance or Safety Management Certificate;
- (b) in connection with any audit conducted pursuant to these Regulations, knowingly or recklessly furnish false information;
- (c) with intent to deceive, use, lend or allow to be used by another, a Document of Compliance or Safety Management Certificate;
- (d) fail to surrender a Document of Compliance or Safety Management Certificate required to be surrendered under sub regulation (2); or

[Issue 3]

- (e) forge any Document of Compliance or Safety Management Certificate.

19. Violations, offences and penalties

(1) Any person who fails to comply with any regulation as identified hereunder commits an offence and shall be liable, upon conviction, to a fine not exceeding the shillings identified in the table below, or to a term of imprisonment not exceeding the period identified in the table below, or to both such fine and imprisonment.

Regulation	company	Master	Designated Person ashore	any person	Imprisonment	Penalty in Shs
3,4,5 or 7	x				2 years	700,000
6		x			12 months	350,000
16(1)	x				2 years	700,000
(1)(b)						
18(3)				x	2 years	700,00

(2) It shall be a defence to an offence under this regulation to prove that the person who committed the offence, took all reasonable steps to avoid the commission of the offence.

20. Director-General may impose penalty upon admission of guilt

If any person—

- admits to the Director-General that he has failed to comply with the provisions of these regulations or Act, or that he has failed to comply with any such provision with which it was his duty to comply;
- agrees to abide by the decision of the Director-General; and
- deposits with the Director-General such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question.

the Director-General may, after such enquiry as it deems necessary, determine the matter summarily and may, without legal proceedings, order by the way of a penalty the whole or any part of the said deposit to be forfeited.

(2) There shall be the right of appeal to the Cabinet Secretary under sub-regulation (1) whereby a penalty exceeding one hundred thousand shillings is imposed, provided such right is exercised within a period of three months from the date of such determination or order.

(3) The imposition of a penalty under sub-regulation (1) shall not be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

(4) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

SCHEDULE

FORM 1

(Rule 5(3)(b))

REPUBLIC OF KENYA

THE MERCHANT SHIPPING ACT

(No. 4 of 2009)

THE KENYA MARITIME AUTHORITY

SAFETY MANAGEMENT CERTIFICATE

(Official seal)

Merchant Shipping

[Subsidiary]

Certificate No

*Issued under the provisions of the*INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974,
as amended

Under the authority of the Government of Kenya by

(person or organisation authorised)

Name of ship:

Distinctive number of letter:

Port of registry:

Type of Ship*:

Gross Tonnage:.....

IMO Number:

Name and address of the Company:

see regulation 2(1))

THIS IS TO CERTIFY THAT the safety management system of the ship has been audited and that it complies with the requirements of the International Safety Management Code for the Safe Operation of Ships and for Prevention Control (ISM Code), following verification that the Document of Compliance for the Company is applicable to this type of ship:

This Safety Management Certificate is valid until subject to periodical Verification and the Document of Compliance for the Company remaining valid.

Issued at

(place of issue of the Document)

Date of issue

*Signature of the duly authorised official issuing the document)**(Seal or stamp of issuing authority, as appropriate)*

FORM 2

(r.10(1)(b))

REPUBLIC OF KENYA

THE MERCHANT SHIPPING ACT

(No. 4 of 2009)

THE KENYA MARITIME AUTHORITY

INTERIM SAFETY MANAGEMENT CERTIFICATE*(Official seal)*

Certificate No

Issued under the provisions of the

[Issue 3]

Merchant Shipping

[Subsidiary]

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974,
as amended

Under the authority of the Government of Kenya by

(person or organisation authorised)

Name of ship:

Distinctive number of letter:

Port of registry:

Type of Ship*:

Gross Tonnage:

IMO Number:

Name and address of the Company:

see regulation 2(1))

THIS IS TO CERTIFY THAT the requirements of regulation of the ISM Code have been met and that the Document of Compliance/Interim Document of Compliance (delete as appropriate) of the Company is relevant to this ship.

The Interim Safety Management Certificate is valid until subject to the Document of Compliance/Interim Document of Compliance *(delete as appropriate)* remaining valid.

Issued at

(place of issue of the Document)

Date of issue

Signature of the duly authorised official issuing the document)

(Seal or stamp of issuing authority, as appropriate)

THE MERCHANT SHIPPING (OCCUPATIONAL SAFETY) REGULATIONS, 2015**ARRANGEMENT OF THE REGULATIONS****PART I — GENERAL PROVISIONS**

1. Citation.
2. Interpretation.
3. General application.
4. Duties of employers.
5. Safety equipment and facilities to be provided by employers.
6. First-aid kit and first-aider.
7. Reporting of accidents or serious injuries on board vessels.

**PART II — SAFETY PROVISIONS FOR STAFF ON
BOARD SHIP, APPLIANCES AND EQUIPMENT**

8. Definitions.
9. Application.
10. Duties of an employer.
11. Appointment, termination of appointment, and functions of safety officers.
12. Appointment, termination of appointment, and functions of safety committees.
13. Election, termination of office and functions of safety representatives.
14. Requirements and duties of employers regarding safety officers, safety committees and safety representatives to enable them to perform their functions.
15. Access equipment.
16. Use of access equipment.
17. Hatch coverings.
18. Lifting plant.
19. Safeguarding of machinery.
20. Electrical equipment.
21. Safety measures when working under hazardous conditions.
22. Safe access of persons on board.
23. Transit areas.
24. Lighting.
25. Safety signs.
26. Guardrails.
27. Fixed ladders.
28. Enclosed or confined spaces.

**PART III — STEVEDORES, SHORE CONTRACTORS AND INCIDENTAL
PERSONS ON BOARD VESSELS IN THE COURSE AND SCOPE OF THEIR DUTY**

29. Definitions.
30. Application.
31. Duties of owners, masters and employers.
32. Appointment, termination of appointment, and functions of a safety officer.
33. Record books.

PART IV — FISHING VESSELS

34. Definitions.
35. Application.
36. Duties of employer.
37. Appointment, termination of appointment, and functions of safety officers.
38. Appointment, termination of appointment, and functions of safety appointees.

Merchant Shipping

[Subsidiary]

- 39. Appointment, termination of appointment, and functions of safety committees.
- 40. Record books.

PART V — MISCELLANEOUS PROVISIONS

- 41. Offences and penalties.

MERCHANT SHIPPING (OCCUPATIONAL SAFETY) REGULATIONS, 2015

[L.N. 151/2015.]

PART I — GENERAL PROVISIONS**1. Citation**

These Regulations may be cited as the Merchant Shipping (Occupational Safety) Regulations, 2015, and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette appoint.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“access equipment” means any equipment which is used to gain access to or from a vessel, and includes any gangway, accommodation ladder, portable ladder or rope ladder;

“employer” means any employer of—

- (a) a master of a ship;
- (b) a member of ship's crew;
- (c) a shore contractor;
- (d) a stevedore;
- (e) a person who works in any capacity on or within 50 metres distance of an offshore installation; and
- (f) any incidental person on board a vessel in the course of their duties.

“lifting appliance” means any fixed or mobile appliance on a vessel which is used for suspending, raising or lowering a load or moving it from one position to another whilst suspended, but does not include—

- (a) any screw, belt, bucket or other conveyor used for transport of cargo or people;
- (b) any survival craft or rescue boat launching and recovery appliance or arrangement; or
- (c) any pilot hoist;

“lifting gear” means any gear by means of which a load can be attached to a lifting appliance and which does not form an integral part of that load or appliance, but does not include any pallet, one trip sling, pre-slung cargo sling or freight container;

“offshore installation” means any offshore structure supported on the sea-bed or a vessel used at sea in connection with the prospecting for or the mining of natural oil and on which persons are normally present;

“lifting plant” includes lifting appliances and lifting gear;

“reasonably practicable” means practicable having regard to—

- (a) the severity and scope of the hazard or risk in question;
- (b) the state of knowledge reasonably available concerning the hazard or risk and on
- (c) any means of removing or mitigating the hazard or risk;
- (d) the availability and suitability of means to remove or mitigate the hazard or risk; and
- (e) the cost of removing or mitigating the hazard or risk in relation to the benefits deriving therefrom;

[Subsidiary]

“safety measures” means any reasonable steps taken by the responsible person to prevent an accident or serious injury or measures taken to eliminate any hazardous condition; chemicals or gas;

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of oil;

“vessel” means a ship of any description and offshore installations, whether fixed or mobile.

3. General application

These Regulations shall apply on board vessels and to the performance of all work on board vessels, whether or not the vessels are afloat.

4. Duties of employers

(1) Every employer shall—

- (a) have a copy of these regulations readily available for perusal by his employees;
- (b) ensure that all his employees are so far as is practicable familiar with these regulations where applicable;
- (c) in so far as is practicable, ensure that the provisions of these regulations applicable to employees are observed by them and that, in the interest of safety, discipline is enforced on board a vessel;
- (d) ensure that on board a vessel work is performed or machinery is used under the general supervision of a person who is fully aware of the hazards connected therewith and who is conversant with the safety measures to be taken or observed to obviate such hazards;
- (e) ensure that safety measures contained in the applicable Code are complied with;
- (f) ensure that every employee is aware of the hazards connected with any work to be performed, or machinery to be used by him and that he is conversant with the safety measures to be taken or observed to obviate such hazards;
- (g) ensure that machinery and equipment which is brought on board a vessel and which does not form part of that vessel's machinery or equipment complies with the provisions of the Occupational Health and Safety Act, 2007;
- (h) ensure that an employee who operates machinery or equipment on board a vessel is competent to do so.

(2) No employer shall, other than in writing and subject to the conditions stipulated by him, allow the raising, lowering, transporting or supporting of a person by means of a lifting appliance, except in an emergency.

(3) An employer shall—

- (a) take reasonable care for his own safety and that of other persons who may be affected by his acts or omissions;
- (b) as regards any duty or requirement imposed on his employer or any other person by the Act or regulations, co-operate with such employer or person to enable that duty or requirement to be performed or complied with;
- (c) carry out any lawful order given to him, and obey the rules and procedures laid down by his employer or by anyone authorized thereto by his employer, in the interest of safety;
- (d) if any situation which is unsafe comes to his attention, as soon as practicable report such situation to his employer or to the safety representative for his workplace or section thereof, as the case may be, who shall report it to the employer;
- (e) if he is involved in any incident which may affect his safety, or which has caused an injury to himself, report such incident to his employer or to anyone

[Issue 3]

authorized thereto by the employer, or to his safety representative, as soon as practicable but not later than the end of the particular shift during which the incident occurred, unless the circumstances were such that the reporting of the incident was not possible, in which case he shall report the incident as soon as practicable thereafter; and

- (f) not intentionally or recklessly interfere with or misuse anything which is provided in the interest of safety.

5. Safety equipment and facilities to be provided by employers

Taking into account the nature of the hazard that may be encountered, every employer shall, in order to render his employees safe, provide on a vessel adequate safety equipment and facilities, including—

- (a) suitable eye protection, welding shields, visors, hard hats, protective helmets, gloves, gauntlets, aprons, jackets, protective overalls or any similar equipment that will prevent bodily injury;
- (b) waterproof clothing, low temperature clothing, fire retardant or flameproof clothing or any similar equipment, protective ointment, ear muffs, earplugs, respirators, breathing apparatus, masks, airlines, hoods, helmets or any similar equipment that will effectively protect against harm;
- (c) belts, harnesses, nets, fall arresters, life lines, safety hooks, or any similar equipment that will provide protection in cases of falls; and
- (d) mats, barriers, safety signs or any similar facility that will effectively prevent slipping or entry to unsafe areas.

6. First-aid kit and first-aider

An employer shall ensure that—

- (a) where more than five employees work on board a vessel where the vessel's medicine and medical appliances are not readily accessible, a portable first-aid kit is made available at or near the workplace where the employees are engaged and there is readily available at that workplace a person qualified in practical first aid; and
- (b) the minimum contents of the portable first-aid kit is as follows—
 - (i) Wound cleanser (Cetrimide 1% solution) 1 x 200 ml
 - (ii) Pain relief tablets (e.g. paracetamol-codeine combination) 25
 - (iii) Antiseptic burn/wood cream (e.g. Provioline) 25 g
 - (iv) Paraffin gauze dressings 400 mm x 100 mm 1 tin
 - (v) Paraffin gauze dressings 100 mm x 100 mm 1 tin
 - (vi) Eyedrops (Naphazoline) 10 ml
 - (vii) Crepe bandage 75 mm x 6 mm 1
 - (viii) Roller bandages 75 mm x 6 mm 2
 - (ix) Triangular bandages 2 large
 - (x) Cotton wool 1 x 50g
 - (xi) Wound dressings 150 mm x 100 mm 2
 - (xii) Wound dressings 200 mm x 150 mm. ... 1
 - (xiii) Elastic adhesive wound dressing 25 mm x 1m 1 roll
 - (xiv) Self-adhesive wound dressings, assorted..... 50
 - (xv) Gauze 90 mm x 5 mm1
 - (xvi) Eye shield 1
 - (xvii) Tweezers... 1 pair
 - (xviii) Scissors, stainless steel, 100 mm blunt/sharp 1 pair

[Subsidiary]

- (xix) Assorted safety pins. brass, large..... 1 packet
- (xx) Splints, in net for neck, arms and leg 1 set
- (xxi) Surgical gloves 2 Pairs

7. Report of accidents or serious injuries on board vessels

Any accident or serious injury, contemplated in section 421 (1) (b) of the Act, shall be reported on the prescribed casualty report, obtainable from the proper officer concerned.

PART II — SAFETY PROVISIONS FOR STAFF ON BOARD SHIP, APPLIANCES AND EQUIPMENT

8. Definitions

In this Chapter—

“**Code**” means the latest Code of Safe Working Practices for Merchants.

“**container**” means an article of transport equipment—

- (a) of a permanent character and accordingly strong enough to be suitable for repeated use;
- (b) specially designed to facilitate the transport of goods, by one or more modes of transport without intermediate reloading;
- (c) designed to be secured and/or readily handled, having corner fittings for those purposes;
- (d) of such a size that the area enclosed by the four outer bottom corners is either—
 - (i) at least 14 square metres, or
 - (ii) at least seven square metres, if it is fitted with top corner fittings; and

“**container**” includes a container when carried on a chassis, but does not include a vehicle or packaging;

“**employer**” for the purposes of this Chapter means master or owner;

“**gas carrier**” means any vessel constructed or adapted for the carriage in bulk of any liquefied gas;;

“**hatch covering**” includes hatch covers, beams and fixtures and fittings;

“**new vessel**” means a vessel built on or after 1 January 1994 and includes a vessel whose construction and assembly commenced on or after 1 January 1994;

“**one-strip sling**” means a sling, which has not previously been used for lifting any load and which is fitted to a load at the commencement of the journey and is to be disposed of at the destination of that journey.

9. Application

This Part shall not apply to—

- (a) fishing vessels;
- (b) vessels used solely for sport and recreation; and
- (c) a vessel in which there is, for the time being, no workplace

10. Duties of an employer

Every employer shall in addition to the general duties prescribed in Part I comply with the following—

- (a) ensure that no safety equipment or other facility on a vessel be removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;

- (b) train all his employees or cause them to be trained in the proper use and maintenance of safety equipment or other facilities on board a vessel;
- (c) ensure that all safety hazards or potential safety hazards that caused a safety officer to instruct that work to be stopped on a vessel, are removed before such work is resumed.

11. Appointment, termination of appointment, and functions of safety officers

(1) An employer shall in writing appoint an officer other than the master of a vessel as the safety officer for that vessel.

(2) The appointment of a safety officer shall terminate—

- (a) on the date that officer ceases to be employed on board that vessel; or
- (b) on the date that the employer terminates his appointment.

(3) The safety officer shall—

- (a) ensure that the crew of the vessel comply with the provisions of the Code;
- (b) ensure that the crew comply with any occupational safety policy determined by the employer concerned;
- (c) ensure that the crew maintain a high standard of occupational safety;
- (d) investigate the cause of an accident contemplated in section 421(1)(b) of the Act, all hazards or potential hazards to safety, including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints by the crew of the vessel concerning occupational safety;
- (e) make recommendations to the safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding—
 - (i) the requirements of the Act and these regulations that affect the crew;
 - (ii) any relevant Marine Notice; and
 - (iii) any provision of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety of the crew, at least once during this term of appointment or more frequently if there have been substantial changes in the conditions of work: Provided that the interval between successive inspections shall not exceed three months;
- (g) keep a record book in which he shall enter full details—
 - (i) of any accident or hazardous occurrence (including the date, the names of persons involved and the nature of any injury); and
 - (ii) of any investigation, complaint or inspection referred to in this regulation;
- (h) on written request as soon as practicable make the record book referred to in paragraph (g) available to the Director-General or to the safety committee concerned, as the case may be;
- (i) immediately stop or cause to be stopped the performance of any work which in his opinion may cause an accident or serious injury, and inform the master thereof forthwith; and
- (j) carry out any other investigation relating to occupational safety which an employer or a safety committee may deem necessary, if so requested to in writing by the employer or the safety committee, as the case may be, and thereafter submit a report in respect of such investigation.

12. Appointment, termination of appointment, and functions of safety committees

[Subsidiary]

(1) An employer shall in writing establish a safety committee on board a vessel, designating the master to be chairman and appointing the safety officer and every safety representative as members.

(2) An employer may in writing dissolve a safety committee.

(3) A safety committee shall—

- (a) upon receipt of any recommendation referred to in regulation 11 (3)(c), submit to the employer such recommendation together with their own recommendations; and
- (b) inquire into any occupational safety matter that affects a vessel and her crew and take the steps it may deem necessary to remove any hazard or potential hazard.

13. Election, termination of office, and functions of safety representatives

(1) The crew may, if they so choose, elect—

- (a) in a ship carrying fewer than 16 crew members, one safety representative; or
- (b) in a ship carrying more than 15 crew members, one safety representative, to be elected by the officers, and one safety representative to be elected by the ratings, or in a ship carrying more than 30 ratings, one safety representative, to be elected by the ratings in each of the deck, engine and catering departments; and general purpose ratings shall for this purpose be included in the deck apartment.

(2) If a group of employees chooses to elect a safety representative, the manner in which the election is to be conducted shall be as follows—

- (a) at a meeting convened for the purpose of this election and presided over by the chairman of the safety committee or his nominee, a group of employees shall from within their group nominate a candidate.
- (b) each nominated candidate shall, in writing, confirm to the chairman of the safety committee his acceptance of such nomination.
- (c) the election of a safety representative shall be decided by ballot.
- (d) each member of the group of employees holding an election shall have only one vote.
- (e) the candidate obtaining the majority of votes shall be the safety representative for the specific group of employees for a period not exceeding six months.
- (f) in the event of an equality of votes, the chairman of the safety committee shall have the decisive vote.

(3) The office of the safety representative shall terminate—

- (a) on the date that the safety representative ceases to be employed on board that vessel;
- (b) on the date of his resignation from office; or
- (c) after he has completed his term of appointment.

(4) When he makes representations and submits requests to the employer or safety officer or safety committee on behalf of the crew he represents, the safety representative shall make such representations and submissions in writing.

14. Requirements and duties of employers regarding safety officers, safety committees and safety representatives to enable them to perform their functions

Every employer of a crew shall—

(1) Inform the safety officer and safety committee concerned of any hazardous cargo on board a vessel and the hazards, which may arise therefrom, and of any other hazards on board the vessel that are known to him and that may endanger the vessel or her crew.

[Issue 3]

(2) Allow a safety officer and safety representative such reasonable absence from ship's duties without loss of pay as may be necessary to enable them to perform their duties or functions as safety officer or safety representative, as the case may be;

(3) At any reasonable time, receive representations about occupational safety from the safety officer, the safety representatives or the safety committee, including recommendations by a safety representative that certain work should be suspended, and discuss their representations with them and implement any agreed measures as soon as may be reasonable and practicable;

(4) Provide the safety officer, and safety committee concerned on request with any information relating to accidents and potential hazards to safety on board a vessel;

(5) Provide the safety officer concerned on request with any information or plans necessary to enable him to undertake an inspection referred to in regulation 11(3)(d);

(6) Set the election date of a safety representative to be within three working days of being requested to do so by any two persons entitled to vote in such an election and give publicity to any such election;

(7) Subject to the provision of section 355A (5) of the Act, provide the safety officer and safety committee access to any necessary information, document and similar material, including any applicable legislation and Marine Notices;

(8) Provide the safety officer and safety committee with the necessary accommodation, office equipment and similar materials;

(9) Permit the safety officer and safety committee to inspect the whole or part of the vessel for the purpose of occupational safety; and

(10) Display in a conspicuous place on board a notice containing the names of the safety officer and safety representative on board the vessel.

15. Access equipment

(1) The employer shall provide—

- (a) on board a vessel of 30 meters or more in length, a gangway; and
- (b) on board a vessel of 120 meters or more in length, in addition to the gangway, an accommodation ladder (including a rope or portable ladder), which is appropriate to the deck layout, size, shape and maximum free board of the vessel and which complies with the applicable requirements prescribed in the Code.

(2) Any rope or portable ladder used as access equipment shall comply with the applicable requirements prescribed in the Code.

16. Use of access equipment

The employer shall ensure that, except in an emergency, access equipment referred to in regulation 15 is always used between a secured vessel and any quay, pontoon or similar structure or another vessel alongside to which that vessel is secured, and that—

- (a) the access equipment is placed in position promptly after the vessel has been so secured and remains in position while the vessel is so secured;
- (b) the access equipment which is used—
 - (i) is properly constructed, of adequate strength, properly rigged, secured, deployed, and safe to use; and
 - (ii) is so adjusted from time to time as to maintain safety of access;
- (c) the access equipment and immediate approaches thereto are adequately illuminated;
- (d) when access is necessary between a vessel and the shore and that vessel is not secured alongside, access equipment is provided to ensure safe access;
- (e) a portable ladder is used as access equipment only where no other safe means of access is practicable;

[Subsidiary]

- (f) a rope ladder is used as access equipment only between a vessel with high freeboard and a vessel with low freeboard or between a vessel and a boat where no other safe means of access is practicable;
- (g) a life-buoy with a self-activating light and a separate safety line attached to a quoit or a similar device is provided ready for use at the point of access to a vessel; and
- (h) an adequate number of safety nets are rigged to safeguard the full length of a gangway or accommodation ladder in use.

17. Hatch coverings

(1) An employer shall ensure—

- (a) that any hatch covering used on a vessel is of sound construction and material, of adequate strength for the purpose for which it is used, free from patent defect and properly maintained;
- (b) that a hatch covering—
 - (i) is not used unless it can be removed and replaced, whether manually or with mechanical power, without endangering any person, and
 - (ii) is clearly marked, showing the correct replacement position, except in so far as hatch coverings are interchangeable or incapable of being incorrectly replaced;
- (c) that a hatch is not used unless the hatch covering has been completely removed or, if not completely removed, properly secured.

(2) Except in the event of an emergency, no person shall operate a hatch covering which is power-operated or a vessel's ramp or a retractable car-deck unless authorised to do so by the officer of the watch.

18. Lifting plant

An employer shall ensure that any vessel's lifting plant is—

- (i) of adequate strength for the purpose for which it is used;
 - (ii) free from patent defect;
 - (iii) properly installed or assembled;
 - (iv) properly maintained; and
 - (v) used only in a safe and proper manner;
- (b) not loaded in excess of its certified safe working load, except for the purpose of carrying out a test referred to in paragraph (d);
- (c) operated only by a person properly trained in the operation thereof and duly authorized by the officer of the watch to do so;
- (d) tested by a competent person after the manufacturing or installation thereof, as the case may be, but before being put into operation, and thereafter after any repairs to or modification of the lifting plant which is likely to alter the safe working load or affect the strength or stability thereof, but at least once every four years: Provided that a rope sling manufactured from a rope batch tested by a competent person and spliced in a safe manner need not be tested;
- (e) examined by a competent person after any of the tests referred to in paragraph (d) have been carried out, but at least once every 12 months, and that no lifting plant is used unless so examined and declared safe in writing;
- (f) supplied with a test certificate stating that the lifting plant was tested by a competent person after any of the tests prescribed in paragraph (d);
- (g) clearly and conspicuously marked with its safe working load;
- (h) where practicable, fitted with—
 - (i) a limiting device, which automatically arrests any driving effort when the load reaches its highest or lowest safe position;

[Issue 3]

- (ii) a brake or other device suitable to holding a load and preventing the uncontrolled downward movement thereof when the raising effort of the lifting plant is interrupted; and
- (iii) a hook or load-attaching device so designed or proportioned that the accidental disconnection of a load under working conditions is prevented; and
- (i) fitted with—
 - (i) a device indicating the operating radius of the lifting plant at all times while it is in operation; and
 - (ii) a diagram or indicator indicating to the operator the safe working load of the lifting plant corresponding to its operating radius, if it has a safe working load which varies according to its operating radius.

19. Safeguarding of machinery

An employer shall—

(1) specifically cause every exposed and hazardous part of machinery on board a vessel which is within the normal reach of a person to be effectively safeguarded by means of insulation, fencing, screening or guarding so that it does not constitute a further hazard or potential hazard;

(2) ensure that the quality of material used for such insulation, fencing, screening or guarding is suitable for the purpose for which it is being utilised;

(3) ensure that all insulation, fencing, screening or guarding is properly maintained and kept in position while the guarded part is in operation; and

(4) supply suitable apparatus to stop immediately any machine on board a vessel in an emergency.

20. Electrical equipment

An employer shall ensure that all the electrical equipment and installations on a vessel are operated and maintained in such a manner that any hazard or potential hazard is removed.

21. Safety measures when working under hazardous conditions

An employer shall take all reasonable precautionary measures in order to ensure that employees who have to work on or near machinery which is in motion, under pressure, at high temperature or electrically alive (including the operation of such machinery for the purposes of the examination, adjustment, repair, lubrication or testing thereof) are not injured, and shall in particular ensure that—

- (a) the exposure of employees to dangerous parts of such machinery is limited to the minimum;
- (b) the said exposure is authorised by the officer of the watch or other competent person;
- (c) such machinery is examined only by a competent person;
- (d) any employee who is required to be close to such machinery has, so far as is practicable, a working area which is of adequate size, properly illuminated, and clear of obstructions and loose material;
- (e) a notice specifying the hazards relating to such machinery is affixed in a legible form in a conspicuous place on, or in the vicinity of, that machinery or that the area around such machinery is demarcated with hazard tape.

22. Safe access of persons on board

An employer shall ensure that a safe means of access is provided and maintained to any place on a vessel to which a person may be required to go.

[Subsidiary]

23. Transit areas

An employer shall ensure that all deck surfaces used for transit and all passageways, walkways and stairs on a vessel are properly maintained and, in so far as it is practicable, are kept free from all materials or substances likely to cause a person to slip or fall.

24. Lighting

An employer shall ensure that those areas of a vessel being used for the loading or unloading of cargo or for any other work or transit are adequately and appropriately illuminated.

25. Safety signs

An employer shall ensure that all permanent safety signs used on board a vessel for the purpose of giving safety information or instruction comply with the standards prescribed by the International Maritime Organization or the International Standards Organization.

26. Guardrails

(1) An employer shall ensure that any opening, open hatchway or dangerous edge into, through, or over which a person may fall is fitted with secure guardrails or fencing of adequate design and construction to prevent such occurrence, except where the installation of such guardrails or fencing will interfere with the proper performance of work.

(2) Where a temporary opening is made in a ship for carrying out repair work, the opening may, in lieu of the guarding required by subregulation (1), be guarded by means of hazard tape displayed at a height of not less than 800 mm and not higher than 1 200 mm and at a distance of not less than 2 000 mm from the edge of the opening.

27. A Fixed ladders

An employer shall ensure that—

- (a) all ladders used on a vessel are of good construction and of adequate strength for the purpose for which they are used;
- (b) such ladders are properly maintained and free from defects; and
- (c) all the ladders on a new vessel comply with the requirements prescribed in the relevant sections of the Code.

28. Enclosed or confined spaces

(1) An employer shall ensure that all entrances to unattended, enclosed or confined spaces on a vessel are kept either closed or otherwise secured against entry, except when work is to be done therein.

(2) An employer shall ensure that the provisions of the Code pertaining to the hazards for safe entry to and work in an enclosed or confined space on board a vessel are complied with.

(3) An employer of crew on board—

- (a) any tanker or gas carrier of 500 gross registered tons or more; and
- (b) any other vessel of 1 000 gross registered tons or more; shall ensure that drills simulating the rescue of a crew member from an enclosed or confined space are held at intervals not exceeding two months, and that such drills are recorded in the official log book.

(4) (a) where entry into an enclosed or confined space may be necessary, every employer shall ensure that an oxygen meter and such other testing device as is appropriate to the hazard likely to be encountered in any such space is carried on board the vessel;

- (b) an employer shall ensure that such meter any such other testing device is maintained in good working order and, where applicable, is regularly serviced and calibrated according to the manufacturers' requirements.

PART IV — STEVEDORES, SHORE CONTRACTORS AND INCIDENTAL
PERSON ON BOARD VESSELS IN THE COURSE AND SCOPE OF THEIR DUTY

29. Definitions

In this Chapter—

“**Code**” means the latest edition of any Cargo Handling Code of Practice issued by or approved by the Kenya ports Authority and incorporated in accordance with the Act;

“**employee**” means any person other than a crew member who is employed by or working for any employer and receives or is entitled to receive any remuneration or who works under the direction or supervision of an employer or any other person who in any manner assists in the carrying on or the conducting of the business of an employer in so far as this person is performing stevedoring, or shore contracting or any other work whatsoever in the course and scope of his employment on board a vessel;

“**employer**” means any person other than an employer of the master or crew who employs any person and remunerates that person or expressly or tacitly undertakes to remunerate him, or who permits any person in any manner to assist him in performing stevedoring or shore contracting or any other work on board a vessel;

“**incidental persons**” means any person other than the master and crew, and stevedores and shore contractors on board a vessel in the course and scope of their duty;

“**shore contractor**” means a person temporarily employed on board a vessel to effect general or specific repairs, alterations, renovations, improvements, painting, maintenance of vessel or machinery, tank or hatch cleaning and related tasks;

“**stevedore**” means a person employed in the loading or unloading of a vessel or activities related thereto.

30. Application

This Chapter shall not apply to vessels used solely for sport and recreation.

31. Duties of owners, masters and employers

(1) An employer of stevedores, shore contractors or incidental persons shall—

- (a) in addition to the general duties prescribed by regulation 3, comply with the requirements of regulations 4, 5, 17 and 20, 21, 25 and 28(2);
- (b) ensure that each accessible part of the vessel is inspected in respect of occupational safety affecting employees at least once a day during the period the employees are employed;
- (c) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the employer, owner or master forthwith thereof.

(2) An employer of stevedores, shore contractors or incidental persons shall ensure that all deck surfaces, all passageways, walkways and stairs on a vessel used for transit by his employees are kept, as far as it is practicable, free from all materials or substances likely to cause a person to slip or fall.

(3) In the event of a dispute arising in respect of—

- (a) whether a work place is safe; or
- (b) what action has to be taken to make a workplace safe, the owner or master or employer shall refer the matter to the authorised officer who will determine the dispute by conducting an inspection of the vessel to determine compliance by the owner, master or employer with these Regulations and the Code.

(4) An employer of a stevedore shall ensure compliance with the provisions of the Code.

32. Appointment, termination of appointment, and functions of a safety officer

[Subsidiary]

- (1) The employer of a stevedore or shore contractor shall in writing appoint an employee as safety officer for a group of his employees.
- (2) The appointment of the safety officer shall cease on the date—
- (a) the employee ceases to be employed by the owner; or
 - (b) that the employer terminates the appointment.
- (3) The safety officer shall whilst the employees are working on a vessel—
- (a) ensure that the employees comply with the provisions of the regulations;
 - (b) ensure that any occupation safety policy determined by the employer concerned is complied with by the employees;
 - (c) ensure that the employees maintain a high standard of occupational safety;
 - (d) investigate the cause of an accident mentioned in section 259(1)(c) of the Act, all hazards or potential hazards to safety, including fatigue, affecting or which may affect the employees in the execution of their work and all complaints about occupational safety by the employees onboard the vessel;
 - (e) make recommendations to the employer regarding any investigation or inspection or the prevention of an accident, or the removal of a hazard, or potential hazard, and about any deficiency in occupational safety regarding the requirements of the Act and these regulations;
 - (f) monitor the effectiveness of the safety measures and immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the employer, owner or master forthwith thereof;
 - (g) carry out any other investigation relating to occupational safety, which an employer may deem necessary if requested thereto in writing by the employer and thereafter submit a report in respect of such investigation;
 - (h) submit a brief report of the investigation contemplated in this regulation to the employer for the purposes of record keeping.

33. Record books

- (1) An employer of a stevedore or shore contractor shall maintain a record book, in which he shall enter the full details of—
- (a) any accident or dangerous occurrence mentioned in section 421(1)(b) of the Act (including the date of, names of persons concerned and the nature, if any, of any injuries suffered);
 - (b) any investigation, complaint or inspection in terms of regulation 31;
- (2) The employer shall keep the records specified in subregulation (1) above for a period of not less than three years, and shall make these records available on request to a Authorised officer.

PART IV – FISHING VESSELS

34. Definition

In this Chapter—

“**Code**” means the latest edition of the Code of Safe Working Practices for Fishing Vessels published by the Authority;

“**employee**” includes a share fisherman whose only remuneration is a share in the proceeds of the catch;

“**in service**” means the period extending from when a fishing vessel is handed over to her master until the vessel is handed back to the owner;

35. Application

This Part shall apply only to fishing vessels of more than 25 gross tons on which a crew of six or more are employed.

36. Duties of employee

(1) In respect of a fishing vessel referred to in regulation 34—

- (a) the owner thereof shall comply or ensure compliance with the provisions of regulation 3 whilst such vessel is not in service; and
- (b) the master thereof shall comply or ensure compliance with the said provisions whilst such vessel is in service.

(2) An employer of a crew shall in addition to the general duties prescribed in Chapter I comply with the following:

- (a) ensure that no safety equipment or other facility on a vessel be removed therefrom, except for cleaning, repairing, maintenance, modification or replacement thereof;
- (b) train all his employees or cause them to be trained in the proper use and maintenance of safety equipment or other facilities on board a vessel;
- (c) ensure that all hazards or potential hazards to safety that caused a safety officer or safety appointee to stop work on a vessel, are removed before resumption of such work.

37. Appointment, termination of appointment, and functions of safety officers

(1) For the purpose of a fishing vessel in service, the employer of the crew of that vessel shall in writing appoint a crewmember as the safety officer for that vessel.

(2) The appointment of a safety officer shall terminate—

- (a) on a date that he ceases to be employed on board the fishing vessel; or
- (b) on the date that his employer, in writing, terminates his appointment.

(3) A safety officer shall, whilst a fishing vessel is in service—

- (a) ensure that the crew comply with the provisions of the Code;
- (b) ensure that the crew comply with any occupational safety policy determined by the employer concerned;
- (c) ensure that the crew maintain a high standard of occupational safety;
- (d) investigate the cause of an accident contemplated in section 421(1)(b) of the Act; all hazards or potential hazards to safety including fatigue, that affect or may affect the crew of a vessel in the execution of their work, and all complaints concerning occupational safety;
- (e) make recommendations to the safety committee concerned about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding—
 - (i) the requirements of the Act and these Regulations that affect the crew;
 - (ii) any relevant Marine Notice; and
 - (iii) any provisions of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety affecting the crew, at least once during a voyage;
- (g) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury, and inform the master thereof forthwith;
- (h) carry out any other investigation or inspection relating to occupational safety which an employer or safety committee may deem necessary, if so requested in writing by the employer or safety committee, as the case may be, and thereafter submit a report in respect of such investigation; and

[Subsidiary]

- (i) submit to the employer for the purposes of the record book a brief report of the investigation referred to in this regulation.

38. Appointment, termination of appointment, and functions of safety appointees

(1) The owner of a fishing vessel shall in writing appoint an employee as safety appointee for that fishing vessel whilst it is not in service.

(2) The appointment of the safety appointee shall terminate—

- (a) on the date that the employee ceases to be employed by the owner; or
- (b) on the date that the employer terminates his appointment.

(3) The safety appointee shall whilst a vessel is not in service—

- (a) ensure that the employees comply with the provisions of the Code;
- (b) ensure that the employees comply with any occupational safety policy determined by the employer concerned;
- (c) ensure that the employees maintain a high standard of occupational safety;
- (d) investigate the cause of an accident contemplated in section 421(1)(b) of the Act, all hazards or potential hazards to safety, including fatigue, that affect or may affect the employees in the execution of their work, and all complaints by the employees of the vessel concerning occupational safety;
- (e) make recommendations to the safety committee concerned, about any investigation or inspection or the prevention of any accident or the removal of any hazard or potential hazard, and about any deficiency in occupational safety regarding—
 - (i) the requirements of the Act and these regulations that affect the employees;
 - (ii) any relevant Marine Notice; and
 - (iii) any provision of the Code;
- (f) carry out inspections of each accessible part of the vessel in respect of the occupational safety of the employees, at least once during the vessel's not-in-service period and should such period extend beyond one month, at least once a month;
- (g) immediately stop or cause to be stopped, the performance of any work which in his opinion may cause an accident or serious injury and inform the owner thereof forthwith;
- (h) carry out any other investigation relating to occupational safety which an employer or safety committee may deem necessary, if so requested in writing by the employer or the safety committee, as the case may be, and thereafter submit a report in respect of such investigation;
- (i) submit to the employer for the purposes of the record book a brief report of the investigation referred to in this regulation.

39. Appointment, termination of appointment and functions of safety committees

(1) An owner of two or more fishing vessels shall in writing establish a safety committee; and such safety committee shall consist of such number of members as the owner may from time to time determine.

(2) The chairman, in the person of the owner or his representative, shall co-opt, from among the employees such persons as are necessary to conduct the business of the committee.

(3) The chairman may also co-opt any other person who by the virtue of his special knowledge can contribute to the business of the committee.

(4) An owner may, in his discretion, in writing, dissolve a safety committee.

[Issue 3]

(5) A safety committee shall meet as often as may be necessary, but at least once every three months, provided that an authorised officer may by notice in writing direct that a meeting be held at any place and time determined by him.

(6) The procedure at meetings of a safety committee shall be determined by the committee.

(7) The committee shall consider all recommendations of the safety officer or safety appointee.

(8) After consideration of such recommendations a safety committee may recommend any appropriate action in respect of any incident on board a vessel and the recommendation shall be made available to an authorised officer upon request.

(9) The safety committee shall keep the minutes of meetings for a period of at least three years and make them available to an authorised officer upon request.

40. Records books

(1) An employer shall maintain a record book, in which he shall enter the full details of—

- (a) any accident or dangerous occurrence referred to in section 421(1)(b) of the Act (including the date, names of persons concerned and the nature, if any, of any injuries suffered);
- (b) any investigation, complaint or inspection referred to in terms of regulations 36 and 3.

(2) The employer shall keep the records specified in subregulation (1) above for a period of at least three years, and shall make these records available on request to the safety committee and to an authorized officer.

PART V — MISCELLANEOUS PROVISIONS

41. Offences and penalties

Any person who contravenes or fails to comply with any provision of the regulations commits an offence and liable on conviction to a fine or to imprisonment as follows—

- (1) Contravention of regulation 3, one year's imprisonment;
 - (2) Contravention of regulation 4, six months' imprisonment;
 - (3) Contravention of regulation 27(1), six months' imprisonment;
 - (4) Contravention of regulation 27(2), one year's imprisonment.
-

**MERCHANT SHIPPING (SHIP IDENTIFICATION
NUMBER) REGULATIONS, 2015**

[L.N. 154/2015.]

1. Short Title and Commencement

These Regulations may be cited as the Merchant Shipping (Ship Identification Number) Regulations, 2015 and shall come into force such on date as the Cabinet Secretary may, by notice in the Gazette, appoint.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Kenyan ship" includes an unregistered ship having Kenyan nationality.

"Safety Convention" means the International Convention for the Safety of Life at Sea, 1974.

3. Purpose of Regulations

The purpose of these regulations is to give effect to Regulation XI-1/3 (Ship Identification Number) of the Safety Convention

4. Application

(1) These regulations shall apply to—

- (a) every foreign-going passenger ship of 100 or more gross tonnage; and
- (b) every foreign-going ship, other than a passenger ship, of 300 or more gross tonnage
- (c) all Kenyan ships; and
- (d) all foreign ships when in Kenya or in its territorial waters.

(2) Notwithstanding subregulation (1), these regulations shall not apply to—

- (a) vessels used solely for sport or recreation;
- (b) fishing, sealing or whaling boats;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of traditional build.

5. Ship identification number

(1) The owner of a ship shall ensure that the ship is permanently marked with the appropriate ship identification number or equivalent in accordance with regulation XI-1/3 of the Safety Convention.

(2) For the purposes of this regulation an equivalent method of marking the ship identification number is a method of marking that—

- (a) ensures that the ship identification number cannot be expunged easily; and
- (b) is approved
 - (i) in the case of a Kenyan ship, by the Authority; or
 - (ii) in the case of a foreign ship, by or on behalf of the ship's flag state.

6. Offences

The provisions of section 266 of the Act shall apply with necessary modifications to an offence committed under these regulations.

THE MERCHANT SHIPPING (TRAINING AND CERTIFICATION) REGULATIONS, 2016**ARRANGEMENT OF THE REGULATIONS****PART I: PRELIMINARY**

1. Short title
2. Interpretation.

PART II — APPLICATION OF REGULATIONS, ETC

3. Application.
4. Purposes of these regulations.
5. Issuance of masters, officers or ratings certificates.
6. Certificates issued by other Parties.
7. Certificates for radio operators.
8. Functions specifying the standards of competence and the levels of responsibility.
9. Recognition of certificates.
10. Endorsements.
11. Certificates to be kept on board the ship.
12. Information on the status of certificates of competency, endorsements and dispensations.
13. Dispensation.
14. Equivalents and equivalency of certificates.
15. Revalidation of certificates.
16. Near-coastal voyages.
17. Defining near-coastal voyages.
18. Control procedures.
19. Limitation of control procedures, deficiencies and detention of a ship.
20. Assessment of the ability of the seafarers of the ship to maintain watchkeeping and security standards.
21. Impartial investigation, withdrawal, suspension and cancellation.
22. Communication of information.
23. Medical standards.
24. Conduct of trials.

**PART III: REQUIREMENTS FOR CERTIFICATION OF
MASTER AND DECK DEPARTMENTAL PERSONNEL**

25. Officer in charge of a navigational watch on ships of 500 gross tonnage or more (STCW Convention Regulation II/1).
26. Master and chief mate on ships of 500 gross tonnage or more (STCW Convention Regulation II/2).
27. Master and chief mate on ships of between 500 and 3,000 gross tonnage (STCW Convention Regulation II/2).
28. Restriction of certificate to near-coastal voyages.
29. Officer in charge of a navigational watch and of master on ships of less than 500 gross tonnage not engaged on near-coastal voyages (STCW Convention Regulation II/3).
30. Officer in charge of a navigational watch on ships of less than 500 gross tonnage engaged on near-coastal voyages (STCW Convention Regulation II/3).
31. Master on ships of less than 500 gross tonnage engaged on near-coastal voyages (STCW Convention Regulation II/3).
32. Exemptions due to size of ship and conditions of voyage.
33. Rating forming part of a navigational watch (STCW Convention Regulation II/4).

Merchant Shipping

[Subsidiary]

34. Able seafarer deck (STCW Convention Regulation II/5).

PART IV: REQUIREMENTS FOR CERTIFICATION
OF ENGINE DEPARTMENT PERSONNEL

35. Officer in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room (STCW Convention Regulation III/1).
36. Chief engineer officer and second engineer officer on ships powered by main propulsion machinery of 3,000 kW propulsion power or more (STCW Convention Regulation III/2)
37. Chief engineer officer and second engineer officer on ships powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power (STCW Convention Regulation III/3).
38. Rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine room (STCW Convention Regulation III/4).
39. Able seafarer engine in a manned engine room or designated to perform duties in a periodically unmanned engine-room (STCW Convention Regulation III/5).
40. Electro-technical officer (STCW Convention Regulation III/6).
41. Offences and penalties.

PART V: CERTIFICATION REQUIREMENTS FOR
RADIOCOMMUNICATION PERSONNEL AND RADIO OPERATORS

42. Application of this Part.
43. GMDSS radio operators certificate (STCW Convention Regulation IV/2)

PART VI: CERTIFICATION REQUIREMENTS FOR
PERSONNEL ON CERTAIN TYPES OF SHIPS

44. Certificates and endorsements issued to masters, officers and ratings on certain types of ship.

A - Masters, officers and ratings on oil and chemical tankers

45. Basic training for oil and chemical tanker cargo operations for masters, officers and ratings on oil and chemical tankers (STCW Convention Regulation V/1-1).
46. Advanced training for oil tanker cargo operations (STCW Convention Regulation V/1-1).
47. Advanced training for chemical tanker cargo operations (STCW Convention Regulation V/1-1).

B - Masters, officers and ratings on liquefied gas tankers

48. Basic training for liquefied gas tanker cargo operations (STCW Convention Regulation V/1-2).
49. Advanced training for liquefied gas tanker cargo operations (STCW Convention Regulation V/1-2).

C - Masters, officers, ratings and other personnel on passenger ship

50. Application of this division.
51. Crowd management training (STCW Convention Regulation V/2).
52. Safety training (STCW Convention Regulation V/2).
53. Crisis management and human behaviour training (STCW Convention Regulation V/2).
54. Passenger safety, cargo safety and hull integrity training.
55. Refresher training.

- PART VII: CERTIFICATION REQUIREMENTS REGARDING EMERGENCY,
OCCUPATIONAL SAFETY, SECURITY, MEDICAL CARE AND SURVIVAL FUNCTIONS
56. Basic safety training and instruction for all seafarers (STCW Regulation VI/1).

[Issue 3]

57. Proficiency in survival craft, rescue boats and fast rescue boats (STCW Convention Regulation VI/2).
58. Advanced firefighting (STCW Convention Regulation VI/3).
59. Medical First Aid and Medical Care (STCW Convention Regulation VI/4).
60. Ship Security Officers (STCW Convention Regulation VI/5).
61. Security related familiarisation training (STCW Convention Regulation VI/6).
62. Security awareness training.
63. Seafarers with designated security duties (STCW Convention Regulation VI/6).

PART VIII: ALTERNATIVE CERTIFICATION

64. Issue of alternative certificates.
65. Certification of seafarers.
66. Principles governing the issue of alternative certificates.

PART IX: CERTIFICATION REQUIREMENTS FOR NON-STCW CERTIFICATES

67. Application of this part.
68. Boat operator.
69. Coxswain (grade) 3.
70. Coxswain (grade) 2.
71. Coxswain (grade) 1.
72. Master (Port operations).
73. Second class engine officer (port operations).
74. First class engine officer (port operations).
75. Engine rating (Port Operations).
76. Able seafarer engine (Port operations).

PART X: QUALITY STANDARDS, TRAINING AND ASSESSMENT OF COMPETENCE

A: General

77. Head of seafarer training, examination and certification.
78. Syllabus committee.
79. Quality Standards System.
80. Independent evaluation.
81. Inspection and audit of training institutions

B: Requirements for training and assessment

82. Supervision and monitoring of training.
83. Training and assessment.
84. Approval of instructors, supervisors and assessors.
85. Qualifications of instructors, supervisors and assessors.

C: Approval of courses and training institutions

86. Approval of training course or syllabus.
87. Approval of training institutions.
88. Distance learning and e-learning.
89. Register of approved training institutions, courses and programmes.

D: Training and assessment within an institution

90. Written examinations.
91. Levels of assessment.

E: Shipboard training and qualifying seagoing service

92. Shipboard training record book and workshop skills training record book.
93. Shipboard training.

Merchant Shipping

[Subsidiary]

- 94. Approved seagoing service.
- 95. Calculating qualifying service.
- 96. Sea service testimonials and proof of watchkeeping service.
- 97. Removal of "coastal" limitation.
- 98. Removal of tonnage limitation.
- 99. Removal of propulsion power limitation.
- 100. Recognition of seagoing service performed on board Kenya Navy ships.
- 101. Novel craft.

F: Use of simulators

- 102. Compliance with performance standards.
- 103. Performance standards for simulators used in training and simulators used in assessment of competence.
- 104. Radar simulation.
- 105. Automatic Radar Plotting Aid (ARPA) simulation.
- 106. Simulator training objectives.
- 107. Training procedures.
- 108. Assessment procedures.
- 109. Qualifications of simulator instructors and assessors.

G: Oral examination

- 110. Appointment of examiners.
- 111. Oral examination.
- 112. Proof of identity.
- 113. Fraudulent Conduct.

PART XI: ENFORCEMENT

- 114. Offences, penalties and defences.
- 115. Extension of all co-operation possible to any Party.
- 116. Director General may impose penalty upon admission of guilt.

TRANSITIONAL ARRANGEMENTS, SAVINGS AND REPEAL OF REGULATIONS

- 117. Transitional provisions and savings.
- 118. Repeal of Regulations.

ANNEXES

FIRST SCHEDULE —	Format of Certificates of Competency
SECOND SCHEDULE —	Format of Endorsement to Attest Issuance of a Certificate of Competency
THIRD SCHEDULE —	Format of Recognition of a Certificate
FOURTH SCHEDULE —	Certificate of Approval to Conduct a Course

**MERCHANT SHIPPING (TRAINING AND
CERTIFICATION) REGULATIONS, 2016**

(L.N. 41/2016.)

PART I — PRELIMINARY**1. Short title**

These Regulations may be cited as the Merchant Shipping (Training and Certification) Regulations, 2016.

(2) Interpretation

In these Regulations, unless the context otherwise requires—

“**able seafarer deck**” means a rating qualified in accordance with the provisions of regulation 34;

“**able seafarer engine**” means a rating qualified in accordance with the provisions of regulation 39;

“**Act**” means the Merchant Shipping Act, 2009;

“**Administration**” means the Government of the Party whose flag the ship is entitled to fly and, in respect of certificates, the competent authority authorized to issue certificate on behalf of the Party;

“**approved course**” means a course or training programme that has been approved by the Director-General, relating to maritime education and training by an approved training institution;

“**approved**” means approved by the Director-General in accordance with these Regulations;

“**approved seagoing service**”, or “qualifying seagoing service” means the seagoing service contemplated under regulation 94;

“**assessor**” means a person conducting in-service assessment of competence of a seafarer, either on board or ashore, and includes an examiner;

“**audit**” means a systematic, independent and documented process for obtaining audit evidence and evaluating it objectively to determine the extent to which audit criteria are fulfilled;

“**Authority**” means the Kenya Maritime Authority;

“**Cabinet Secretary**” means the cabinet secretary for the time being in charge of shipping and maritime transport;

“**Certificate**” means a valid document, by whatever name called issued by the Authority or an Administration recognised by the Authority or an Administration authorizing the holder to serve as stated in that document or as authorised by national regulations;

“**certificate of competency**” means a certificate issued and endorsed for masters, officers and GMDSS radio operators in accordance with the provisions of Parts II, III, IV or VII of these Regulations or those of the corresponding chapters of the annex to the STCW Convention and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein;

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

“**certificated**” means properly holding a certificate;

“chemical tanker” means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the International Bulk Chemical Code;

“chief engineer officer” means the senior engineer officer responsible for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship;

“chief mate” means the officer next in rank to the master and upon whom the command of the ship will fall in the event of the incapacity of the master;

“Code of Seafarer Qualifications” means the standing instruction or information, as it may be amended, issued by the Authority, specifying the standards and other requirements relevant to the training and certification of seafarers.

“company” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the ship owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by these Regulations;

“Convention” means the STCW Convention;

“corrective action” means action to eliminate the cause of a finding;

“deck officer” means an officer qualified in accordance with the provisions of Part III of these Regulations;

“Director-General” means the Director-General of the Authority appointed under the Kenya Maritime Authority Act Chapter 370 of the Laws of Kenya;

“documentary evidence” means documentation, other than a certificate of competency or certificate of proficiency, used to establish that the relevant requirements of these Regulations have been met;

“e-learning” means learning through electronic media;

“electro-technical officer” means an officer qualified in accordance with the provisions of regulation 40;

“electro-technical rating” means a rating qualified in accordance with the provisions of regulation 41;

“endorsement” attesting recognition of a certificate" means endorsement in accordance with regulation 10(4);

“engineer officer” means an officer qualified in accordance with the provisions of Part III of these Regulations;

“evaluation criteria” means the criteria specified in Part A of the Convention for the assessment of candidates by an assessor or examiner;

“examiner” means a person appointed under regulation 110 to conduct an oral examination;

“finding” means a situation where objective evidence indicates the non-compliance with a mandatory requirement contained in an IMO instrument or in the audit standard;

“fishing vessel” means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;

“function” means a group of tasks, duties and responsibilities, as specified in the STCW Code, necessary for ship operation, safety of life at sea or protection of the marine environment specified in regulation 8;

“gazette notice” means a notice published in the Kenya Gazette by the Cabinet Secretary pursuant to the provisions of the Act;

“GMDSS” means the Global Maritime Distress and Safety System;

“GMDSS radio operator” means a person who is qualified in accordance with the provisions of Part V of these Regulations;

“GT” in relation to a ship means its gross tonnage calculated in accordance with the International Tonnage Convention, 1969, as amended;

“ILO” means the International Labour Organization;

“independent evaluation” means an evaluation by a suitably qualified person, independent of, or external to, the Authority or activity being evaluated, to verify that the administrative and operational procedures at all levels are managed, organized, undertaken and monitored internally in order to ensure their fitness for purpose and achievement of stated objectives;

“inland water operations” means voyages restricted within the inland waters of Kenya; and 'inland water service' shall be construed accordingly;

“ISPS Code” means the International Ship and Port Facility Security (ISPS) Code adopted on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, as may be amended by the Organization;

“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 International Gas Carrier Code;

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

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

ensuring that all functions within the designated area of responsibility are properly performed;

“marine guidance notice” means an information note issued by the Authority to disseminate useful information and guidance in accordance with Section 170(5) of the Act;

“master” means the person having command of a ship;

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

“near-coastal voyage” means—

- (a) a voyage made exclusively within waters under Kenyan jurisdiction; and
- (b) the ship is for the entire voyage within fifty miles from a safe haven in Kenya; or
- (c) a voyage which by agreement between Kenya and another State is considered or treated as a near coastal voyage purposes of affording ships of either party to the agreement the benefits of near-coastal voyages provisions;

“officer” means a member of the crew, other than the master, qualified in accordance with the provisions of Part III or IV of these Regulations or designated as such by any other provision of these Regulations;

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

“operational level” means the level of responsibility associated with—

- (a) serving as officer in charge of a navigational or engineering watch or as designated duty engineer for periodically unmanned machinery spaces, electro-technical officer or as GMDSS radio operator on board a seagoing ship; and

[Subsidiary]

- (b) maintaining direct control over the performance of all functions within the designated area of responsibility in accordance with proper procedures and under the direction of an individual serving in the management level for that area of responsibility;

“Organization” means the International Maritime Organization;

“Party” means a State for which the STCW Convention has entered into force;

“port operations” means voyages restricted to a port operations area; and 'port operations service' shall be construed accordingly;

“port operations area” means the sea area within a radius of 15 nautical miles measured outwards of the fairway buoy of a Kenyan port;

“port operations vessel” means a harbour tug, dredger, hopper, pilot boat, work-boat, bunker barge, ferry, buoy tender, self-propelled floating crane or any other type ship restricted to operating within a port operations area;

“passenger ship” means a ship as defined in the Act;

“port state control regulations” means the Merchant Shipping (Port State Control) Regulations, 2011;

“propulsion power” means the total maximum continuous rated output power, in kilowatts, of all the ship's main propulsion machinery which appears on the ship's certificate of registry or other official document;

“radio duties” means, as the case may be, watchkeeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the Safety Convention and, at the discretion of each Authority, the relevant recommendations of the Organization;

“radio operator” means a person holding an appropriate certificate issued or recognized by the Director-General or an Administration under the provisions of the Radio Regulations;

“radio Regulations” means the radio regulations for the time being in force, and includes the regulations made pursuant to the International Telecommunications Convention;

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

“registration required” means as part of register or registers in accordance with regulation 12(2);

“responsible person” in relation to a training institution, means the owner or director, the principal or in the case of a university, the Vice-Chancellor or a senior member of the academic or management staff of the training institution;

“revalidation of a certificate” means establishing continued professional competence in accordance with regulation 15;

“ro-ro passenger ships” means a passenger ship with ro-ro spaces or special category spaces as defined in the Safety Convention,

“Safe Manning Regulations” means the relevant safe manning regulations made under the Act;

“safe haven” means a harbour or shelter of any kind which affords safe entry and protection from the force of weather;

“Safety Convention” means the International Convention for the Safety of Life at Sea, 1974, as amended;

“seafarer” means any person employed upon a vessel and includes the master, ships officers and ratings;

“seagoing” in relation to a vessel, means a vessel proceeding to sea beyond the internal waters of Kenya;

“seagoing service” means the time spent on board a seagoing ship, relevant to the issue or revalidation of a certificate or other qualification, and shall count from the time of engagement to the time of disengagement;

“seagoing ship” means a ship other than those which navigate exclusively in inland waters or in internal waters, or closely adjacent to, sheltered waters or areas where port regulations apply;

“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” means all security tasks and duties on board ships as defined by chapter X1-2 of the Safety Convention and the International Ship and Port Facility Security (ISPS) Code;

“Secretary-General” means the Secretary-General of the International Maritime Organization;

“ship security officer” means the person on board the 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;

“standard of competence” means the level of proficiency to be achieved for the proper performance of functions on board ship in accordance with the internationally agreed criteria as set forth in these regulations and incorporating prescribed standards or levels of knowledge, understanding and demonstrated skill;

“STCW Code” means the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by the 1995 Conference resolution 2, as it may be amended by the Organization;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as affected by any amendment made under Article XII of that Convention and "Convention" shall be construed accordingly;

“special types of ships” includes Floating Production Storage and Offloading (FPSO) vessels; Floating Storage Units (FSU); moored construction and support vessels; and Mobile Offshore Units on station in Dynamic Positioning (DP) mode or anchored; semi submersibles; jack ups with propulsion device; cable ships; mobile drilling ships; self-propelled MOUs; jack-ups, dredgers; semi submersibles on passage, salvage vessels; navigation aid tenders; cruising pilot vessels; custom launches and other specialised craft;

“support level” means the level of responsibility associated with performing assigned tasks, duties or responsibilities on board a seagoing ship under the direction of an individual serving in the operational or management level;

“syllabus” means an outline of the subjects in a training course developed or approved by the Authority and includes the IMO Model courses;

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

“trainee” means a person under training, in a training institution or on board a ship, to become a deck officer or an engineer officer and designated as such by these Regulations;

[Subsidiary]

"training course" means a series of lessons contained in an approved syllabus used to teach, whether theoretically or practically, the standards of competence required for certification, and "training programme" shall be construed accordingly;

"training institution" means a technical training institute, tertiary institution, a college, a university or any other organization duly accredited and licensed under the relevant law to conduct academic or vocational training and approved under these regulations to conduct a training course;

"trial" means an experiment or series of experiments, conducted over a limited period, which may involve the use of automated or integrated systems in order to evaluate alternative methods of performing specific duties or satisfying particular arrangements prescribed by these Regulations, which would provide at least the same degree of safety, security and pollution prevention as provided by these regulations;

"unlimited voyage" means a voyage other than a near-coastal voyage;

"Valid" in relation to a certificate or other document, means a certificate or document that—

- (a) is current; and
- (b) has not been suspended, revoked or cancelled; and
- (c) for certificate, bears the signature of the holder.

"Verification" in relation to a certificate or other document, means a certificate or document that—

"watchkeeping service" means the time spent as the duty officer in full charge of a navigational watch for no less than 4 out of every 24 hours while the vessel is engaged on a voyage.

PART II — APPLICATION OF REGULATIONS, ETC

3. Application

(1) Unless expressly provided otherwise, these regulations shall apply to seafarers serving on board Kenyan seagoing ships or on foreign ships in Kenyan ports except those serving on board—

- (a) warships, naval auxiliaries or other ships owned or operated by a Party and engaged only on governmental non-commercial service;
- (b) Government ships as defined in the Act;
- (c) fishing vessels, engaged in the catching of fish;
- (d) pleasure yachts not engaged in trade; or
- (e) wooden ships of primitive build, including junks.

(2) The Authority may require seafarers serving on board ships referred to in subparagraphs (1)(b) to (e) to meet the requirements of these Regulations so far as is reasonable and practicable so as not to impair the operations or operational capabilities of such ships.

(3) In complying with these Regulations, ship-owners, seafarers and training institutions shall take into account, to the greatest degree possible, the guidance and explanatory material contained in part B of the STCW Code and the guidance issued by the Authority in a Marine Guidance Notice.

4. Purpose of these regulations

These Regulations, for the purpose of Section 170 of the Act and Article I (1) of the STCW Convention—

- (a) give effect to the provisions of the STCW Convention and STCW Code;
- (b) prescribe the standards of competence to be attained and other conditions to be satisfied, subject to such exemptions as may be allowed by or under

the Convention, for certification as master, officer, rating and other seafarer of any description employed on a Kenyan vessel;

- (c) prescribe the manner in which the attainment of any standard or the satisfaction of any other condition shall be evidenced;
- (d) prescribe the conduct of any examinations, the conditions for admission to such examinations and the appointment and remuneration of examiners; and
- (e) prescribe the issue, form and recording of certificates and other documents,

and different provisions may be made or enabled to be made for different circumstances.

5. Issuance of masters, officers or rating certificates

The Authority may, in accordance with these regulations—

- (a) issue a certificate; or
- (b) authorize the issuance of a certificate under its authority; or
- (c) issue an endorsement attesting to the recognition of a certificate issued by another Administration.

(2) Notwithstanding paragraph (1) (b), certificates of competency shall be issued only by the Authority following verification of the authenticity and validity of any necessary documentary evidence.

(3) Certificates for masters, officers or ratings shall be issued to those candidates who; to the satisfaction of the Authority, meet the requirements for service, age, medical fitness, training, qualification and examinations in accordance with the appropriate provisions of these regulations.

(4) Certificates issued in accordance with the provisions of regulations 45 to 49 to masters and officers on oil tankers, chemical tankers and on liquefied gas tankers shall only be issued by the Authority.

(5) Kenyan certificates shall be in the English language.

(6) Pursuant to paragraph (1) (b) and subject to sub-regulation (3), the Director-General may authorize a training institution to issue a certificate of proficiency on behalf of the Authority.

(7) Candidates for certification shall provide satisfactory proof—

- (a) of their identity;
- (b) that their age is not less than that prescribed in the regulation relevant to the certificate applied for;
- (c) that they meet the standards of medical fitness specified in the relevant medical examination and certification regulations;
- (d) of having completed approved education and training meeting the vocational and academic standard;
- (e) of having completed the seagoing service and any related compulsory training required by these regulations for the certificate applied for; and
- (f) that they meet the standards of competence prescribed by these regulations for the capacities, functions and levels that are to be identified in the endorsement to the certificate. If applicable, pass an oral examination conducted by an examiner appointed by the Director-General.

(8) Certificates shall be issued only to candidates who comply with the requirements of this regulation.

(9) All certificates or documentary evidence described in the Convention which authorize the holder to serve in certain functions on board ships, including references to the relevant regulations and the requirements for endorsement, registration and revalidation is as set out in the Code of Seafarer Qualification.

(10) The formats of certificates issued under these regulations are set forth in the First, Second and Third Schedules.

[Subsidiary]**6. Certificates issued by other Parties**

The Authority shall, subject to the provisions of regulation 9, accept, in principle, certificates issued by or on behalf of the Parties identified and published by the Maritime Safety Committee of the Organization as Parties which have demonstrated that they give full and complete effect to the relevant provisions of the STCE Convention.

7. Certificates for radio operators

The Authority shall issue appropriate certificates, as prescribed by the Radio Regulations, to radio operators serving on board ships described under regulation 42, and a separate certificate indicating that the holder has the additional knowledge required under regulations 43.

8. Functions specifying the standards of competence and the levels of responsibility

A certificate of competency or a certificate of proficiency issued to a seafarer by the Authority shall state—

- (a) the abilities specified in the standards of competence of the STCW Code, grouped as appropriate, under the following functions—
 - (i) function 1: navigation;
 - (ii) function 2: cargo handling and stowage;
 - (iii) function 3: controlling the operation of the ship and care for persons on board;
 - (iv) function 4: marine engineering;
 - (v) function 5: electrical, electronic and control engineering;
 - (vi) function 6: maintenance and repair; and
 - (vii) function 7: Radiocommunications.
- (b) the levels of responsibility as follows—
 - (i) management level, identified as "M";
 - (ii) operational level, identified as "O"; and
 - (iii) support level, identified as "S".

9. Recognition of certificates

In order to recognize, by endorsement in accordance with regulation 10(4), a certificate issued by or under the authority of an Administration to a master, officer or radio operator, the Authority shall—

- (a) confirm, through an evaluation of that Administration, which may include inspection of facilities and procedures, that the requirements of the Convention regarding standards of competence, training and certification and quality standards are fully complied with; and
- (b) agree with the Administration concerned that prompt notification will be given of any significant change in the arrangements for training and certification provided in compliance with the Convention.

(2) Seafarers who present to the Authority, for recognition, certificates issued under the provisions of regulations II/2, III/2 or III/3 or issued under regulation VII/1 of the STCW Convention at the management level shall be required to pass a written or oral examination intended to test their knowledge of Kenya's maritime legislation relevant to the functions they are permitted to perform. The written examination shall be administered in either paper or electronic format.

(3) Information provided and measures agreed upon under this regulation shall be communicated to the Secretary-General in conformity with the requirements of regulation 22(2).

[Issue 3]

(4) The Authority shall not recognize certificates issued by or under the authority of a non-Party, but the Authority may, when issuing its own certificate, accept seagoing service, education and training acquired under the authority of a non-Party, provided the Authority complies with regulation I/2 of the STCW Convention in issuing each such certificate and ensures that the requirements of the Convention relating to seagoing service, education, training and competence are complied with.

(5) Notwithstanding the requirement of regulation 10(4), the Authority may, if circumstances require, subject to the provisions of sub-regulation (1), allow a seafarer to serve for a period not exceeding three months on board a Kenyan ship, while holding an appropriate and valid certificate issued and endorsed as required by an Administration for use on board ships entitled to fly the flag of that Administration but which has not yet been endorsed so as to render it appropriate for service on board Kenyan ships, in which case, the owner or master shall make readily available documentary proof that an application for an endorsement has been submitted to the Authority.

(6) The Authority shall not use certificates or endorsements issued by an Administration under the provisions of regulation 1/10 of the STCW Convention in recognition of, or attesting the recognition of, a certificate issued by another Party as the basis for further recognition.

(7) Where the Authority, having recognized a certificate, withdraws its endorsement of recognition for disciplinary reasons, the Authority shall inform the Administration that issued the certificate of the circumstances.

10. Endorsements

Certificates for masters and officers issued in compliance with these Regulations shall be endorsed by the Authority, in the English language, in the form referred to in sub-regulation (3).

(2) The endorsement required by sub-regulation (1) to attest the issuance of a certificate shall only be issued by the Authority if all the requirements of the Regulations have been complied with.

(3) The form of endorsements used to attest the issue of a certificate shall be that set out in the Second Schedule.

(4) The Authority, following recognition under regulation 9 of—

- (a) a certificate of competency; or
- (b) certificate of proficiency issued to masters and officers in accordance with the provisions of regulations V/1-1 and V/1-2 of the annex to the STCW Convention,

shall endorse such certificate to attest its recognition only after ensuring the authenticity and validity of the certificate in accordance with regulation 12(6).

(5) The endorsement under sub-regulation (4) shall only be issued if the provisions of these Regulations have been complied with and shall be in the format set out in the Third Schedule.

(6) The endorsements referred to in sub-regulations (4) shall—

- (a) only be issued by the Authority;
- (b) each be assigned a unique number, except that endorsements attesting the issue of a certificate may be assigned the same number as the certificate concerned, provided that number is unique; and
- (c) expire as soon as, the certificate endorsed expires or is withdrawn, suspended or cancelled by the Authority or Administration which issued it and, in any case, not more than five years after their date of issue

(7) The capacity in which the holder of a certificate is authorized to serve shall be identified in the form of endorsement in terms identical to those used in the Minimum Safe Manning Document issued under the relevant regulations.

11. Certificates to be kept on board the ship

[Subsidiary]

Subject to the provisions of regulation 9(5), any certificate required by these Regulations or the STCW Convention shall be kept available in its original form on board the ship, on which the holder is serving.

12. Information on the status of certificates, endorsements and dispensations

(1) The Authority shall make available, in English, the information on the status of such certificates, endorsements and dispensations to other Administration and companies which request verification of the authenticity and validity of certificates produced to them by seafarers seeking recognition of their certificates or employment on board ship.

(2) Pursuant to sub-regulation (1), the Authority shall maintain a register or registers of all certificates and endorsements for masters, officers, and ratings which are issued, have expired or have been revalidated, suspended, cancelled or reported lost or destroyed and of dispensations issued.

(3) The Authority shall develop and maintain a database for certificate registration from which the register or registers contemplated under sub-regulation (2) shall be established, and which shall set out the details of each certificate in accordance with section A-I/2 of the STCW Code through printed or electronics means.

(4) The Authority shall allow controlled electronic access to such register or registers to allow Administrations and companies to confirm—

- (a) the name of the seafarer to whom such certificate, endorsement or other qualification was issued, its relevant number, date of issue and date of expiry;
- (b) the capacity in which the holder may serve and any limitations attaching thereto; and
- (c) the functions the holder may perform, the levels authorized and any limitations attached thereto.

(5) Masters, officers and ratings holding Kenyan certificates shall be required to ensure the correct details of their certificates are held in the register described under sub-regulation (1).

(6) The Authority shall request from other Administrations verification of the authenticity and validity of certificates produced to it by seafarers seeking recognition of their certificates or employment on board Kenyan ships.

13. Dispensation

In circumstances of exceptional necessity, the Director-General may, if in his opinion this does not cause danger to persons, property or the environment, issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in a capacity, other than that of a radio officer or radiotelephone operator, except as provided by the, Radio Regulations, for which he does not hold the appropriate certificate, provided that the person to whom the dispensation is issued shall be adequately qualified to fill the vacant post in a safe manner, to the satisfaction of the Director-General.

(2) Dispensations shall not be granted to a master or chief engineer officer except in circumstances of force majeure and then only for the shortest possible period.

(3) Any dispensation granted under sub-regulation (1) shall be granted only to a person properly certificated to fill the post immediately below in respect of which the dispensation is given.

(4) Where the certification referred in sub-regulation (2) is not required by the STCW Convention, a dispensation may be issued to a person whose qualification and experience are, in the opinion of the Director-General, of clear equivalence to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, he shall be required to pass a written test or an oral examination conducted by the Administration, as demonstrating that such a dispensation may safely be issued.

[Issue 3]

(5) The company shall ensure that the post for which a dispensation has been granted under sub-regulation (1) is filled by the holder of an appropriate certificate as soon as possible in accordance with the requirements of the Safe Manning regulations.

(6) The Authority shall, as soon as possible after the 1st January of each year, send a report to the Secretary-General giving information of the total number of dispensations in respect of each capacity for which a certificate is required and has been issued during the year to seagoing ships, together with information as to the numbers of those ships above and below 1600 gross tonnage respectively.

14. Equivalents and equivalency of certificates

The Authority may adopt other educational and training arrangements, including those involving seagoing service and shipboard organization especially adapted to technical developments and to special types of ships and trades, provided that the level of seagoing service, knowledge and efficiency as regards navigational and technical handling of the ship and cargo ensures a degree of safety at sea and has a preventive effect against pollution equivalent as a minimum to the requirement of these regulations.

(2) Details of such arrangements shall be reported as early as practicable to the Secretary-General who shall circulate such particulars to all Parties.

15. Revalidation of certificates

Every master, officer and radio operator holding a certificate issued under any Part of these regulations other than Part VII, who is serving at sea or intends to return to sea after a period ashore, shall be required to revalidate the certificate at intervals not exceeding five years.

(2) For revalidation of a certificate the holder shall be required to—

- (a) meet the standards of medical fitness prescribed under the relevant regulations; and
- (b) complete approved seagoing service performing functions appropriate to the certificate held, for a period of at least—
 - (i) twelve months in total during the preceding five years; or
 - (ii) three months in total during the preceding six months immediately prior to revalidating; or
- (c) have performed functions considered by the Authority to be equivalent to the seagoing service required in paragraph (b); or
- (d) pass an approved test which may be in the form of written or oral examination, simulator assessment or other appropriate means; or
- (e) successfully complete an approved training course or courses relevant to the certificate; or
- (f) have completed approved seagoing service, performing functions appropriate to the certificate held, for a period of not less than three months in a supernumerary capacity.

(3) Every master and officer shall, for continuing seagoing service on board tankers, be required to meet the requirements in subregulation (2) and, at intervals not exceeding five years, to—

- (a) have approved seagoing service, performing duties appropriate to the tanker certificate or endorsement held, for a period of at least three months in total during the preceding five years; or
- (b) successfully complete an approved relevant tanker training course.

(4) If an application for revalidation of a certificate of competency is made within six months before the expiry of the certificate, the certificate may be revalidated until the fifth anniversary of the date of validity, or extension of the validity as the case may be.

(5) For revalidation of recognition endorsements issued in accordance with the provisions of regulation 10(4), the seafarer shall—

[Subsidiary]

- (a) meet the standards of medical fitness prescribed under the relevant medical examination and certification regulations; and
 - (b) hold a valid certificate of competency or a certificate of proficiency issued in accordance with the provisions of regulations V/I-1 or V/1-2 of the STCW Convention.
- (6) If an application for revalidation of a recognition endorsement is made within six months before the expiry of endorsement, the endorsement may be revalidated until—
- (a) the fifth anniversary of the date of validity, or extension of the validity, of the endorsement; or
 - (b) the date the certificate endorsed expires; whichever is earlier.
- (7) Every master, officer and radio operator shall, for continuing seagoing service on board ships for which special training requirements have been internationally agreed upon, be required to successfully complete approved relevant training.
- (8) Seafarers holding certificates issued before the coming into force of these Regulations shall be required to undergo appropriate refresher and updating training programme or assessment described in Code of Seafarer Qualifications.
- (9) The refresher and updating training programmes shall—
- (a) be formulated in consultation with the Syllabus Committee established under regulation 78;
 - (b) approved by the Authority;
 - (c) include changes in relevant national and international regulations concerning safety of life at sea, security, and protection of the marine environment; and
 - (d) take account of any updating of the standard of competence concerned.
- (10) The Authority shall make available on Kenyan ships texts of recent changes in, national and international regulations concerning the safety of life at sea, security and the protection of the marine environment for the purpose of updating the knowledge of masters, officers and radio operators employed on such ships.

16. Near-coastal voyages

- (1) The Authority shall not impose training, experience or certification requirements on the seafarers serving on board the ships, entitled to fly the flag of another Party and engaged on near-coastal voyages in a manner resulting in more stringent requirements for such seafarers than for seafarers serving on board Kenyan ships.
- (2) For the purposes of specifying the details of trading areas and other relevant conditions in respect of near coastal voyages described in sub-regulation (1), the Authority may enter into an undertaking in the form of a bilateral or multilateral agreement with a Party or Parties considering the provisions of regulation 17, in order to afford the ships of either Party or Parties the benefits of the near-coastal provisions of the STCW Convention.
- (3) With respect to Kenyan ships regularly engaged on near-coastal voyages off the coast of another Party, the Authority shall prescribe training, experience and certification requirements for seafarers serving on such ships at least equal to those of the Party off whose coast the ship is engaged, provided that they do not exceed the requirements of the STCW Convention in respect of ships not engaged on near-coastal voyages.
- (4) Seafarers serving on a ship which extends its voyage beyond what is defined as a near coastal voyage by the Authority, or by the undertaking provided in sub-regulation (2), and enters waters not covered by that definition shall fulfil the appropriate competency requirements of these Regulations.
- (5) The Authority may—
- (a) afford a Kenyan ship the benefits of the near-coastal voyage provisions of these Regulations when it is regularly engaged off the coast of a non-Party on near-coastal voyages as defined by the Authority; and

[Issue 3]

- (b) accept the certificates of seafarers issued by a Party for the Party's defined near-coastal voyages limits for service in near-coastal voyages as defined by the Authority, provided the Authority and that Party enter into an undertaking provided in sub-regulation (2), specifying the details of involved trading areas and other relevant conditions thereof.

(6) Subject to the meaning assigned to near-coastal voyage under the Act—

- (a) the safe havens from where the limits of a near-coastal voyage shall be determined are the ports of Lamu, Malindi, Kilifi, Mombasa and Shimoni; and
- (b) the limits of near-coastal voyage shall be prescribed in the relevant certificate of competency.

(7) Nothing in this regulation shall, in any way, limit the jurisdiction of the Republic of Kenya as a coastal state.

17. Defining near-coastal voyages

(1) Subject to sub-regulation 16(2), in defining near-coastal voyages, the Authority shall

- (a) take into account the effect on the safety and security of all ships and on the marine environment, in light of the—
 - (i) type of ship and the trade in which it is engaged;
 - (ii) gross tonnage of the ship and the propulsion power in kilowatts of the main machinery;
 - (iii) nature and length of the voyages;
 - (iv) maximum distance from a port of refuge;
 - (v) adequacy of the coverage and accuracy of navigational position-fixing devices;
 - (vi) weather conditions normally prevailing in the near coastal voyages area;
 - (vii) provision of shipboard and coastal communication facilities for search and rescue; and
 - (viii) the availability of shore-based support, regarding especially technical maintenance on board.
- (b) incorporate the near-coastal voyages limits in the endorsements issued pursuant to regulation 10.

(2) Kenyan ships engaged on near-coastal voyages shall not extend their voyages worldwide, on the ground that they are navigating constantly within the limits of designated near-coastal voyages of neighbouring Parties.

18. Control procedures

(1) Kenyan ships wherever they may be and foreign ships while in Kenyan ports, except those excluded by regulation 3, are subject to control by officers duly authorised by the Authority to verify that all seafarers serving on board who are required to be certificated by these Regulations or by the STCW Convention are so certificated or hold an appropriate dispensation, and such certificates shall be accepted unless there are clear grounds for believing that a certificate has been fraudulently obtained or that the holder of a certificate is not the person to whom that certificate was originally issued.

(2) In the event that any deficiencies are found under subregulation (1) or under the procedures specified in regulation 19 or in the Port State Control Regulations, the officer carrying out the control shall forthwith inform, in writing, the master of the ship and the Consul or, in his absence, the nearest diplomatic representative of the maritime authority of the State whose flag the ship is entitled to fly, so that appropriate action may be taken, which notification shall specify the details of the deficiencies found and the grounds on which the Authority determines that these deficiencies pose a danger to persons, property or the environment.

[Subsidiary]

(3) In exercising the control under sub-regulation (1), if, taking into account the size and type of the ship and the length and nature of the voyage, the deficiencies referred to in sub-regulation 19(2) are not corrected and it is determined that this fact poses a danger to persons, property or the environment, the Authority shall take steps to ensure that the ship will not sail unless and until these requirements are met to the extent that the danger has been removed.

(4) When exercising control under this regulation, the Authority shall make all possible efforts to avoid the undue detention or delay of a ship.

(5) This regulation shall be applied as may be necessary to ensure that no more favourable treatment is given to ships entitled to fly the flag of a non-Party than is given to Kenyan ships or ships entitled to fly the flag of a Party.

19. Limitation of control procedures, deficiencies and detention of a ship

The control procedures exercised by a duly authorized control officer under regulation 18 shall be limited to the following—

- (a) verification that all seafarers serving on board who are required to be certificated in accordance with these Regulations or the STCW Convention hold an appropriate certificate or a valid dispensation, or provide documentary proof that an application for an endorsement has been submitted to the Authority or an Administration in accordance with sub-regulation 9(5);
- (b) verification that . the numbers and certificates of the seafarers serving on board are in conformity with the requirements of the Safe Manning Regulations; and
- (c) assessment, in accordance with sub-regulation 21(1), of the ability of the seafarers of the ship to maintain watchkeeping and security standards, as appropriate, as required by these Regulations or by the STCW Convention if there are clear grounds for believing that such standards are not being maintained because any of the following have occurred—
 - (i) the ship has been involved in a collision, grounding or stranding, or
 - (ii) there has been a discharge of substances from the ship when under way, at anchor or at berth which is illegal under any international convention, or
 - (iii) the ship has been manoeuvred in an erratic or unsafe manner whereby routing measures adopted by the Organization or safe navigation practices and procedures have not been followed, or
 - (iv) the ship is otherwise being operated in such a manner as to pose a danger to persons, property, the environment, or a compromise to security.

(2) Deficiencies which may be deemed to pose a danger to persons, property or the environment include the following—

- (a) failure of seafarers to hold a certificate, to have an appropriate certificate, to have a valid dispensation or to provide documentary proof that an application for an endorsement has been submitted to the Authority in accordance with regulation 9(5);
- (b) failure to comply with the requirements of the Safe Manning Regulations;
- (c) failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the Authority;
- (d) absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radiocommunications or the prevention of marine pollution; and
- (e) inability to provide, for the first watch at the commencement of a voyage and for subsequent relieving watches, persons who are sufficiently rested and otherwise fit for duty.

[Issue 3]

(3) Failure to correct any of the deficiencies referred to in subregulation (2), in so far as it has been determined by the Authority that they pose a danger to persons, property or the environment, shall be the only grounds under this regulation on which the Authority may detain a ship.

20. Assessment of the ability of the seafarers of the ship to maintain watchkeeping and security standards

(1) The assessment procedure provided for in sub-regulation 19(1)(c), resulting from any of the occurrences mentioned therein shall take the form of a verification that members of the crew who are required to be competent do in fact possess the necessary skills related to the occurrence.

(2) It shall be borne in mind when making this assessment that on-board procedures are relevant to the International Safety Management Code and that the provisions of these Regulations or the STCW Convention are confined to the competence to safely execute those procedures.

(3) Control procedures under these Regulations or the STCW Convention shall be confined to the standards of competence of the individual seafarers on board and their skills related to watchkeeping as defined in Part A of the STCW Code, and on-board assessment of competency shall commence with verification of the certificates of the seafarers.

(4) Notwithstanding verification of the certificate, the assessment under sub-regulation 19(l) (c) can require the seafarer to demonstrate the related competency at the place of duty which may include verification that operational requirements in respect of watchkeeping standards have been met and that there is a proper response to emergency situations within the seafarer's level of competence.

(5) In the assessment, only the methods for demonstrating competence together with the criteria for its evaluation and the scope of the standards given in part A of the STCW Code shall be used.

(6) Assessment of competency related to security shall be conducted for those seafarers with specific security duties only in case of clear grounds, as provided for in chapter XI/2 of the International Convention for the Safety of Life at Sea (SOLAS), and in all other cases, it shall be confined to the verification of the certificates or endorsements of the seafarers.

21. Impartial investigation, withdrawal, suspension and cancellation

(1) The Authority shall conduct impartial investigation of any reported incompetency, act, omission or compromise to security that may pose a direct threat to safety of life or property at sea or to the marine environment by the holders of certificates or endorsements issued by the Authority in connection with their performance of duties related to their certificates.

(2) The report of the investigation conducted under subregulation (1) may make a recommendation to the Director-General for the withdrawal, suspension or cancellation of such certificates for such cause and for the prevention of fraud.

(3) The Authority may take and enforce any measures it deems necessary to prevent fraud and other unlawful practices involving certificates and endorsements issued.

22. Communication of information

(1) The Director-General may communicate guidance in respect of these Regulations in a marine guidance notice.

(2) Subject to the Treaty and Ratification Act 2012, the Authority shall communicate to the Secretary-General—

- (a) the information required under Article IV of the Convention within the time periods prescribed and in the format specified in section A-I/7 of the STCW Code; and
- (b) such other information as may be required by the Code on other steps taken by the Authority to give the Convention full and complete effect.

23. Medical standards

[Subsidiary]

Every candidate for certification under these Regulations shall hold a valid Medical Certificate issued under the relevant medical examination and certification regulations.

24. Conduct of trials

(1) Notwithstanding the provisions of these Regulations, the Authority may authorize a Kenyan ship to participate in trials.

(2) The authorization under sub-regulation (1) shall be granted only when the Authority is satisfied that such trials are conducted in a manner that provides at least the same degree of safety, security and pollution prevention as provided by these regulations. In any case, such trials shall be conducted in accordance with guidelines provided by the Authority.

PART III — REQUIREMENTS FOR CERTIFICATION
OF MASTER AND DECK DEPARTMENT PERSONNEL

25. Officer in charge of a navigational watch on ships of 500 gross tonnage or more

(1) Every officer in charge of a navigational watch serving on a seagoing ship of 500 gross tonnage or more shall hold a certificate of competency.

(STCW Convention Regulation II/1)

(2) Every candidate for certification under sub-regulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) have approved seagoing service of not less than twelve months as part of an approved training programme which includes on-board training which meets the requirements of section A-II/1 of the STCW Code and is documented in an approved training record book, or otherwise have approved seagoing service of not less than thirty-six months;
- (c) have performed, during the required seagoing service, bridge watchkeeping duties under the supervision of the master or a qualified officer for a period of not less than six months;
- (d) meet the applicable requirements of Part V, as appropriate, for performing designated radio duties in accordance with the Radio Regulations;
- (e) have completed approved education and training and meet the standard of competence specified in section A-II/1 of the STCW Code; and
- (f) meet the standard competence specified in section A-VI/1, paragraph 2, section A-VI/2, paragraphs 1 to 4, section A-VI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.

26. Master and chief mate on ships of 500 gross tonnage or more

(1) Every master and chief mate on a seagoing ship of 3,000 gross tonnage or more shall hold a certificate of competency.

(STCW Convention Regulation II/2)

(2) Every candidate for certification under sub-regulation (1) shall be required to—

- (a) meet the requirements for certification as an officer in charge of a navigational watch on ships of 500 gross tonnage or more and have approved seagoing service in that capacity for—
 - (i) not less than twelve months for certification as chief mate; and
 - (ii) not less than thirty-six months for certification as master;

Provided that the period may be reduced to not less than twenty-four months where twelve or more months of such seagoing service has been served as chief mate; and

- (b) have completed approved education and training;
- (c) meet the standard of competence specified in section A-II/2 of the STCW Code for masters and chief mates on ships of 3,000 gross tonnage or more.

[Issue 3]

27. Master and chief mate on ships of between 500 and 3,000 gross tonnage

(1) Every master and chief mate on a seagoing ship of between 500 and 3,000 gross tonnage shall be required to be the holder of a certificate of competency.

(STCW Convention Regulation II/2)

(2) Every candidate for certification under sub-regulation (1) shall—

- (a) for certification as chief mate, be required to meet the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more;
- (b) for certification as master, be required to meet the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more and have approved seagoing service of not less than 36 months in that capacity; and
- (c) be required to have completed approved training and meet the standard of competence specified in section A-II/2 of the STCW Code for masters and chief mates on ships of between 500 and 3,000 gross tonnage.

28. Restriction of certificate to near-coastal voyages

(1) The Authority may issue a restricted certificate of competency to master, chief mate and officer in charge of a navigational watch serving on board ships of more than 500 gross tonnage engaged exclusively on near-coastal voyages bearing in mind the effect on the safety of all ships which may be operating in the same waters.

(2) Candidates for certification under sub-regulation (1) shall meet the requirements set out in the Section A-II/1 and A-II/2 of the STCW Code.

29. Officer in charge of a navigational watch and of master on ships of less than 4500 gross tonnage not engaged on near-coastal voyages

(1) Every officer in charge of a navigational watch serving on a seagoing ship of less than 500 gross tonnage not engaged on near coastal voyages shall be required to be the holder of a certificate of competency for ships of 500 gross tonnage or more.

(STCW Convention Regulation II/3)

(2) Every master serving on a seagoing ship of less than 500 gross tonnage not engaged on near-coastal voyages shall be required to be the holder of a certificate of competency for service as master on ships of between 500 and 3,000 gross tonnage.

30. Officer in charge of a navigational watch on ships of less than 500 gross tonnage engaged on near-coastal voyages

(1) Every officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall be required to be the holder of a certificate of competency.

(STCW Convention Regulation II/3)

(2) Every candidate for certification as officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall be required to—

- (a) be not less than eighteen years of age;
- (b) have completed—
 - (i) special training contemplated in section A-II/3 of the STCW Code, including an approved seagoing service of not less than twelve months on board a ship of not less than 100 gross tonnage; or
 - (ii) approved seagoing service as a rating in the deck department of not less than thirty-six months;

[Subsidiary]

- (c) meet the applicable requirements of Part V, as appropriate, for performing designated radio duties in accordance with the Radio Regulations;
- (d) have completed approved education and training and meet the standard of competence specified in section A-II/3 of the STCW Code for officers in charge of a navigational watch on ships of less than 500 gross tonnage engaged on near-coastal voyages; and
- (e) meet the standard of competence specified in section AVI/2, paragraph 2, section AVI/2, paragraphs 1 to 4, section A-VI/3, paragraphs 1 to 4 and section AV/4, paragraphs 1 to 3 of the STCW Code.

31. Master on ships of less than 500 gross tonnage engaged on near-coastal voyages

(1) Every master serving on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall be required to be the holder of a certificate of competency.

(STCW Convention Regulation II/3)

(2) Every candidate for certification as officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall be required to—

- (a) be not less than eighteen years of age;
- (b) have approved seagoing service of not less than 12 months as officer in charge of a navigational watch;
- (c) have completed approved education and training and meet the standard of competence specified in section A-II/3 of the STCW Code for masters on ships of less than 500 gross tonnage engaged on near-coastal voyages; and
- (d) meet the standard of competence specified in section AVI/1, paragraph 2, section A-VI/2, paragraphs 1 to 4, section AVI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.

32. Exemptions due to size of ship and conditions of voyage

The Authority, if it considers that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of regulations 30, 31 and 32 and section A-II/3 of the STCW Code unreasonable or impracticable, may to that extent exempt the master and the officer in charge of a navigational watch on such a ship or class of ships from some of the requirements, bearing in mind the safety of all ships which may be operating in the same waters.

33. Rating forming part of a navigational watch

(1) Every rating forming part of a navigational watch on a seagoing ship of 500 gross tonnage or more, other than ratings under training and ratings whose duties while on watch are of an unskilled nature, shall be required to be duly certificated to perform such duties.

(STCW Convention Regulation II/4)

(2) Every candidate for certification under sub-regulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) have completed—
 - (i) approved seagoing service, including not less than six (6) months of training and experience, or
 - (ii) special training, either pre-sea or on board ship, including an approved period of seagoing service which shall not be less than two (2) months; and
- (c) meet the standard of competence specified in section A-II/4 of the STCW Code.

(3) The seagoing service, training and experience required by paragraph (2)(b) shall be associated with navigational watchkeeping functions and involve the performance of duties carried out under the direct supervision of the master, the officer in charge of the navigational watch or a qualified rating.

(4) The requirements of this regulation are not those for certification of Able Seamen as contained in the ILO Certification of Able Seamen Convention, 1946, or any subsequent convention.

34. Able seafarer deck

(1) Every able seafarer deck serving on a seagoing ship of 500 gross tonnage or more shall be duly certificated.

(STCW Convention Regulation II/5)

(2) Every candidate for certification under sub-regulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) meet the requirements for certification as a rating forming part of a navigational watch;
- (c) while qualified to serve as a rating forming part of a navigational watch, have approved seagoing service in the deck department of—
 - (i) not less than eighteen months, or
 - (ii) not less than twelve months, and
 - (iii) have completed approved training; and
- (d) meet the standard of competence specified in section A-II/5 of the STCW Code.

(3) Seafarers shall be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity in the deck department for a period of not less than twelve months within 1st January 2007 to 1st January 2012.

PART IV — REQUIREMENTS FOR CERTIFICATION OF ENGINE DEPARTMENT PERSONNEL

35. Officer in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room

(1) Every 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 seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold a certificate of competency.

(STCW Convention Regulation III/1)

(2) Every candidate for certification under sub-regulation (1) shall—

- (a) be required to be not less than eighteen years of age;
- (b) have completed combined workshop skills training and an approved seagoing service of not less than twelve months as part of an approved training programme which includes on board training that meets the requirements of section A-II/1 of the STCW Code and is documented in an approved training record book, or otherwise have completed combined workshop skills training and an approved seagoing service of not less than thirty-six months of which not less than thirty months shall be seagoing service in the engine department;
- (c) have performed, during the required seagoing service, engine-room watchkeeping duties under the supervision of the chief engineer officer or a qualified engineer officer for a period of not less than six months;
- (d) have completed approved education and training and meet the standard of competence specified in section A-III/1 of the STCW Code; and

[Subsidiary]

- (e) meet the standard of competence specified in section AVI/1, paragraph 2, section AVI/2, paragraphs 1 to 4, section AVI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.

36. Chief engineer officer and second engineer officer on ships powered by main propulsion machinery of 3,000 kW propulsion power or more

Every chief engineer officer and second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more shall be required to be a holder of a certificate of competency.

(STCW Convention Regulation III/2)

(2) Every candidate for certification under sub-regulation (1) shall—

- (a) meet the requirements for certification as an officer in charge of an engineering watch on seagoing ships powered by main propulsion machinery of 750 kW propulsion power or more and have approved seagoing service in that capacity—
 - (i) for certification as second engineer officer, have not less than twelve months as qualified officer in charge of an engineering watch; and
 - (ii) for certification as chief engineer officer, have not less than thirty-six months; however, this period may be reduced to not less than twenty-four months if twelve or more months of such seagoing service have been served as second engineer officer; and
- (b) have completed approved education and training and meet the standard of competence specified in section A-III/2 of the STCW Code.

37. Chief engineer officer and second engineer officer on ships powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power

(1) Every chief engineer officer and second engineer officer on a seagoing ship powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power shall hold a certificate of competency.

(STCW Convention Regulation III/3)

(2) Every candidate for certification shall be required to—

- (i) for certification as second engineer officer, have not less than twelve months of approved seagoing service as cadet officer or engineer officer, and
- (ii) for certification as chief engineer officer, have not less than twenty-four months of approved seagoing service of which not less than twelve months shall be served while qualified to serve as second engineer officer; and
- (b) have completed approved education and training and meet the standard of competence specified in section A-111/3 of the STCW Code.

(3) Every engineer officer who is qualified to serve as second engineer officer on ships powered by main propulsion machinery of 3,000 kW propulsion power or more, may serve as chief engineer officer on ships powered by main propulsion machinery of less than 3,000 kW propulsion power, provided the certificate is so endorsed.

38. Rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine room

(1) Every rating forming part of an engine-room watch or designated to perform duties in a periodically unmanned engine-room on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more, other than ratings under training and ratings whose duties are of an unskilled nature, shall be required to be duly certificated to perform such duties.

(STCW Convention Regulation III/4)

[Issue 3]

(2) Every candidate for certification under sub-regulation (1) shall be required to—

- (a) not less than eighteen years of age;
- (b) have completed—
 - (i) approved seagoing service including not less than six months of training and experience, or
 - (ii) special training, either pre-sea or on board ship, including an approved period of seagoing service of not less than two (2) months; and
- (c) meet the standard of competence specified in section A-III/4 of the STCW Code.

(3) The seagoing service, training and experience required by paragraph 2(b) shall be associated with engine-room watchkeeping functions and involve the performance of duties carried out under the direct supervision of a qualified engineer officer or a qualified rating.

39. Able seafarer engine in a manned engine room or designated to perform duties in a periodically unmanned engine-room

(1) Every able seafarer engine serving on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall be required to be duly certificated.

(STCW Convention Regulation III/5)

(2) Every candidate for certification under sub-regulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) meet the requirements for certification as a rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room;
- (c) while qualified to serve as a rating forming part of an engineering watch, have approved seagoing service in the engine department of.
 - (i) not less than twelve months, or
 - (ii) not less than six months and have completed approved training; and
- (d) meet the standard of competence specified in section A-III/5 of the STCW Code.

(3) Seafarers shall be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity in the engine department for a period of not less than twelve months within 1st January 2007 to 1st January 2012.

40. Electro-technical officer

(1) Every electro-technical officer serving on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold a certificate of competency.

(STCW Convention Regulation III/6)

(2) Every candidate for certification shall be required to—

- (a) be not less than eighteen years of age;
- (b) have completed not less than twelve months of combined workshop skills training and approved seagoing service of which not less than six months shall be seagoing service as part of an approved training programme which meets the requirements of section A-III/6 of the STCW Code and is documented in an approved training record book, or otherwise not less than thirty six months of combined workshop skills training and approved seagoing service of which not less than thirty months shall be seagoing service in the engine department;
- (c) have completed approved education and training and meet the standard of competence specified in section A-III/6 of the STCW Code; and

[Subsidiary]

- (d) meet the standard of competence specified in section A-VI/1, paragraph 2, section A-VI/2, paragraphs 1 to 4, section A-VI/3, paragraphs 1 to 4 and section A-VI/4, paragraphs 1 to 3 of the STCW Code.

(3) Seafarers may be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity on-board ship for a period of not less than twelve months within 1st January 2007 to 1st January 2012 and meet the standard of competence specified in section A-III/6 of the STCW Code.

(4) Notwithstanding the requirements of sub-regulations (1), (2) and (3), a suitably qualified person may be considered by the Authority to be able to perform certain functions of section A-III/6.

41. Electro technical rating

(1) Every electro-technical rating serving on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall be required to be duly certified.

(STCW Convention Regulation III/7)

(2) Every candidate for certification under sub-regulation (1) shall be required to—

- (a) be not less than eighteen years of age;
- (b) have—
 - (i) completed approved seagoing service including not less than twelve months training and experience, or
 - (ii) completed approved training, including an approved period of seagoing service which shall not be less than six months, or
 - (iii) qualifications that meet the technical competences in table A-III/7 and an approved period of seagoing service, which shall not be less than three months; and
- (c) meet the standard of competence specified in section A-III/7 of the STCW Code.

(3) Seafarers may be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity on-board ship for a period of not less than twelve months within 1st January 2007 to 1st January 2012 and meet the standard of competence specified in section A-III/7 of the STCW Code.

(4) Notwithstanding the above requirements of sub-regulation (2), a suitably qualified person may be considered by a Party to be able to perform certain functions of section A-III/7.

PART V — CERTIFICATION REQUIREMENTS FOR RADIOCOMMUNICATION AND RADIO OPERATORS

42. Application of this Part

(1) This Part shall not apply to radio operators on ships not required to comply with the provisions of GMDSS in Chapter IV of the Safety Convention, who shall, nevertheless, be required to comply with the Radio Regulations.

(2) The Authority shall issue appropriate certificates as prescribed by the Radio Regulations in respect of such radio operators or recognize such certificates.

43. GMDSS radio operators certificates

(1) Every person in charge of or performing radio duties on a ship to which this Part applies shall be required to be the holder of an appropriate certificate related to the GMDSS issued or recognized by the Authority subject to the provisions of the Radio Regulations.

(STCW Convention Regulation IV/2)

(2) In addition to the requirements of sub-regulation (1), every candidate for certification of competency under this regulation for service on a ship, which is required by the Safety Convention to have a radio installation, shall be required to—

- (a) be not less than 18 years of age; and
- (b) have completed approved education and training and meet the standard of competence specified in section A-IV/2 of the STCW Code.

PART VI — CERTIFICATION REQUIREMENTS
FOR PERSONNEL ON CERTAIN TYPES OF SHIPS

44. Certificates and endorsements issued to masters, officers and ratings on certain types of ship

The Authority shall—

- (a) issue certificates of proficiency to seafarers who are qualified in accordance with the provisions of regulations 45 to 49, or duly endorse an existing certificate of competency or certificates of proficiency.
- (b) ensure that certificate is issued to every person found qualified under the provisions of regulations 51 to 54.

A - Masters, officers and ratings on oil and chemical tankers

45. Basic training for oil and chemical tanker cargo operations for masters, officers and ratings on oil and chemical tankers

(1) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on oil or chemical tankers shall hold a certificate in basic training for oil and chemical tanker cargo operations.

(2) Every candidate for a certificate in basic training for oil and chemical tanker cargo operations shall have completed basic training in accordance with provisions of section A-V/1 of the STCW Code and shall be required to have completed—

- (a) at least three months of approved seagoing service on oil or chemical tankers and meet the standard of competence specified in section A-V/1-1, paragraph 1 of the STCW Code; or
- (b) an approved basic training for oil and chemical tanker cargo operations and meet the standard of competence specified in section A-V/1-1, paragraph 1 of the STCW Code.

46. Advanced training for oil tanker cargo operations

(1) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on oil tankers shall hold a certificate in advanced training for oil tanker cargo operations.

(2) Every candidate for a certificate in advanced training for oil tanker cargo operations shall—

- (a) meet the requirements for certification in basic training for oil and chemical tanker cargo operations; and
- (b) while qualified for certification in basic training for oil and chemical tanker cargo operations, have:
 - (i) at least three months of approved seagoing service on oil tankers, or
 - (ii) at least one month of approved on board training on oil tankers, in a supernumerary capacity, which includes at least three loading and three unloading operations and is documented in an approved training record book; and

[Subsidiary]

- (c) have completed approved advanced training for oil tanker cargo operations and meet the standard of competence specified in section A-V/1-1, paragraph 2 of the STCW Code.

47. Advanced training for chemical tanker cargo operations

(1) Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on chemical tankers shall be required to be holders of a certificate in advanced training for chemical tanker cargo operations.

(STCW Convention Regulation V/1-1)

(2) Every candidate for a certificate in advanced training for chemical tanker cargo operations shall be required to—

- (a) meet the requirements for certification in basic training for oil and chemical tanker cargo operations; and
- (b) while qualified for certification in basic training for oil and chemical tanker cargo operations, have:
 - (i) at least three months of approved seagoing service on chemical tankers, or
 - (ii) at least one month of approved on board training on chemical tankers, in a supernumerary capacity, which includes at least three loading and three unloading operations and is documented in an approved training record book; and
 - (iii) completed approved advanced training for chemical tanker cargo operations and meet the standard of competence specified in section A-V/1-1, paragraph 3 of the STCW Code.

B - Masters, officers and ratings on liquefied gas tankers

48. Basic training for liquefied gas tanker cargo operations for masters, officers and ratings on liquefied gas tankers

(1) Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on oil or chemical tankers shall hold a certificate in basic training for oil and chemical tanker cargo operations.

(2) Every candidate for a certificate in basic training for oil and chemical tanker cargo operations shall have completed basic training in accordance with provisions of section A-V/1 of the STCW Code and shall be required to have completed—

- (a) at least three months of approved seagoing service on oil or chemical tankers and meet the standard of competence specified in section A-V/1-1, paragraph 1 of the STCW Code; or
- (b) an approved basic training for oil and chemical tanker cargo operations and meet the standard of competence specified in section A-V/1-1, paragraph 1 of the STCW Code.

49. Advanced training for liquefied gas tanker cargo operations

(1) Masters, chief engineer officers, chief mates second engineer officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on oil tankers shall hold a certificate in advanced training for oil tanker cargo operations.

(2) Every candidate for a certificate in advanced training for oil tanker cargo operations shall—

- (a) meet the requirements for certification in basic training for oil and chemical tanker cargo operations; and

[Issue 3]

- (b) while qualified for certification in basic training for oil and chemical tanker cargo operations, have:
 - (i) at least three months of approved seagoing service on oil tankers, or
 - (ii) at least one month of approved on board training on oil tankers, in a supernumerary capacity, which includes at least three loading and three unloading operations and is documented in an approved training record book; and
- (c) have completed approved advanced training for oil tanker cargo operations and meet the standard of competence specified in section A-V/1-1, paragraph 2 of the STCW Code.

Masters, officers, ratings and other personnel on passenger ships

50. Application of this division

(1) This division shall apply to masters, officers, ratings and other personnel serving on board passenger ships engaged on international voyages.

(2) Prior to being assigned shipboard duties on board passenger ships, seafarers shall be required to have completed the training required by regulations 51 to 54 in accordance with their capacity, duties and responsibilities.

(3) The Authority shall determine the applicability of these requirements to personnel serving on passenger ships engaged on domestic voyages.

51. Crowd management training

(STCW Convention Regulation V/2)

Masters, officers and other personnel designated on muster lists to assist passengers in emergency situations on board passenger ships shall have completed training in crowd management as specified in section A-V/2, paragraph 1 of the STCW Code.

52. Safety training

(STCW Convention Regulation V/2)

Personnel providing direct service to passengers in passenger spaces on board passenger ships shall have completed the safety training specified in section A-V/2, paragraph 2 of the STCW Code

53. Crisis management and human behaviour training

(STCW Convention Regulation V/2)

Masters, chief engineer officers, chief mates, second engineer officers and any person designated on muster lists as having responsibility for the safety of passengers in emergency situations on board passenger ships shall be required to have completed approved training in crisis management and human behaviour as specified in section A-V/2, paragraph 3 of the STCW Code.

54. Passenger safety, cargo safety and hull integrity training

(STCW Convention Regulation V/2)

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

55. Refresher training

[Subsidiary]

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

PART VII — CERTIFICATION REQUIREMENTS REGARDING EMERGENCY,
OCCUPATIONAL SAFETY, SECURITY, MEDICAL CARE AND SURVIVAL FUNCTIONS

56. Basic safety training and instruction for all seafarers

(1) Seafarers shall receive basic training or instruction in accordance with section A-VI/1 of the STCW Code and shall meet the appropriate standard of competence specified therein.

(STCW Regulation VI/1)

(2) Where basic training is not included in the qualification for the certificate to be issued, the Authority shall issue a certificate of proficiency, indicating that the holder has attended the course in basic training.

(3) Seafarers qualified in basic training in accordance with subregulation (1) shall be required, every five years, to undertake appropriate refresher training described in Code of Seafarer Qualifications.

57. Proficiency in survival craft, rescue boats and fast rescue boats

(1) Every candidate for a certificate of proficiency in survival craft and rescue boats other than fast rescue boats shall be required to—

- (a) be not less than eighteen years of age;
- (b) have approved seagoing service of not less than twelve months or have attended an approved training course and have approved seagoing service of not less than six months; and
- (c) meet the standard of competence for certificates of proficiency in survival craft and rescue boats, set out in section A-VI/2, paragraphs 1 to 4 of the STCW Code.

(STCW Convention Regulation VI/2)

(2) Seafarers qualified in accordance with sub-regulation (1) in survival craft and rescue boats other than fast rescue boats shall be required, every five years, to undertake appropriate refresher training as described in the Code of Seafarer Qualifications.

(3) Every candidate for a certificate of proficiency in fast rescue boats shall be required to—

- (a) be the holder of a certificate rescue boats;
- (b) have attended an approved training course; and
- (c) meet the standard of competence for certificates of proficiency in fast rescue boats, as set out in section AVI/2, paragraphs 7 to 10 of the STCW Code.

(4) Seafarers qualified in accordance with sub-regulation (3) in fast rescue boats shall be required, every five years, to undertake appropriate refresher training described in Code of Seafarer Qualifications.

58. Advanced fire fighting

(1) Seafarers designated to control fire-fighting operations shall be required to have successfully completed advanced training in techniques for fighting fire, with particular emphasis on organization, tactics and command, in accordance with the provisions of section AVI/ 3, paragraphs 1 to 4 of the STCW Code, and shall meet the standard of competence specified therein.

(STCW Convention Regulation VI/3)

[Issue 3]

(2) Where training in advanced fire-fighting is not included in the qualifications for the certificate to be issued, the Authority shall issue a certificate of proficiency indicating that the holder has attended a course of training in advanced fire fighting.

(3) Seafarers qualified in accordance with sub-regulation (1) in advanced fire fighting shall be required, every five years, to undertake appropriate refresher training described in Code of Seafarer Qualifications.

59. Medical First Aid and Medical Care

(1) Seafarers designated to provide medical first aid on board ship shall meet the standard of competence in medical first aid specified in section AV/4, paragraphs 1 to 3 of the STCW Code.

(STCW Convention Regulation VI/4)

(2) Seafarers designated to take charge of medical care on board ship shall 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.

(3) Where training in medical first aid or medical care is not included in the qualifications for the certificate to be issued, the Authority shall issue a certificate of proficiency indicating that the holder has attended a course of training in medical first aid or in medical care.

60. Ship Security Officers

(1) The Authority shall issue a certificate of proficiency to every person found qualified under the provisions of this regulation.

(STCW Convention Regulation VI/5)

(2) Every candidate for a certificate of proficiency as ship security officer shall—

- (a) have approved seagoing service of not less than twelve months or appropriate seagoing service and knowledge of ship operations; and
- (b) meet the standard of competence for certification of proficiency as ship security officer, set out in section AVI/5, paragraphs 1 to 4 of the STCW Code.

61. Security related familiarisation training

Before being assigned to shipboard duties, all persons employed or engaged on a seagoing ship which is required to comply with the provisions of the ISPS Code, other than passengers, shall receive approved security-related familiarization training to be able to—

- (a) (STCW Convention Regulation VI/6)
 - report a security incident, including a piracy or armed robbery threat or attack;
- (b) know the procedures to follow when they recognize a security threat; and
- (c) take part in security-related emergency and contingency procedures

62. Security awareness training

(1) Seafarers shall receive security awareness training or instruction in accordance with section A-VI/6, paragraphs 1 to 4 of the STCW Code and shall meet the appropriate standard of competence specified therein.

(STCW Convention Regulation VI/6)

(2) Where security awareness is not included in the qualification for the certificate to be issued, the Authority shall issue a certificate of proficiency indicating that the holder has attended a course in security awareness training.

63. Seafarers with designated security duties.

(1) Seafarers with designated security duties shall meet the standard of competence specified in section A-VI/6, paragraphs 6 to 8 of the STCW Code.

(STCW Convention Regulation VI/6)

[Subsidiary]

(2) Where training in designated security duties is not included in the qualifications for the certificate to be issued, a certificate of proficiency shall be issued indicating that the holder has attended a course of training for designated security duties.

PART VIII — ALTERNATIVE CERTIFICATION

64. Issue of alternative certificates

(1) Notwithstanding the requirements for certification laid down in Parts III and IV of these regulations, the Authority may issue or authorize the issue of certificates other than those mentioned in the regulations of those parts, provided that—

- (a) associated functions and levels of responsibility to be stated on the certificates and in the endorsements shall be selected from and identical to those appearing in sections A-II/1, A-II/2, A-II/3, A-II/4, A-II/5, A-III/1, A-III/2, III/3, A-III/4, A-III/5 and A-IV/2 of the STCW Code;
- (b) the candidates shall be required to have completed approved education and training and meet the requirements for standards of competence, prescribed in the relevant sections of the STCW Code and as set forth in section AVII/1 of the said Code, for the functions and levels that are to be stated in the certificates and in the endorsements;
- (c) the candidates shall be required to have completed approved seagoing service appropriate to the performance of the functions and levels that are to be stated on the certificate, for a minimum period equivalent to the duration of seagoing service prescribed in Parts III and IV but not less than the period prescribed in section A-VII/2 of the STCW Code;
- (d) the candidates for certification who are to perform the function of navigation at the operational level shall be required to meet the applicable requirements of Part V, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
- (e) the certificates shall be issued in accordance with the requirements of regulation 5 and the provisions of chapter VII of the STCW Code.

(2) The Authority shall communicate information in respect of certificates issued under this Part in accordance with sub-regulation 22(2).

65. Certification of seafarers

(1) Every seafarer who performs any function or group of functions specified in tables A-II/1, A-II/2, A-II/3, A-II/4 or A-II/5 of chapter II or in tables A-III/1, A-III/2, A-III/3, A-III/4 or A-III/5 of chapter III or A-IV/2 of chapter IV of the STCW Code shall be required to be a holder of a certificate of competency or certificate of proficiency, as applicable.

(2) The abilities specified in the standards of competence which are grouped, as appropriate, and stated under regulation 8, shall clarify the linkage between the alternative certification provisions of this part and the certification provisions of parts III, IV and V.

66. Principles governing the issue of alternative certificates

In issuing or authorizing the issue of alternative certificates, the Authority shall observe the following principles—

- (a) no alternative certification system shall be implemented unless it ensures a degree of safety at sea and has a preventive effect as regards pollution at least equivalent to that provided under the STCW Code; and
 - (b) any arrangement for alternative certification issued under this part shall provide for the interchangeability of certificates with those issued under the other chapters.
- (2) The principles of interchangeability in sub-regulation (1) shall ensure that—
- (a) seafarers certificated under the arrangements of Parts III or IV of these Regulations and those certificated under this Part are able to serve on ships which have either traditional or other forms of shipboard organization; and

[Issue 3]

- (b) seafarers are not trained for specific shipboard arrangements in such a way as would impair their ability to take their skills elsewhere.

(3) In issuing any certificate under the provisions of this Part, the Authority shall take into account the following principles—

- (a) the issue of alternative certificates shall not be used as to—
 - (i) reduce the number of crew on board,
 - (ii) lower the integrity of the profession or downgrade the skills seafarers, or
 - (iii) justify the assignment of the combined duties of the engine and deck watchkeeping officers to a single certificate holder during any particular watch; and
- (b) the person in command shall be designated as the master;
- (c) the legal position and authority of the master and others shall not be adversely affected by the implementation of any arrangement for alternative certification.

The principles contained in sub-regulations (1) and (2) shall ensure that the competency of both deck and engineer officers is maintained.

PART IX — CERTIFICATION REQUIREMENTS FOR NON-STCW CERTIFICATES

67. Application of this part

This Part shall apply to seafarers working on board ships of less than 100 gross tonnage licensed under Section 57 of the Act engaged on port operations service or inland water service.

68. Boat operator

A candidate for certification as a boat operator shall be required to—

- (a) be eighteen years of age;
- (b) have successfully completed approved education and training and passed a theory examination;
- (c) passed a practical examination;
- (d) been assessed at level 3.

69. Coxswain (grade) 3

A candidate for certification as a coxswain grade 3 shall be required to be at least eighteen years of age and to have—

- (a) successfully completed approved education and training and passed a theory examination;
- (b) passed a practical examination; and
- (c) been assessed at level 3.

70. Coxswain (grade) 2

A candidate for certification as a coxswain grade 2 shall be required to be at least eighteen years of age and shall have—

- (a) completed at least twelve months' sea or port operations service, as the case may be, in a deck capacity on any of the following ships of 25 GT or more—
 - (i) merchant ships;
 - (ii) fishing vessels;
 - (iii) small ships and yachts;
 - (iv) port operations vessels; or
 - (v) naval ships; or

[Subsidiary]

- (b) be a holder of a Coxswain grade 3 certificate of proficiency for a period of at least five years;
- (c) successfully completed approved education and training at a training institution and passed a theory and practical examination; and
- (d) been assessed at level 3.

71. Coxswain (grade) 1

A candidate for certification as a coxswain grade I shall be required to be at least 18 years of age and to have—

- (a) completed at least twenty-four months' sea or port operations service on vessels of more than 25 gross tonnage while holding Coxswain grade 2 or 3 certificate of proficiency;
- (b) successfully completed approved education and training at a training institution and have passed a theoretical and practical examination; and
- (c) been assessed at level 3.

72. Master (port operations)

(1) A candidate for the certificate of competency as master (port operations) shall be required to be at least eighteen years of age and to have—

- (a) completed—
 - (i) at least twelve months' port operations service as officer in charge of a navigational watch on port operations vessels of 100 GT or more while holding, as a minimum, a certificate of proficiency as Coxswain 1 (Port Operations)
 - (ii) at least twelve months' approved sea service as an officer in charge of a navigational watch on ships of 100 GT or more on unlimited or near-coastal voyages while holding, as a minimum, a certificate of competency as Mate (Coastal);
- (b) successfully completed approved education and training at a training institution and have passed a theory examination; and
- (c) been assessed at level 3.

(2) Where the port operations service contemplated in subparagraph (1) (a) (i) has been gained on ships restricted to operating within the confines of the breakwaters of a port, the certificate shall be limited accordingly on the basis of documentary evidence of service.

73. Second class engine officer (Port Operations)

(1) A candidate for the certificate of competency shall be required to be at least eighteen years of age and to have—

- (a) completed at least six months' approved sea service or port operations service as assistant engineer officer on ships of 750 kW propulsion power or more under the supervision of an engineer officer;
- (b) successfully completed approved education and training at a training institution and have completed an approved training programme consisting either of—
 - (i) of at least thirty months, consisting of practical workshop training; and at least six months' approved sea service or port operations service;
 - (ii) an approved trade as an artisan in an engineering discipline; and
- (c) been assessed at levels 1, 2 and 3.

(2) Where the port operations service contemplated in paragraph (1) (a) has been gained on ships restricted to operating within the confines of the breakwaters of a port, the certificate shall be limited accordingly.

74. First class engine officer (port operations)

[Issue 3]

(1) A candidate for the certificate of competency as First class engine class engine officer (Port Operations) shall—

- (a) meet the requirements for the certificate of competency as Second Engineer Officer (Port Operations);
- (b) be required to have completed, while holding, as a minimum a certificate of competency as Second Engineer Officer (Port Operations)—
 - (i) at least twelve months' approved sea service as officer in charge of an engineering watch on ships of 750 kW propulsion power or more; or
 - (ii) at least twelve months' port operations service as officer in charge of an engineering watch on ships of 1500 kW propulsion power or more.
- (c) have successfully completed approved education and training at a training institution and passed a theoretical examination; and
- (d) have been assessed at level 3.

(2) Where the port operations service contemplated in paragraph (1) (a) has been gained on ships restricted to operating within the confines of the breakwaters of a port, the certificate shall be limited accordingly.

75. Engine Rating (Port Operations)

(1) Every Engine Rating (Port Operations) shall be required to be a holder of a certificate of Proficiency.

(2) Every candidate for certification under sub-regulation (1) shall be required to—

- (a) be not less than sixteen years of age;
- (b) have completed—
 - (i) approved seagoing service, including not less than six months of training and experience, or
 - (ii) special training, either pre-sea or on board ship, including an approved period of port operations service which shall not be less than two (2) months; and
- (c) meet the standard of competence specified in Code of Seafarer Qualifications.

(3) The seagoing service, training and experience required by subparagraphs (2) (a) (i) and (ii) shall be associated with engine-room watch keeping functions and involve the performance of duties carried out under the direct supervision of a qualified engineer officer or a qualified rating.

76. Able seafarer engine (Port operations)

(1) Every Able Seafarer Engine (Port Operations) serving on a ship powered by main propulsion machinery of less than 750 kW propulsion power but more than 100 kW shall be required to be holder of a Certificate of Proficiency.

(2) Every candidate for certification sub-regulation (1) shall be required to—

- (a) not less than eighteen years of age;
- (b) meet the requirements for certification as Engine Rating (Port Operations);
- (c) while qualified to serve as a as Engine Rating (Port Operations), have approved port operations service in the engine department of—
 - (i) not less than eighteen months, or
 - (ii) not less than twelve months, and have completed approved training; and
- (d) meet the standard of competence specified in the Code of Seafarer Qualifications.

(3) Seafarers may be considered by the Authority to have met the requirements of this regulation if they have served in a relevant capacity in the engine department for a period

[Subsidiary]

of not less than twelve months within the sixty months immediately preceding the entry into force of this Regulation.

PART X — QUALITY STANDARDS, TRAINING AND ASSESSMENT OF COMPETENCE

A-General

77. Head of seafarer training, examination and certification

(1) The functions of the head of seafarer training, examination and certification shall be to—

- (a) initiate review of the Act and these regulations;
- (b) prepare the information required to be communicated to the Secretary-General and the information to be issued in a marine notice or marine guidance note;
- (c) promote technical cooperation;
- (d) as the chief examiner, administer examinations and assessments;
- (e) issue certificates and endorsements;
- (f) revalidate certificates;
- (g) conduct the evaluation required for recognition of certificates issued by other Administrations;
- (h) issue dispensations;
- (i) approve equivalent educational and training arrangements;
- (j) undertake control procedures;
- (k) authorize ships to participate in trials;
- (l) maintain a register or registers of all certificates and endorsements;
- (m) prepare and make available information on the status of certificates of competency and proficiency, including the matters affecting them;
- (n) initiate and implement agreements on near-coastal voyages;
- (o) implement recommendations on the impartial investigation of any reported incompetency, act, omission or compromise to security that may pose a direct threat to safety of life or property at sea or to the marine environment by the holders of certificates or endorsements issued by the Authority in connection with their performance of duties related to their certificates;
- (p) undertake any enforcement measures including penalties or disciplinary measures and cooperation;
- (q) undertake administration, supervision and monitoring of training and assessment;
- (r) verify the qualification and authorize those responsible for training and assessment;
- (s) implement the Quality Standards System including undertaking regular inspections and periodical evaluation/audit of training and assessment conducted by training institutions;
- (t) approve medical practitioners;
- (u) chair the Syllabus Committee;
- (v) formulate or promote the formulation of refresher and updating training or assessment;
- (w) authorize the issue of alternative certificates; and
- (x) to perform any other functions incidental to those the foregoing.

(2) The head of seafarer training, examination and certification—

- (a) shall perform his functions in accordance with the quality standards system established pursuant to regulation 79; and

[Issue 3]

- (b) may delegate to any other officer the performance of any of functions described under sub-regulation (1).

78. Syllabus committee

(1) The Director-General shall establish a syllabus committee composed of fifteen members as follows—

- (a) the head of seafarer training, examination and certification, who shall be the chairperson;
- (b) a senior examiner;
- (c) a representative each from—
 - (i) the Ministry responsible for shipping and maritime transport;
 - (ii) the Kenya National Examination Council;
 - (iii) the Kenya Institute of Curriculum Development;
 - (iv) the Kenya National Qualifications Authority;
 - (v) the Technical and Vocational Education and Training Authority;
 - (vi) approved training institutions;
 - (vii) seafarer recruitment and placement agencies;
 - (viii) the shipping industry; and
 - (ix) organized workers' union in the shipping industry;

(2) The Committee shall appoint a Secretary.

(3) The quorum for the conduct of the business of the Committee shall be seven members.

(4) The functions of the Committee shall be to—

- (a) review these regulations and other instruments relating to maritime education and training and recommend relevant changes;
- (b) adopt strategies for the full and timely implementation of these regulations;
- (c) propose modes of delivery, monitoring and evaluation of the impact and effectiveness of the training courses;
- (d) formulate a standard for refresher and updating courses;
- (e) undertake any other functions as may be assigned to it by the Director-General.

(3) Minutes of the Committee's meetings and any report made thereof shall be submitted to the Director-General not more than five working days following a meeting.

79. Quality Standards System

(1) All training, assessment of competence, certification, including medical certification, endorsement and revalidation activities shall be continuously monitored through a Quality Standards System to ensure achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors.

(2) The Director-General shall establish and review, as appropriate, the quality standards system referred to in sub-regulation (1).

(3) With regards to national objectives and quality standards—

- (a) the education and training objectives and related standards of competence to be achieved shall be clearly defined;
- (b) the levels of knowledge, understanding and skills appropriate to the examinations and assessments required under the Convention shall be identified.
- (c) the objectives and related quality standards may be specified separately for different courses and training programmes and shall cover the administration of the certification system.

[Subsidiary]

- (4) The field of application of the quality standards shall cover—
- (a) the administration of the certification system;
 - (b) approval and monitoring of training institutions and all training courses and programmes;
 - (c) examinations and assessments carried out by the Authority or by persons authorized for that purpose; and
 - (d) the qualifications and experience required of instructors and assessors, having regard to the policies, systems, controls and internal quality assurance reviews established to ensure achievement of the defined objectives.
- (5) The quality standards system required under sub-regulation (2) shall establish among others, procedures for—
- (a) approval of training institutions to conduct a course leading to certification under these regulations;
 - (b) approval of training course and programmes;
 - (c) monitoring approved training courses and programmes;
 - (d) conducting competency assessment and issuance of certificates;
 - (e) issuance of certificates of proficiency;
 - (f) defining limits of near coastal voyages;
 - (g) recognition of certificates issued by another Administration;
 - (h) issuance of recognition endorsement;
 - (i) issuance of dispensations;
 - (j) revalidation of certificates and endorsements;
 - (k) renewal of certificates and endorsements;
 - (l) implementing international instruments covering seafarers' training and certification;
 - (m) conducting independent evaluation and reporting; and
 - (n) issuance of seafarers' continuous discharge certificate and record book.
- (6) A training institution shall have a quality standards system which shall, at a minimum, provide for—
- (a) the mission statement of the institution;
 - (b) details of academic and training strategies in use;
 - (c) the quality-management functions that determine and implement the quality policy and include the academic and administrative organizational structure and responsibilities;
 - (d) staff and student information;
 - (e) a description of the training facilities and equipment;
 - (f) internal quality-assurance processes and reviews and arrangements for periodic external quality evaluations;
 - (g) an outline of the policies and procedures on—
 - (i) student admission;
 - (ii) the development of new courses and review of existing ones;
 - (iii) the examination system including appeals and resits;
 - (iv) staff recruitment, training, development, appraisal and promotion;
 - (v) feedback from students and industry; and
 - (vi) staff involvement in research and development.

80. Independent evaluation

[Issue 3]

(1) The Director-General shall initiate a periodic independent evaluation by qualified persons who are not themselves involved in the activities concerned in accordance with the provisions of section A-I/8 of the STCW Code;

(2) The evaluation under sub regulation (1) shall include all changes to national regulations and procedures in compliance with the amendments to the STCW Convention and Code;

(3) The independent evaluation of the knowledge, understanding, skills and competence acquisition and assessment activities, and of the administration of the certification system, required under subregulation (1) shall be conducted at intervals of not more than five years in order to verify that—

- (a) all applicable provisions of the Convention and STCW Code, including their amendments, are covered by the quality standards system;
- (b) all internal management control and monitoring measures and follow-up actions comply with planned arrangements and documented procedures and are effective in ensuring achievement of the defined objectives;
- (c) the results of each independent evaluation are documented and brought to the attention of those responsible for the area evaluated; and
- (d) timely action is taken to correct deficiencies.

(4) The Director-General shall communicate to the Secretary-General the report containing the results of the evaluation in accordance with regulation 22.

81. Inspection and audit of training institutions

(1) The Authority shall conduct inspection of a training institution for the purposes of—

- (a) the initial verification of the suitability of the training facilities and resources proposed by a training institution which applies for approval to conduct a course; or
- (b) quality assurance, whenever deemed necessary by the Director-General and as the case may require, to verify that an approved course is being conducted in accordance with the quality standards system of the training institution; or
- (c) renewal of the certificate of approval issued under regulation 87(1).

(2) The Authority shall conduct annual verification audits of approved training institutions and the conduct of an approved course in accordance with the following criteria—

- (a) course title;
- (b) lesson plan;
- (c) course duration;
- (d) facilities, teaching aids and equipment;
- (e) staff qualifications and experience;
- (f) examination and assessment procedures;
- (g) monitoring of entry requirements;
- (h) issue, control, authentication and recording of certification; and
- (i) quality management systems and procedures.

(3) The Director-General or a person authorized by the Director-General may visit the training institution, at a reasonable time, for the purposes of conducting any of the inspections or audit described under sub-regulations (1) and (2).

(4) The Director-General may authorize a person with appropriate qualifications and experience to conduct the audits referred to in sub-regulation (2).

(5) A report of the inspection or audit, including any recommendations, shall be submitted to the Director-General not more than five working days from the date of completion and shall—

- (a) include brief background information about the institution or training programme;

[Subsidiary]

- (b) be full, fair and accurate;
- (c) highlight the strengths and weaknesses of the institution;
- (d) describe the evaluation procedure followed;
- (e) cover the various elements identified in audit criteria;
- (f) indicate the extent of compliance or non-compliance with the conditions for approval and the effectiveness, of the quality standards in ensuring the achievement of defined aims and objectives;
- (g) spell out areas found to be deficient; and
- (h) make recommendations to the Director-General as necessary.

(6) The Responsible Person of a training institution shall undertake, within thirty working days, any corrective action that may be required.

(7) The audit report may recommend to the Director-General to refuse approval of a training institution or vary, suspend or revoke approval issued to a training institution.

(8) An approved training institution shall undertake periodic internal and external quality evaluations of its training activities.

B — Requirements for training and assessment

82. Supervision and monitoring of training

(1) Any training course or programme leading to certification under these regulations shall be taught using an approved syllabus.

(2) Training institutions shall ensure that training and assessment is administered, supervised and monitored in accordance with the quality standards system required under regulation 79(6).

(3) An approved training institution shall—

- (a) furnish the Authority the particulars of students or course participants;
- (b) require experienced seafarers to obtain a letter of eligibility from the Authority before they are enrolled into a course;
- (c) make available to the Director-General the course commencement and completion dates, and the examination dates;
- (d) inform the Director-General, within five working days, of any change of instructor, supervisor or assessor in respect of a training course being conducted;
- (e) when required to do so—
 - (i) make available proposed examination question papers and their marking schemes and marked scripts of an examination;
 - (ii) furnish the Authority with the verified results of examination conducted by the training institution in respect of every course;
- (f) inform the Authority, without delay, of any situation or circumstance with the potential to cause delay or disruption of the training; and
- (g) submit to the Authority any changes to the course structure or syllabus.

(4) The Authority shall require a training institution to ensure classroom attendance rate of at least—

- (a) eighty percent for approved training courses leading to issuance of certificates of competency or certificates of proficiency under Parts III, IV, V and VIII; and
- (b) one hundred percent for courses leading to issuance of certificates of proficiency under Parts VI and VII.

83. Training and assessment

(1) All training and assessment of seafarers for certification under these regulations shall be—

[Issue 3]

- (a) structured in accordance with the approved syllabus, including such methods and media of delivery, procedures, and course material as are necessary to achieve the prescribed standard of competence; and
- (b) structured in accordance with the Code of Seafarer Qualifications; and
- (c) conducted, monitored, evaluated and supported by persons qualified in accordance with regulation 85.

(2) Persons conducting in-service training or assessment to on board ship shall only do so when such training or assessment is not likely to adversely affect the normal operation of the ship and they can dedicate their time and attention to training or assessment.

(3) The training institution shall provide a certificate of course completion signed by an authorized person and indicating the written examination and—

- (a) the candidate's full name and student number;
- (b) the course or courses successfully completed;
- (c) for each subject, the subject mark, marks obtained in the final examination (if applicable), final marks and result; and
- (d) the duration of the course or courses.

84. Approval of instructors, supervisors and assessors

(1) No person shall be employed by a training institution as an instructor, supervisor or assessor unless that person possesses a valid letter of approval issued by the Authority.

(2) It shall be the responsibility of the Responsible Person of a training institution to ensure any person employed as an instructor, supervisor or assessor is duly approved by the Authority.

85. Qualification of instructors, supervisors and assessors

(1) Persons responsible for the training and assessment of competence of seafarers, as required under these Regulations, shall be required to be appropriately qualified in accordance with sub-regulations (3), (4) and (5) for the type and level of training or assessment involved.

(2) Instructors, supervisors and assessors shall be required to be suitably qualified and experienced for the particular types and levels of training or assessment of competence of seafarers either on board or ashore in accordance with the provisions of this regulation.

(3) Subject to sub-regulations (4), (5) and (6), the appropriate qualification and experience required under sub-regulation (2) shall be specified in a gazette notice.

(4) Any person conducting in-service training of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under these Regulations shall be required to—

- (a) have an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted;
- (b) be qualified in the task for which training is being conducted; and
- (c) if conducting training using a simulator to—
 - (i) have received appropriate guidance in instructional techniques involving the use of simulators; and
 - (ii) have gained practical operational experience on the particular type of simulator being used.

(5) Any person responsible for the supervision of in-service training of a seafarer intended to be used in qualifying for certification under these Regulations shall have a full understanding of the training programme and the specific objectives for each type of training being conducted.

(6) Any person conducting in-service assessment of competence of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under these Regulations shall—

[Subsidiary]

- (a) have an appropriate level of knowledge and understanding of the competence to be assessed;
- (b) have appropriate training in instructional techniques, and training and assessment methods and practice;
- (c) be qualified in the task for which the assessment is being made;
- (d) have received appropriate guidance in assessment methods and practice;
- (e) have gained practical assessment experience; and
- (f) if conducting assessment involving the use of simulators, have gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor.

C — Approval of courses and training institutions

86. Approval of training course or syllabus

(1) Education and training courses or programmes, including all refresher or updating courses, leading to the issuance of Certificates of Competency or Certificates of Proficiency under these regulations shall be required to be approved by the Authority.

(2) Only the course syllabus approved by the Authority shall be used for teaching and instruction of a particular course.

(3) Where an approved training institution develops a particular course, refresher course or updating course leading to certification under these regulations, the institution shall seek approval of the course from the Authority, and the syllabus for such a course or programme shall meet the specific competence requirements set out by these regulations.

(4) The Authority shall inform an approved training institution of any changes to the STCW Convention or Code that is likely to affect the syllabus, and the respective training institution shall provide details in writing of how it intends to incorporate such changes into the approved course.

(5) The Authority, may if satisfied through verification that the changes proposed under sub regulation (4) are appropriately incorporated, will re-issue an approval letter.

87. Approval of training institutions

(1) All training institutions conducting or intending to conduct a training course leading to certification under these Regulations shall hold a certificate of approval to conduct a specified course issued by the Authority.

(2) The certificate issued under sub-regulation (1) shall be—

- (a) valid for a period of four years; and
- (b) renewed by the Authority subject to the inspection specified in regulation 81 (1)(c).

(3) The format of the certificate of approval issued under subregulation (1) shall be as set out in the Fourth Schedule.

(4) The Director-General may, on application by a training institution, grant approval to the institution to—

- (a) conduct the course or courses specified in the application;
- (b) act as an approved examination centre for examination of the course or courses so specified; and
- (c) issue certificates to candidates of proficiency who successfully complete the courses so specified.

(5) Where an application is made for the approval of more than one course or training Programme, each shall be considered separately.

(6) An application contemplated in sub-regulation (4) shall be made in writing and shall be accompanied by the following particulars—

- (a) name and physical address of the training institution;

- (b) any relevant statutory accreditation or licensing;
- (c) relevant approvals, where applicable, for training facilities and equipment;
- (d) description of the course, and of its content, referenced to the relevant approved syllabus together with lecturers' study plans;
- (e) name of course instructor(s), assessor(s), supervisor(s) with a brief description of their qualifications and experience;
- (f) examination and assessment procedure with respect to each course;
- (g) training and assessment equipment and facilities with respect to each course;
- (h) a certified copy of an approved quality standards system prescribed under regulation 79 applicable to the training activities of the institution; and
- (i) any other requirement that may be specified by the Authority.

(7) For the purposes of the inspections and audit required under regulation 81(1), the Responsible Person of a training institution shall, on receipt of reasonable notice, make available—

- (a) for inspection, the equipment and training facilities in respect of each course; and
- (b) for interview and as may be required, course instructor(s), assessor(s) or supervisor(s).

(8) The Director-General may refuse approval or renewal, or vary, suspend or revoke the certificate of approval issued under subregulation (1) to a training institution if—

- (a) the training institution fails to take corrective action following an inspection or audit; or
- (b) the Director-General otherwise has reasonable grounds to refuse approval or vary, suspend or revoke such approval.

(9) Where the Director-General intends to vary, suspend or revoke approval under subregulation (8), he shall inform the training institution concerned accordingly.

88. Distance learning and e-learning

(1) Any distance learning and e-learning programme shall—

- (a) be provided by a training institution that is approved by the Authority;
- (b) be suitable for the selected objectives and training tasks to meet the competence level for the subject covered;
- (c) have clear and unambiguous instructions for the trainees to understand how the programme operates;
- (d) provide learning outcomes that meet all the requirements to provide the underpinning knowledge and proficiency of the subject;
- (e) be structured in a way that enables the trainee to systematically reflect on what has been learnt through both self-assessment and tutor-marked assignments; and
- (f) provide professional tutorial support through telephone, facsimile or e-mail communications.

(2) Companies shall ensure that a safe learning environment is provided and that there has been sufficient time provided to enable the trainee to study.

(3) Where e-learning is provided, common information formats such as XML (Extensible Markup Language), which is a flexible way to share both the format and the data on the World Wide Web, intranets, and elsewhere, may be used.

(4) The e-learning system shall be secured from tampering and attempts to hack into the system.

(5) The training institution shall ensure that approved assessment procedures are provided for any distance learning and e-learning programme, including—

[Subsidiary]

- (a) clear information to the trainees on the way that tests and examinations are conducted and how the results are communicated;
- (b) have test questions that are comprehensive and will adequately assess a trainee's competence and are appropriate to the level being examined;
- (c) procedures in place to ensure questions are kept up to date;
- (d) the conditions where the examinations can take place and the procedures for invigilation to be conducted;
- (e) secure procedures for the examination system so that it will prevent cheating; and
- (f) secure validation procedures to record results for the benefit of the Authority.

89. Register of approved training institutions, courses and programmes

The Authority shall—

- (a) maintain a register of approved training institutions courses or programmes; and
- (b) make available such a register to public, companies and other Administrations.

D — Training and assessment within an institution

90. Written examinations

(1) Written examinations shall be conducted by approved training institutions or where required, by the Authority, and shall cover the subjects required for each certificate or endorsement as specified in the course syllabus and the STCW Code so as to ensure that candidates have attained the standard of theoretical knowledge, understanding and proficiency.

(2) The Authority shall designate examiners who shall—

- (a) moderate examination question papers and their marking schemes and memoranda not less than ninety days before the appointed examination date;
- (b) mark any written examinations conducted by the Authority; and
- (c) re-mark examination scripts at the request of an approved training institution.

(3) Candidates for a certificate of competency shall be required to obtain a final aggregate pass-mark in written examinations as follows—

- (a) for master and deck officer certificates of competency, not less than sixty percent in—
 - (i) navigation; and
 - (ii) ship stability and construction
- (b) for engineer officer certificate of competency, not less than sixty percent in—
 - (i) marine engineering;
 - (ii) electrical, electronic and control engineering, and
 - (iii) ship stability and construction

(4) Where a candidate requests review of examination results in respect of examinations conducted by the Authority, the Chief Examiner's decision shall be final.

91. Levels of assessment

(1) Candidates for the issue of a certificate or an endorsement shall be assessed to verify that they meet the standards of competence set out in the STCW Code.

(2) The assessment required by sub-regulation (1) shall be at one or more of the following levels—

- (a) level 1 assessment carried out—

- (i) during qualifying seagoing service on board a ship and recorded in a training record book;
- (ii) during training at an approved training institution in a workshop and recorded in a workshop skills training record book;
- (b) level 2 assessment, carried out ashore which may take the form of written examination, the use of simulator or other appropriate means.
- (c) level 3 assessment, being oral examination conducted by an examiner.

(3) Only the master, designated shipboard training officer or relevant officer may sign off a unit of competency in a candidate's shipboard training record book when the candidate is considered to be ready for the next level of assessment and has successfully demonstrated competency in the unit as specified in the STCW Code.

(4) A candidate who is required to complete more than one level of assessment shall not be assessed at a higher level until he or she has demonstrated competency at the lower level, nor shall such a candidate be assessed at level 3, until all the relevant units of competency have been signed off at the lower levels of assessment by an assessor.

E — Shipboard training and qualifying seagoing service

92. Shipboard training record book and workshop skills training record book

(1) Cadet officers performing qualifying seagoing service on board a ship or undertaking approved workshop skills training ashore shall have an approved training record book or an approved workshop skills training record book.

(2) Ratings performing qualifying sea service required for issuance of a certificate of competency shall have—

- (i) a shipboard training record book; and
- (ii) for engine room ratings, a workshop skills training record book.

(3) Deck and engine trainee ratings, including ratings seeking to qualify as able seafarer deck or engine, shall have a shipboard training record book to provide evidence of shipboard training and experience.

(4) A shipboard training record book shall be—

- (a) used to document training tasks performed during approved qualifying seagoing service;
- (b) signed off and initialized by the designated Shipboard Training Officer and Master;
- (c) completed in full all relevant training tasks successfully completed and duly signed off upon assessment at Level 1;
- (d) submitted to the Authority when applying for a notice of eligibility; and
- (e) laid out in such a way that it provides detailed information about the tasks and duties that should be undertaken, and about the progress towards their completion;

(5) A workshop skills training book shall be—

- (a) used to document training tasks performed during approved workshop training;
- (b) signed off and initialized by an assessor;
- (c) completed in full all relevant training tasks successfully completed and duly signed off upon assessment at Level 1;
- (d) submitted to the Authority when applying for a notice of eligibility; and
- (e) laid out in such a way that it provides detailed information about the tasks and duties that should be undertaken, and about the progress towards their completion;

[Subsidiary]

(6) Any shipboard training record book or workshop skills training book found to have been completed fraudulently shall result in its holder having to complete an additional twelve months' qualifying seagoing service;

(7) Only a shipboard training record book or a workshop training record book approved by the Director-General shall be used.

93. Shipboard training

(1) The company shall designate a Shipboard Training Officer who may be—

- (a) the Master or Chief Mate in the case of deck department; or
- (b) the Chief Engineer or Second Engineer in, the case of engine department.

(2) The Shipboard Training Officer shall be required to be qualified in accordance with regulation 85(6).

(3) Every designated Shipboard Training Officer shall ensure that—

- (a) appropriate periods are set aside for completion of the programme of on-board training within the normal operational requirements of the ship;
- (b) at the beginning of the programme and at the start of each voyage on a different ship, trainees are given comprehensive information and guidance as to what is expected of them and how the training programme is to be conducted;
- (c) ship's officers who are responsible for training and assessment know and understand their duties and responsibilities regarding training;
- (d) during the required period of qualifying seagoing service, a trainee receives systematic practical training and experience in the tasks, duties and responsibilities relevant to the certificate desired, with due regard to the competencies specified in the STCW Code;
- (e) assessments of a trainee are conducted, without undue delay, when the trainee is considered ready for assessment;
- (f) the on-board training forms an integral part of the overall training plan;
- (g) appropriate periods are set aside for completion of the programme of on-board training within the normal operational requirements of the ship;
- (h) guidance is, given, when necessary, and ensure that the overall shipboard training programme is properly administered and conducted;
- (i) the trainee's progress throughout such programme is monitored;
- (j) the programme of practical training at sea is properly organized;
- (k) the training record books are properly maintained and that all other requirements are met; and
- (l) ensure so far as practicable, that the time the candidate spends on board is as useful as possible in terms of training and experience, and is consistent with the objectives of the training programme and the progress of training.

(4) A master's responsibilities shall be to—

- (a) provide the link between the ship's officers responsible for training and the training officer ashore;
- (b) designate, in writing, the ship's officers who are to be responsible for organizing and supervising on-board training for each voyage;
- (c) ensure continuity in the case of any change of ship's officers during voyages; and
- (d) ensure that all personnel concerned carry out effectively the on-board training programme.

(5) Every trainee shall—

- (a) follow the programme of training;

[Issue 3]

- (b) utilize fully the opportunities presented, both during and outside working hours; and
- (c) keep his or her shipboard training record book up-to-date and available for inspection at all reasonable times.

94. Approved seagoing service

(1) The qualifying seagoing service required by these Regulations shall be required to be relevant to the qualification being applied for, bearing in mind that, apart from the initial familiarization with service in seagoing ships, the purposes of such service is to allow the seafarer to be instructed in and to practice, under appropriate supervision, those safe and proper seagoing practices, procedures and routines which are relevant to the qualification applied for.

(8) Subject to the functions specified in regulation 8, the qualifying seagoing service required shall—

- (a) for Master or deck officer certification, be relevant to the functions carried out by a Master or a deck officer;
- (b) for an engineer officer certification, be relevant to the functions carried out by officers associated with the engine department;
- (c) for a deck or engine rating certification, be relevant to the functions carried out by deck or engine room ratings; and
- (d) for the purpose of alternative certification, be relevant to:
 - (i) the functions contemplated in paragraphs (a) and (b); or
 - (ii) the combined functions contemplated in paragraph (c).

(9) At least six months of the qualifying seagoing service shall be required to have been performed within the five years preceding the date of application for certification, and shall include service performed on a ship not registered in Kenya.

(10) Seagoing service performed on special types of ships shall be as specified in Code of Seafarer Qualifications.

95. Calculating qualifying service

(1) Qualifying seagoing service shall—

- (a) be calculated from the date of engagement on a ship to the date of discharge from the ship; and
- (b) be calculated by taking the actual days between the days of engagement and discharge, both inclusive, excepting any days spent on leave of absence during engagement, and reckoning 30 days to a month, twelve months to a year.

(2) Service on board ships laid up in port, dock or under construction or an anchorage may be counted in part towards qualifying seagoing service, and claims in this respect shall be supported by statements signed by the master of the vessels served on, certifying that the duties carried out were appropriate to be counted towards seagoing service.

(3) Qualifying seagoing service claimed under sub-regulation (2) may not exceed three months.

96. Sea service testimonials and proof of watchkeeping service

(1) Candidates applying for a first or subsequent certificate of competency shall be required to—

- (a) make a declaration of qualifying seagoing service;
- (b) produce duly completed Seafarer's Continuous Discharge Certificate and Record Book; and
- (c) produce a testimonial of the qualifying sea service being claimed

Merchant Shipping

[Subsidiary]

(2) Candidates for certificates other than first certificates of competency issued under regulations 25, 30 and 35 shall produce documentary evidence of watchkeeping service signed by the Master or Chief Engineer of the ships in which the service has been performed, and in the case of service as Master or Chief Engineer, the documentary evidence shall be signed by a responsible official of the company concerned.

(3) The testimonial required under paragraph (1)(c) and the documentary evidence of watchkeeping required under sub-regulation (2) shall—

- (a) for deck officers, contain at least—
 - (i) a statement from the Master, stating that the applicant performed bridge watchkeeping duties under his supervision or that of a qualified officer for at least 8 hours in every 24 hours' service;
 - (ii) period of service;
 - (iii) nature of voyage;
 - (iv) Ship particulars;
 - (v) nature of duties performed;
 - (vi) leave of absence while still on articles; and
 - (vii) number of days ship is laid up in port, dock, under construction or in anchorage;
- (b) for engine officers, contain at least—
 - (i) a statement from the Chief Engineer, stating that the applicant performed engine watchkeeping duties under his supervision or that of a qualified officer for eight hours in every 24 hours' service claimed on ships having a continuously manned engine room; or 24 hours in every 72 hours' service claimed on ships having a periodically unmanned engine room;
 - (ii) period of service;
 - (iii) type of propulsion machinery and propulsion power (kilowatts) of the ship;
 - (iv) nature of duties performed;
 - (v) leave of absence while still on articles; and
 - (vi) number of days ship is laid up in port, dock or under construction or an anchorage.

97. Removal of “coastal” limitation

(1) The holder of a certificate limited to near-coastal voyages may apply for the removal of that limitation—

- (a) after completing—
 - (i) the qualifying seagoing service required for the certificate desired;
 - (ii) the units of competency required for the certificate desired;
 - (iii) any training courses not required for the certificate held but required for the certificate desired;
 - (b) at the conclusion of the required qualifying seagoing service, and having been assessed at Level 3; and
- (2) An applicant under sub-regulation (1) shall submit to the assessor—
- (a) satisfactory proof of having gained the qualifying seagoing service contemplated in sub-paragraph (1)(a)(i);
 - (b) a certificate of pass from an approved institution for the additional units of competency contemplated in subparagraph (1)(a)(ii);
 - (c) a duly completed shipboard training record book covering the period of service and the training contemplated in subparagraphs (1)(a)(i) and (ii) respectively; and

[Issue 3]

- (d) a valid seafarer's medical certificate.

98. Removal of tonnage limitation

The holder of a certificate limited to a certain tonnage may apply for the removal of that limitation after completing—

- (a) the qualifying seagoing service required for each certificate leading up to the certificate desired; and
- (b) an assessment at level 3.

99. Removal of propulsion power limitation

The holder of a certificate limited to a certain propulsion power may apply for the removal of that limitation shall have completed—

- (a) the qualifying seagoing service required for each certificate leading up to the certificate desired; and
- (b) an assessment at Level 3.

100. Recognition of seagoing service performed on board Kenya Navy ships

(1) Subject to sub-regulation (4), the Authority may, for the purpose of certification under these regulations, recognize seagoing service performed on board Kenya Navy ships by—

- (a) officers of the deck department performing navigational duties; or
- (b) officers of the engine department; or
- (c) ratings performing either deck or engine duties

(2) The seagoing service recognized under sub-regulation (1) shall, subject to regulation 94(3)—

- (a) Be reckoned as half of the seagoing service required for certification; and
- (b) be not less than 36 months;

(3) A candidate for certification claiming seagoing service recognized under sub-regulation (1) shall—

- (a) perform the remainder of the required seagoing service on an appropriate merchant ship; and
- (b) meet the other requirements for certification specified for the relevant certificate.

(4) The Authority shall only recognize seagoing service performed on Kenya Navy ships subject to an agreement with the Kenya Navy.

101. Novel craft

Documentary evidence of service on dynamically supported craft or other novel craft shall be submitted to a senior examiner for consideration.

F- Use of simulators

102. Compliance with performance standards

This division shall apply in respect of—

- (a) all mandatory simulator-based training;
- (b) any assessment of competency required by Part A of the STCW Code which is carried out by means of a simulator; and
- (c) any demonstration, by means of a simulator, of continued proficiency required by Part A of the STCW Code.

103. Performance standards for simulators used in training and simulators used in assessment of competence

(1) Any simulator used for mandatory simulator-based training shall be required to—

Merchant Shipping

[Subsidiary]

- (a) be suitable for the selected objectives and training tasks;
- (b) be capable of simulating the operating capabilities of shipboard equipment concerned, to a level of physical realism appropriate to training objectives, and include the capabilities, limitations and possible errors of such equipment;
- (c) have sufficient behavioural realism to allow a trainee to acquire the skills appropriate to the training objectives;
- (d) provide a controlled operating environment, capable of producing a variety of conditions, which may include emergency, hazardous or unusual situations relevant to the training objectives;
- (e) provide an interface through which a trainee can interact with the equipment, the simulated environment and, as appropriate, the instructor; and
- (f) permit an instructor to control, monitor and record exercises for the effective debriefing of trainees.

(2) Any simulator used for the assessment of competence required under these Regulations or for any demonstration of continued proficiency so required shall be required to—

- (a) be capable of satisfying the specified assessment objectives;
- (b) be capable of simulating the operational capabilities of the shipboard equipment concerned to a level of physical realism appropriate to the assessment objectives, and include the capabilities, limitations and possible errors of such equipment;
- (c) have sufficient behavioural realism to allow a candidate to exhibit the skills appropriate to the assessment objectives; sufficient behavioural realism to allow a trainee to acquire the skills appropriate to the training objectives;
- (d) provide an interface through which a candidate can interact with the equipment and simulated environment;
- (e) provide a controlled operating environment, capable of producing a variety of conditions, which may include emergency, hazardous or unusual situations relevant to assessment objectives; and
- (f) permit an assessor to control, monitor and record exercises for the effective assessment of the performance of candidates.

(3) In addition to meeting the basic requirements set out in this regulation, simulation equipment to which these Regulations apply shall meet additional performance standards given in regulations 104 and 105 in accordance with their specific type.

104. Radar simulation

Radar simulation equipment shall be capable of simulating the operational capabilities of navigational radar equipment which meets all applicable performance standards adopted by the Organization and incorporate facilities to—

- (a) operate in the stabilized relative motion mode and sea and ground stabilized true motion modes;
- (b) model weather, tidal streams, current, shadow sectors, spurious echoes and other propagation effects, and generate coastlines, navigational buoys and search and rescue transponders; and
- (c) create a real-time operating environment incorporating at least two own-ship stations with ability to change own ship's course and speed, and include parameters for at least twenty target ships and appropriate communication facilities.

105. Automatic Radar Plotting Aid (ARPA) simulation

ARPA simulation equipment shall be capable of simulating the operational capabilities of ARPAs which meet all applicable performance standards adopted by the Organization, and shall incorporate the facilities for—

[Issue 3]

- (a) manual and automatic target acquisition;
- (b) past track information;
- (c) use of exclusion areas;
- (d) vector/graphic time-scale and data display; and
- (e) trial manoeuvres.

106. Simulator training objectives

Training institutions conducting simulator-based training shall ensure that the aims and objectives of such training are defined within an overall training programme and that specific training objectives and tasks are selected so as to relate as closely as possible to shipboard tasks and practices.

107. Training procedures

In conducting mandatory simulator-based training, instructors shall ensure that—

- (a) trainees are adequately briefed beforehand on the exercise objectives and tasks and are given sufficient planning time before the exercise starts;
- (b) trainees have adequate familiarization time on the simulator and with its equipment before any training or assessment exercise commences;
- (c) guidance given and exercise stimuli are appropriate to the selected exercise objectives and tasks and to the level of trainee experience;
- (d) exercises are effectively monitored, supported as appropriate by audio and visual observation of trainee activity and pre- and post-exercise evaluation reports;
- (e) trainees are effectively debriefed to ensure that training objectives have been met and that operational skills demonstrated are of an acceptable standard;
- (f) the use of peer assessment during debriefing is encouraged; and
- (g) simulator exercises are designed and tested so as to ensure their suitability for the specified training objectives.

108. Assessment procedures

Where simulators are used to assess the ability of candidates to demonstrate levels of competency, assessors shall ensure that—

- (a) performance criteria are identified clearly and explicitly and are valid and available to the candidates;
- (b) assessment criteria are established clearly and are explicit to ensure reliability and uniformity of assessment and to optimize objective measurement and evaluation, so that subjective judgements are kept to the minimum;
- (c) candidates are briefed clearly on the tasks and/or skills to be assessed and on the tasks and performance criteria by which their competency will be determined;
- (d) assessment of performance takes into account normal operating procedures and any behavioural interaction with other candidates on the simulator or with simulator staff;
- (e) scoring or grading methods to assess performance are used with caution until they have been validated; and
- (f) the prime criterion is that a candidate demonstrates the ability to carry out a task safely and effectively to the satisfaction of the assessor.

109. Qualifications of simulator instructors and assessors

Simulator instructors and assessors shall be appropriately qualified and experienced for the particular types and levels of training and corresponding assessment of competence as specified in regulation 85.

G — Oral examination

110. Appointment of examiners

The Director-General shall—

- (a) appoint examiners to conduct oral examinations;
- (b) designate a senior examiner deck and engine, respectively; and
- (c) designate a chief examiner from amongst the appointed examiners.

111. Oral examination

(1) The purpose of an oral examination shall be to ascertain a candidate's competency in the practical aspects of an officer's duties and shall be conducted by an examiner appointed under regulation 110.

(2) Candidates for the issue of Kenyan certificates of competency shall—

- (a) make an application for an oral examination to the Authority; and
- (b) be required to demonstrate, through the oral examination, the standards of competence described in the relevant tables of standards of competency given in chapters II, III and IV of the STCW Code.

(3) A candidate shall not take the oral examination unless he has passed in the written examination.

(4) Every candidate for an oral examination shall be required to obtain from the Authority a letter of eligibility to sit for an oral examination which a letter shall be issued only upon verifying the authenticity and validity of the documentary evidence provided as proof of the following with respect to the candidate—

- (a) identity and age;
- (b) successful completion of an approved education and training programme;
- (c) medical fitness;
- (d) relevant qualifying seagoing service together with seagoing service testimonials; and
- (e) successful completion of the mandatory and ancillary training required for a particular certificate.

(5) The letter of eligibility under sub, regulation (4) shall—

- (a) specify the place of examination;
- (b) include other additional requirements, if any, to be met by the candidate;
- (c) be valid for a period of 3 years.

(6) A candidate may, during an oral examination, be required to complete a calculation or to elaborate upon a section of the syllabus applicable to the certificate or endorsement for which he is being examined.

(7) A candidate who fails an oral examination may re-sit examination at the following intervals—

- (a) second attempt, at least two weeks after the initial examination;
- (b) third attempt, at least two weeks after the second attempt; and
- (c) subsequent attempts, at least three weeks after the previous attempt.

(8) The examiner may reduce time periods between oral examination re-sits.

(9) Where a candidate exhibits a lack of basic competency across the syllabus or makes fundamental errors in areas of safety, the examiner may impose a seagoing service penalty not exceeding six months, which the candidate must complete before re-sitting the examination.

(10) A candidate who without reasonable excuse fails to appear for an oral examination at the appointed time and place may be deemed to have failed the examination.

112. Proof of identity

Every candidate for a certificate or an endorsement shall furnish proof of his identity to the satisfaction of the Chief Examiner in the form of a valid Kenyan identity card or passport or, in the case of a foreign citizen or resident, a valid passport or a Kenyan alien identity document.

113. Fraudulent Conduct

A candidate who has been convicted of fraudulent conduct in relation to certificates as a seafarer or upon whom a penalty for fraud has been imposed under the Penal Code shall not be admitted to any examination for a certificate or endorsement before a period of at least 24 months has elapsed since the date of such conviction or the date of imposition of such penalty, as the case may be.

PART XI — ENFORCEMENT

114. Offences, penalties and defences

(1) Any—

- (a) company or a master who has engaged a person not holding a certificate as required by these regulations.
- (b) master who has allowed any function or service in any capacity required by these regulations to be performed by a person not holding the required certificate, a valid dispensation or having the documentary proof required by regulation 11;
- (c) person has obtained by fraud or forged documents an engagement to perform any function or serve in any capacity required by these regulations to be performed or filled by a person holding a certificate or dispensation; or
- (d) person who fails to comply with any of the provisions of these Regulations or the Code of Seafarers' Qualifications in respect of ships or of seafarers duly certificated by the Authority;

commits an offence and shall be liable on, conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or both.

(2) In proceedings for an offence in terms of this regulation, it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

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

(4) Nothing in this regulation shall prevent the allocation of tasks for training under supervision or in cases of *force majeure*.

115. Extension of all co-operation possible to any Party

The Authority shall extend all co-operation possible to any Party which advises it of its intention to initiate proceedings, under its jurisdiction, against any company or any person stationed in Kenya who is believed on clear grounds to have been responsible for, or to have knowledge of, any apparent non-compliance with the corresponding regulations in that Party.

116. Director-General may impose penalty upon admission of guilt

(1) If any person—

- (a) admits to the Director-General that he or she has contravened any provision of these regulations, or that he has failed to comply with any such provision with which it was his duty to comply; and
- (b) agrees to abide by the decision of the Director-General; and

[Subsidiary]

- (c) deposits with the Authority such sum as may be required of him, but not exceeding the maximum fine which may be imposed upon a conviction for the contravention or failure in question,

the Director-General may, after such enquiry as he deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(2) The imposition of a penalty under sub-regulation (1) shall be deemed to be a conviction of a criminal offence, but no prosecution for the relative offence shall thereafter be competent.

PART XII — TRANSITIONAL ARRANGEMENTS,
SAVINGS AND REPEAL OF REGULATIONS

117. Transitional provisions and savings

(1) Until 1st January 2017, the Authority may continue to—

- (a) continue to issue, recognize and endorse certificates in accordance with the provisions of the Convention which applied immediately prior to 1st January 2012 in respect of those seafarers who commenced approved seagoing service, an approved education and training programme or an approved training course before 1st July 2013; and
- (b) renew and revalidate certificates and endorsements in accordance with the provisions of the Convention which applied immediately prior to 1st January 2012.

(2) Any certificates in force at the commencement of these regulations which were issued under—

- (a) the Merchant Shipping Act 1967 (repealed); or
- (b) the Harbours Regulations, 1970; or
- (c) the Kenya Ports Authority Act (Chapter 391 of the Laws of Kenya).

shall be valid until the 1st of January 2017 and the holders of such certificates shall be required thereafter to obtain certification under these regulations.

(3) Notwithstanding regulation 118, certificates issued under the L.N. 115/2012 shall continue to be valid until they expire and shall thereafter be renewed under these regulations.

118. Repeal of L.N 115/2012

The Merchant Shipping (Training and Certification) Regulations, 2012, are revoked.

Merchant Shipping

[Subsidiary]

FIRST SCHEDULE

FORMAT OF CERTIFICATES OF COMPETENCY

(R.5(10))

1. Format of Certificates of Competency issued under Parts III and IV

(Official Seal) REPUBLIC OF KENYA Merchant Shipping (Training and Certification) Regulations Certificate of Competency: _____ Certificate No. This is to certify that has been found duly qualified to hold this Certificate of Competency and is entitled under the Merchant Shipping Act (Cap 389) to serve onboard a merchant ship in any capacity requiring a certificate of competency of this class unless the holder is required to have additional training and sea service in accordance with the above Regulations.	
Date of issue	(Official Seal)
Signature of Orals Examiner	Signature:
.....	Name
Name of Orals Examiner	Head of Seafarers' Training Examination and Certification
Particulars of holder	Photograph of holder of the certificate
Passport no	
Country of birth	
Date of birth	
Signature of holder of the certificate	
Limits of Near Coastal Voyages	
The original of this certificate must be kept onboard while serving on a ship	

FORMAT OF CERTIFICATE OF COMPETENCY ISSUED UNDER PART V

(Official Seal)
REPUBLIC OF KENYA
GMDSS Radio Operator Certificate of Competency: _____
Certificate No.
This is to certify that has been found duly qualified to hold this Certificate of Competency under the provisions of the Radio Regulations annexed to the International Telecommunication Union Convention and regulation IV/2 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1972, as amended from time to time.
It is also certified that the holder has made a declaration that he/she will preserve the secrecy of correspondence
AUTHORITY TO OPERATE RADIO APPARATUS
The holder of this certificate is hereby authorized to operate a ship radio station and a ship earth station established in a ship under license issued by the Communications Authority of Kenya
The Kenya Maritime Authority may at any time suspend or cancel this authority in case of misconduct or contravention of any provision of the Merchant Shipping Act 2009, or any regulation framed thereunder on the part of the holder.
Date of issue Date of expiry (Official Seal)
Signature:
Name
Head of Seafarers' Training Examination and Certification
Photograph of holder of the certificate
Particulars of holder
Passport No
Country of birth
Date of birth
Signature
The original of this certificate shall be kept onboard while serving on a ship

Merchant Shipping

[Subsidiary]

3. FORMAT OF CERTIFICATE OF PROFICIENCY ISSUED TO RATINGS

(Official Seal)	
REPUBLIC OF KENYA	
Certificate of Proficiency as Rating: _____ Certificate No. _____	
.....The Government of Kenya certifies that the lawful holder has been found duly qualified as in accordance with the provisions of regulation of the International Convention on Standards of Training, Certification and Watchkeeping for seafarers, 1978, as amended, and competent to perform the following functions at the support level;.	
S/No.	FUNCTION
Date of issue	
Date of expiry	
(Official Seal)	
Signature:	
Name	
Head of Seafarers' Training Examination and Certification	
Photograph of holder of the certificate	
Particulars of holder	
Passport No	
Country of birth	
Date of birth	
Signature	
The original of this certificate shall be kept onboard while serving on a ship	

4. Format of Certificate of Proficiency issued under Parts III, IV, VI and VII

(Official Seal)	
REPUBLIC OF KENYA	
Certificate of Proficiency: _____ Certificate No. This is to certify that has been found duly qualified in/as* in accordance with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for seafarers, 1978, as amended and has also met the criteria applicable to the issue of the certificate.	
Date of issue	
Date of expiry	
(Official Seal)	
Signature:	
Name	
Head of Seafarers' Training Examination and Certification	
*delete as appropriate	
Particulars of holder	
Passport No	
Country of birth	
Date of birth	
Signature of the holder of the certificate	
The validity of this certificate is hereby extended until	
(Official Seal)
Date of revalidation	Signature of duly authorized official

	Name of duly authorized official
The original of this certificate shall be kept onboard while serving on a ship	

SECOND SCHEDULE

(R. 10(3))

[Issue 3]

Merchant Shipping

[Subsidiary]

*Format of Endorsement used to attest the issue of a certificate of competency
(Regulation 10(3))*

ENDORSEMENT ATTESTING THE ISSUE OF A CERTIFICATE UNDER THE PROVISIONS OF THE INTERNATIONAL CONVENTION OF STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978, AS AMENDED

Endorsement No.

The Government of Kenya certifies that certificate of competency no has been issued to who has been found duly qualified in accordance with the provisions of regulation of the above Convention, as amended, and has been found competent to perform the following functions, at the levels specified, subject to any limitations indicated until or until the date of expiry of any extension of the validity of this endorsement issued by Kenya Maritime Authority as may be shown overleaf:

FUNCTION	LEVEL	LIMITATIONS APPLYING (IF ANY)
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The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable safe manning requirements of the Administration:

CAPACITY	LIMITATIONS APPLYING (IF ANY)
----------	-------------------------------

Date of issue

Date of expiry

(Official Seal)

Signature:

Name

Head of Seafarers' Training Examination and Certification

Photograph of holder of the certificate

Particulars of holder

Passport no

Country of birth

Date of birth

Signature of the holder of the certificate

The validity of this endorsement is hereby extended until

(Official Seal)
Date of revalidation	Signature of duly authorized official

	Name of duly authorized official

The validity of this endorsement is hereby extended until

(Official Seal)
Date of revalidation	Signature of duly authorized official

	Name of duly authorized official

The original of this endorsement shall be kept onboard while serving on a ship

THIRD SCHEDULE

(R. 10(4))

Format of endorsement attesting to the recognition of a certificate (Regulation (10(4))

(Official Seal)

REPUBLIC OF KENYA

ENDORSEMENT ATTESTING THE RECOGNITION OF A CERTIFICATE UNDER THE PROVISIONS OF THE INTERNATIONAL CONVENTION ON STANDARDS OF

Merchant Shipping

[Subsidiary]

TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS, 1978, AS AMENDED

Endorsement No.

The Government of Kenya certifies that certificate No issued to by or on behalf of the Government of is duly recognized in accordance with the provisions of regulation I/10 of the above Convention, as amended, and the lawful holder is authorized to perform the following functions, at the levels specified, subject to any limitations indicated until or until the date of expiry of any extension of the validity of this certificate as may be shown overleaf:

FUNCTION	LEVEL	LIMITATIONS APPLYING (IF ANY)
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The lawful holder of this endorsement may serve in the following capacity or capacities specified in the applicable Safe Manning requirements of the Administration

CAPACITY	LIMITATIONS APPLYING (IF ANY)
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Date of issue Date of expiry

(Official Seal)

Signature:

Name

Head of Seafarers' Training Examination and Certification

Passport of holder of the certificate Name of duly authorized official
Particulars of holder Passport no

Country of birth Date of birth Signature of the holder of the certificate

The validity of this endorsement is hereby extended until

(Official Seal)

Date of revalidation	Signature of duly authorized official
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The validity of this endorsement is hereby extended until

(Official Seal) Date of revalidation	Signature of duly authorized official
	Name of duly authorized official

The original of this endorsement shall be kept onboard while serving on a ship

FOURTH SCHEDULE

(R.87)

Certificate number

KMA LOGO

CERTIFICATE OF APPROVAL TO CONDUCT A COURSE(Regulation 87) this is to certify that:..... (name of institution) have been assessed and found to comply with the requirements for approval in terms of the Merchant Shipping (Training and Certification) Regulations, 2016, as amended from time to time, is hereby approved to conduct (name of course) This approval is valid for four (4) years from (dd-mm-yyyy) to (dd-mm-yyyy) and may subject to annual verification audits be renewed in accordance with the regulations. _____ SIGN _____ NAME

DIRECTOR-GENERAL

Official seal

THE MERCHANT SHIPPING (SEAFARER MEDICAL
EXAMINATION AND CERTIFICATION) REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

PART I – GENERAL

1. Short title.
2. Interpretation.
3. Application.
4. Purpose of these Regulations.
5. Evidence of medical fitness.
6. Application and issue of a seafarer medical certificate.
7. Standards of medical fitness for seafarers.
8. Limitations or restrictions.
9. Validity of a medical certificate.
10. Cancellation or suspension of a medical certificate.
11. Further examination.
12. Conduct of medical fitness examination.
13. Privacy and confidentiality of medical examinations and independence of medical practitioners.
14. Appealing against the decision of recognized medical practitioner.
15. Replacement certificates.
16. Recognition and authorization of medical practitioners.
17. Variation, suspension, cancellation or revocation of recognition.
18. Medical certificates issued by other Parties.
19. Quality standards system.
20. Use of spectacles or contact lenses.
21. Inspection and detention of foreign ships.
22. Inspection and detention of Kenyan ships.
23. Seafarers' Medical records.
24. Offences, penalties and defences.
25. Transitional arrangements.
26. Revocation of L.N. of 2012.

SCHEDULES

- | | |
|-------------------|--|
| FIRST SCHEDULE — | FORM OF SEAFARER'S MEDICAL
CERTIFICATE |
| SECOND SCHEDULE — | MINIMUM IN-SERVICE EYESIGHT
STANDARDS FOR SEAFARERS |

MERCHANT SHIPPING (SEAFARER MEDICAL EXAMINATION AND CERTIFICATION) REGULATIONS, 2016

(L.N. 42/2016)

1. Short title

These regulations may be cited as the Merchant Shipping (Seafarer Medical Examination and Certification) Regulations 2016.

2. Interpretation

In these regulations, unless the context indicates otherwise—

"applicant" means a person who applies for a seafarer's medical certificate under these regulations;

"approved" means approved by the Authority;

"Authority" means the Kenya Maritime Authority established under the Kenya Maritime Authority Act, 2006;

"company" means the owner of the ship or his representative or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the ship owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by these regulations;

"examinee" means a person who presents himself/herself to a recognized medical practitioner to be examined for the purpose of obtaining a medical certificate.

"holder" in relation to a certificate or other document, means the person identified as holder by that certificate or document;

"marine guidance notice" means an information note issued by the Director-General to disseminate useful information and guidance in accordance with Section 170(5) of the Merchant Shipping Act, 2009;

"seafarer medical certificate" means a certificate issued in accordance with regulation 6 of these regulations and 'medical certificate' shall be construed accordingly;

"recognized medical practitioner" means a person recognized in accordance with regulation 16 of these regulation to assess the medical fitness of seafarers;

"Party" means a State identified and published by the Maritime Safety Committee of the Organization as having demonstrated that they give full and complete effect to the relevant provisions of the Convention;

"seafarer" means any person employed upon a vessel and includes the master, ships officers and ratings;

"the Board" means the Kenya Medical Practitioners and Dentists Board;

"Training and Certification Regulations" means the Merchant Shipping (Training and Certification) Regulations, 2015 made under the Act, relating to the qualifications and certification of seafarers as may from time to time be amended;

"the Guidelines" means the Guidelines on Medical Examinations of Seafarers set out in IMO circular STCW.7/Circ.19 of 9 January 2013 as may from time to time be amended;

"STCW Code" means the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by the 1995 Conference resolution 2, as it may be amended by the Organization;

[Subsidiary]

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as affected by any amendment made under Article XII of that Convention and "Convention" shall be construed accordingly;

"valid" in relation to a certificate or other document, means a certificate or document that is current and that has not been cancelled, suspended, revoked or expired.

3. Application

(1) These Regulations shall apply to seafarers serving on board seagoing Kenyan ships wherever they may be or on foreign ships when they are in a Kenyan port or in Kenyan waters;

(2) These Regulations shall not apply to—

- (a) warships, naval auxiliaries;
- (b) Ships owned or operated by a Party and engaged only on governmental non-commercial service;
- (c) Government ships as defined in the Act;
- (d) fishing vessels;
- (e) pleasure yachts not engaged in trade;
- (f) wooden ships of primitive build, including junks; or
- (g) any person whose work is not part of the routine business of the ship and whose principal place of work is ashore;
- (h) offshore installations whilst on their working stations; and

(3) The Authority may require seafarers serving on board ships referred to in paragraph (2)(b) to (e) to meet the requirements of these regulations so far as is reasonable and practicable so as not to impair the operations or operational capabilities of such ships.

4. Purpose of these regulations

The purpose of regulations is to give effect to the provisions of—

- (a) Regulation I/9 of the STCW Convention and Section A-I/9 of the STCW Code; and
- (b) Regulation 1.2 and Standard A1.2 of the Maritime Labour Convention, 2006.

5. Evidence of medical fitness

(1) Subject to sub-regulations 9(2) and (3), no person may work as a seafarer on a ship to which these Regulations apply unless that person holds a valid seafarer medical certificate.

(2) A seafarer who has been issued with a medical certificate shall carry that certificate on board during the term of employment on a ship to which these Regulations apply.

(3) A company shall—

- (a) ensure that every seafarer serving on board its ships holds a valid medical certificate;
- (b) in respect of a Kenyan ship, inform the Authority when the medical certificate of a seafarer expires in the course of a voyage; and
- (c) make an application to the Authority, on behalf of the concerned seafarer, for the permission required under subregulation 9(3).

6. Application and issue of a seafarer medical certificate

(1) The Authority—

- (a) shall issue medical certificates on the recommendation of the examining recognized medical practitioner; or
- (b) may authorize a recognized medical practitioner to issue medical certificates on its behalf.

[Issue 3]

(2) Every applicant for certification shall—

- (a) be not less than 16 years of age;
- (b) provide satisfactory proof of his or her identity;
- (c) meet the applicable medical fitness standards established under regulation 7; and
- (d) surrender to the recognized medical practitioner his or her medical certificate, where one was issued previously.

(3) A recognized medical practitioner shall, while issuing or when recommending to the Authority the issuance a medical certificate, be guided by the procedures for the issue of medical certificates established in these Regulations.

(4) A seafarer's medical certificate shall be in the English language and in the format set out in the First Schedule.

7. Standards of medical fitness for seafarers

(1) The examining medical practitioner shall recommend to the Authority the issuance of a medical certificate to seafarer in accordance with the standards of medical fitness for seafarers established in the Guidelines.

(2) The established physical and medical standards are—

- (a) vision standards;
- (b) hearing standards;
- (c) eyesight standards;
- (d) physical capability requirements;
- (e) fitness criteria for medication use; and
- (f) fitness criteria for common medical conditions.

(3) Notwithstanding sub-regulation (2)(a), the minimum in-service eyesight standards for seafarers shall be as set out in the Second Schedule.

(4) Notwithstanding the Guidelines, a medical practitioner conducting seafarer medical examination may exercise professional discretion and judgement considering the special requirements of seafaring life and the different duties of seafarers:

Provided that in the case of paragraphs (2)(a) and (c)—

- (i) no discretion shall be exercised in relation to the minimum eyesight standards for distance vision aided, near/immediate vision and colour vision as specified in the Second Schedule for seafarers in the deck department required to undertake lookout duties;
- (ii) discretion shall only be exercised in respect of seafarers in the engine department where their combined vision fulfils the requirements specified in the Second Schedule.

8. Limitations or restrictions

(1) The recognized medical practitioner shall specify any limitation or restriction on medical certificate issued under regulation 6.

(2) The limitations or restrictions may concern—

- (c) the job the seafarer is expected to perform;
- (d) the trade area;
- (e) the time limit; or
- (f) any other necessary considerations.

(3) No person may work as a seafarer on a ship to which these Regulations apply—

- (a) in a capacity of sea service or in a geographical area precluded by any restriction in that person's medical certificate; or
- (b) in breach of a condition of that person's medical certificate.

[Subsidiary]

(4) No person may employ a person as a seafarer in a ship to which these Regulations apply—

- (a) in a capacity of sea service or in a geographical area precluded by any restriction in that person's medical certificate; or
- (b) in such a way as to breach a condition of the person's medical certificate.

9. Validity of a medical certificate

(1) A seafarer's medical certificate shall be valid for a maximum period of two years from the date of issue, unless the seafarer is under the age of eighteen, in which case the maximum period of validity shall be one year—

(2) If the period of validity of a seafarer's medical certificate expires in the course of a voyage, the medical certificate shall continue to be in force—

- (a) until the next port of call, where the seafarer shall obtain a medical certificate from a medical practitioner recognized by the Authority; or
- (b) until the expiry of three months from the date of the expiry of the certificate.

(3) In urgent cases, the Authority may, on application by a Company, permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer shall obtain a medical certificate from a recognised medical practitioner, provided that—

- (a) the seafarer concerned is in possession of medical certificate which has expired no earlier than one month before the date on which he joined the ship; and
- (b) the period of such permission shall not exceed three months.

10. Cancellation or suspension of a medical certificate

(1) A medical certificate may be cancelled or suspended if a medical practitioner has reasonable grounds for believing that—

- (a) there has been a significant change in the medical fitness of a person during the period of validity of the medical certificate;
- (b) a person is not complying with the terms of a condition to which the medical certificate is subject;
- (c) when the medical certificate was issued to a person, had a medical practitioner been in possession of full details of that person's condition, the medical practitioner could not reasonably have considered that the person was fit, having regard to the medical standards specified in regulation 7; or
- (d) the medical certificate was issued to a person otherwise than in accordance with these Regulations.

(2) Where sub-regulation (1) applies, the medical practitioner shall—

- (a) suspend the validity of that medical certificate until the person to whom the certificate was issued has undergone further medical examination;
- (b) suspend the validity of the medical certificate for such period as the medical practitioner considers the person to whom the certificate was issued will remain unfit to perform the duties that person will carry out at sea; or
- (c) cancel the medical certificate if he considers that the person to whom the certificate was issued is likely to remain permanently unfit to perform the duties that person will carry out at sea and must notify the person concerned accordingly.

(3) The medical practitioner shall require that a person surrenders a medical certificate which has been suspended or cancelled pursuant to sub-regulation (2), in such manner as he may direct.

(4) In this regulation, a significant change in the medical fitness of a person means a condition which affects or would be reasonably likely to affect that person's ability to carry out their duties, including their ability to undertake emergency duties.

[Issue 3]

11. Further examination

Subject to the provisions of regulation 9(5), any certificate required by these Regulations or the STCW Convention shall be kept available in its original form on board the ship, on which the holder is serving.

12. Conduct of medical fitness examination

(1) A recognized medical practitioner carrying out seafarer medical examination shall adhere to the standards of medical fitness for seafarers established in regulation 7.

(2) A medical practitioner shall in accordance with the Guidelines conduct such examinations, tests and interviews and make such enquiries in relation to an applicant as may be necessary to determine whether the applicant is medically fit to perform the intended duties as a seafarer.

(3) An applicant shall disclose to the medical practitioner all preexisting medical conditions that are known to the applicant and that are likely to affect the determination of the applicant's medical fitness.

(4) A recognized medical practitioner may at his own cost refer, the seafarer to undertake specialized medical examination at another facility.

(5) A recognized medical practitioner shall—

(a) adhere to the Guidelines while conducting medical fitness examinations.

(6) The format for recording medical examinations of seafarers shall be that provided in the Guidelines.

(7) An examining medical practitioner may refer any medical problems found, when appropriate, for further investigation and treatment, whether or not a seafarer is issued with a medical certificate.

13. Privacy and confidentiality of medical examinations and independence of medical practitioners

(1) Medical practitioners shall in examining seafarers for the purpose of these Regulations, be deemed to be acting on behalf of the Authority, and shall avoid or resolve any conflict of interest.

(2) All persons involved in the conduct of medical examinations, including those who come into contact with medical examination forms, laboratory results and other medical information, shall ensure the right to privacy of the examinee.

(3) Medical examination reports shall be marked as confidential and shall be so treated, and all medical data collected from a seafarer shall be protected.

(4) Medical records shall only be used for determining the fitness of the seafarer for work and for enhancing health care and they shall not be disclosed to other persons without prior written informed consent from the seafarer.

(5) Personal medical information shall not be included on medical certificates or other documents made available to other persons following the medical examination.

(6) The seafarer shall have the right of access to and receipt of a copy of his or her personal medical data.

(7) A recognized medical practitioner shall enjoy professional independence from ship-owners, seafarers, and their representatives in exercising their medical judgement under of these Regulations.

14. Appealing against the decision of recognized medical practitioner

(1) A person who is aggrieved by—

(a) the refusal a medical practitioner to issue or recommend to the Authority the issuance of issue a medical certificate in accordance with regulation 6;

(b) any restriction imposed on his or her medical certificate; or

Merchant Shipping

[Subsidiary]

- (c) the suspension or cancellation of his or her medical certificate by a medical practitioner pursuant to regulation 10;

may apply to the Authority for the matter to be reviewed, at his own cost, by another recognized medical practitioner.

(2) A matter which is the subject of an application under subregulation (1) shall be reviewed if the application—

- (a) Is lodged with the Authority within one month of the date on which the applicant was given notice of refusal, imposition of a restriction, suspension or cancellation;
- (b) includes a consent for the medical practitioner responsible for the refusal, imposition of a restriction, suspension or cancellation to provide a report to the medical referee; and
- (c) specifies the name and address of that practitioner.

(3) If an application is made after the time prescribed in subregulation (2)(a), the Authority may, upon consideration of any reasons for the lateness of the application, decide that the matter is nonetheless to be reviewed.

(4) If requested by the applicant, the medical practitioner shall provide to the applicant a copy of the report of the medical practitioner and any other evidence provided by the medical practitioner or the medical referee.

(5) In a case within sub-regulation (1)(a) or (c), if in light of the medical evidence, and having regard to the medical standards specified in regulation 7, the medical referee considers that the applicant is fit to perform the duties to be carried out at sea, the medical referee shall issue to or recommend to the Authority to issue the applicant a medical certificate in, or terminate the suspension of the applicant's medical certificate, as the case may be.

(6) In a case within sub-regulation (1)(a), (b) or (c), and having regard to the medical standards specified by regulation 7, if in the light of the medical evidence the medical referee considers that restrictions as to capacity of sea service or geographical areas should be imposed on a medical certificate issued to the applicant, or that any restriction so imposed by a medical practitioner should be deleted or varied, the medical referee shall issue or recommend to the Authority to issue the applicant a medical certificate which records any restrictions as so imposed or varied, and the former certificate shall cease to have effect.

(7) If in the light of the medical evidence, and having regard to the medical standards specified by regulation 7, the medical referee considers that the applicant is unfit to perform the duties that person will carry out at sea, the medical referee shall notify the applicant of the period during which the medical referee considers that the applicant remains unfit to go to sea.

(8) In this regulation "medical referee" means the recognized medical practitioner to whom a matter is referred by an applicant who is aggrieved by a medical report.

15. Replacement certificates

(1) Unless a medical certificate has been surrendered under regulation 10(3), if a person who was issued with a medical certificate which is still valid is no longer in possession of that certificate, then upon—

- (a) application being made by that person or that person's employer to the medical practitioner or referee who issued the certificate; and
- (b) payment of the administrative costs of issuing the replacement,
the medical practitioner or referee who issued that certificate may issue to that person a replacement medical certificate.

(2) A replacement medical certificate issued under this regulation expires on the expiration date of the original medical certificate which it replaces.

(3) At no time shall a seafarer hold more than one valid medical certificate.

[Issue 3]

16. Recognition and authorization of medical practitioners

(1) Examination of seafarers for medical fitness shall be conducted by medical practitioners recognized by the Authority in accordance with this regulation.

(2) A medical practitioner wishing to be recognized under subregulation (1) shall make a written application to the Authority and submit documentary evidence of—

- (a) appropriate academic qualification;
- (b) valid registration and licensing by the Board;
- (c) experience of not less than 4 years practising general medicine;
- (d) appropriate qualifications and at least two years' experience—
 - (i) in occupational health or maritime health;
 - (ii) working as a ship's doctor or a shipping company doctor; or
 - (iii) working under the supervision of someone with the aforementioned qualifications or experience; and
- (e) the registered premises where seafarer medical fitness examinations shall be conducted.

(3) The premises required under paragraph (2)(e) shall—

- (a) have the facilities and equipment required to carry out medical fitness examination of seafarers;
- (b) be conveniently situated for easy access by seafarers; and
- (c) be sufficient, adequate and readily available.

(4) The Authority shall verify the authenticity and validity of the documentary evidence submitted in support of the application under sub-regulation (2) and—

- (a) may require the medical practitioner to provide additional information; and
- (b) conduct inspection of the premises and facilities to verify their suitability in respect of the requirements of subregulation (3).

(5) The Authority shall, in addition to the requirements of subregulations (2), (3) and (4), take into consideration any other factors it may deem relevant to the application for recognition and shall not be bound to recognize a medical practitioner only on the basis of such a medical practitioner satisfying the requirements of those subregulations.

(6) The recognition of a medical practitioner by the Authority shall be issued in writing and—

- (a) be valid for a period of 36 months; and
- (b) specify any conditions applying to it.

(7) The recognition issued to a medical practitioner—

- (a) shall be deemed to constitute a recognition of the registered medical premises or facility where the seafarer medical fitness examinations will be conducted;
- (b) a recognized medical practitioner transferring or relocating his or her practise to a different premises or facility—
 - (i) shall inform the Authority, within five working days, of such change and comply with the requirements of paragraph (2)(e); and
 - (ii) the Authority shall conduct the verification described under sub-regulation (4) and where appropriate, reissue a recognition to that medical practitioner.

(8) The Authority shall maintain and make available to other Parties, companies and seafarers, on request—

- (a) a register of medical practitioners recognized by it; and
- (b) a list of the Parties whose medical certificates are recognized by the Authority in accordance with regulation 18.

17. Variation, suspension, cancellation or revocation of recognition

The recognition of a medical practitioner—

- (a) shall stand revoked, forthwith, when the recognized medical practitioner's registration or license is invalidated or revoked by the Board; and
- (b) may be varied, suspended, cancelled or revoked, in writing, by the Director-General—
 - (i) following a recommendation in an investigation report or audit report for such variation, suspension, cancellation or revocation; or
 - (ii) when a recognized medical practitioner transfers or relocates his/her medical practice to a different premise or facility; or
 - (iii) when, in the Director-General's opinion, the circumstances warrant such variation, suspension, cancellation or revocation.

18. Medical certificates issued by other Parties

The Authority shall accept, in principle, medical certificates issued by or on behalf of the Parties identified and published by the Maritime Safety Committee of the Organization as Parties which have demonstrated that they give full and complete effect to the relevant provisions of the STCW Convention.

19. Quality standards system

(1) Medical certification activity shall be continuously monitored through the Quality Standards System established by the Director-General.

(2) The quality standards system shall establish, at a minimum, procedures for—

- (a) issuance of medical certificates;
- (b) recognition of a medical practitioner; and
- (c) appealing the decision of a recognized medical practitioner;

20. Use of spectacles or contact lenses

(1) Any need for a seafarer to wear visual aids to meet the required standards shall be recorded by the recognized medical practitioner on the medical certificate issued.

(2) A person whose medical certificate indicates that an aid to vision or hearing was used for the purpose of being found fit shall—

- (a) use the aid when performing duties as a seafarer; and
- (b) in the case of an aid to vision, keep at least two such aids while performing duties as a seafarer.

21. Inspection and detention of foreign ships

(1) An inspector duly authorized by the Director-General may inspect any foreign ship to which these Regulations apply when the ship is in a Kenyan port, and where he is satisfied that any seafarer is unable to produce a valid medical certificate he may—

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Secretary-General of the International Maritime Organization; and
- (b) subject to sub-regulation (2), where he is satisfied that conditions on board are hazardous to safety or health—
 - (i) take such measures as are necessary to rectify those conditions; and
 - (ii) detain the ship.

(2) Measures referred to in sub-regulation (1) (b) may be taken only when the ship has called at a Kenyan port in the normal course of business or for operational reasons.

(3) Where the inspector takes either of the measures specified in sub-regulation (1) (b) he shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag state of the ship.

(4) Sections 435 and 436 of the Act shall have effect in relation to a ship detained under these Regulations.

22. Inspection and detention of Kenyan

(1) An inspector duly authorized by the Director-General may inspect any Kenyan ship to which these Regulations apply and may detain the ship where upon inspection the inspector is satisfied that—

- (a) any seafarer whose employer is required by regulation 5 to ensure that he is the holder of a valid medical certificate is unable to produce such a certificate; and
- (b) the state of his health is such that the ship could not sail without serious risk to the safety and health of those on board.

(2) The inspector shall not in the exercise of these powers detain or delay the ship unreasonably.

23. Seafarer' Medical records

(1) A copy of the seafarers' medical certificates shall be kept in the files of the health institution in which it was issued.

(2) The medical examination records should be clearly marked as confidential and retained, according to national regulations, in the custody of the health institution where the medical certificate was issued. The file should be kept confidential and should not be used for any purpose other than facilitating the treatment of seafarers and should be made available only to persons duly authorized in accordance with national data protection laws.

(3) Medical records shall only be used for determining the fitness of the seafarer for work and for enhancing health care they shall not be disclosed to others without prior written informed consent from the seafarer.

24. Offences, penalties and defences

(1) Any person who contravenes the requirements of Regulations 5, 8(3) and 16(1) commits an offence.

(2) A person who commits an offence in terms of sub-regulation (1) shall be liable on conviction to a fine not exceeding two hundred thousand Kenya shillings or to imprisonment for a period not exceeding six months or both such fine and imprisonment.

(3) If a person—

- (a) admits to the Director-General that he has failed to comply with the requirements of these Regulations, or that he has failed to comply with any such requirement with which it was his/her duty to comply; and
- (b) agrees to abide by the decision of the Director-General; and
- (c) deposits with the Authority such sum as may be required of his, but not exceeding the maximum fine which may be imposed upon a conviction for failure to comply,

the Director General shall, after such enquiry as deems necessary, determine the matter summarily and may, without legal proceedings, order by way of penalty the whole or any part of the said deposit to be forfeited.

(4) No prosecution shall be instituted for an offence for which penalty is imposed under this Regulation.

(5) Nothing in these regulations shall affect liability to forfeiture of ships, shares therein or goods.

25. Revocation of L.N 113 of 2012

The Merchant Shipping (Eyesight and Medical Examination) Regulations 2012 are revoked.

26. Transitional arrangements

Merchant Shipping

[Subsidiary]

(1) Notwithstanding regulations 25—

- (a) subject to regulation 17, every recognized medical practitioner who was, immediately before the commencement of these regulations, a recognized medical practitioner within the meaning of these regulations shall continue to be a recognized medical practitioner for the purpose of these Regulations for the period specified in the instrument of approval or recognition;
- (b) medical certificates issued immediately prior to the commencement of these Regulations shall be deemed issued under these Regulations and shall continue to be valid for the period specified in them.

FIRST SCHEDULE

(R.6(4))

FORM OF SEAFARER'S MEDICAL CERTIFICATE

(Regulation 6)

COAT OF ARMS		
KENYA MARITIME AUTHORITY		
SEAFARER MEDICAL CERTIFICATE		
<i>Issued under Regulation 6 of the Merchant Shipping (Seafarer Medical and Examinations) Regulations, 2016</i>		
Certificate No: #		
Seafarer Information:		
Last name:	First name:	Middle name(s)
Nationality: ___ Passport No: _____	Date of Birth: _dd_/_mm_/_yyyy	Discharge book No: ___
Gender: # Male # Female	Rank/Job: _____	Department: _____

This is to certify that above named seafarer has been examined in accordance with the Seafarers' medical fitness standards and certification requirements established in accordance with the provisions on the STCW Convention, 1978 accord, amended, regulation I/9 Convention and Maritime Labour Convention, 2006, regulation 1.2 found to be fit for service at and sea, subject to any limitations indicated

DECLARATION OF THE RECOGNIZED MEDICAL PRACTITIONER		
	Yes	No
1. Confirmation that identification documents were checked at the point of examination	#	
2. Hearing meets the standards in STCW Code Section A-I/9? Date of test (dd/mm/yyyy): _/_/____	#	#
3. Unaided hearing satisfactory?	#	#
4. Visual acuity meets standards in section A-I/9? -Visual aids (if worn): #Spectacles, # Contact lenses, # None	#	#
	#	#

[Issue 3]

Merchant Shipping

[Subsidiary]

5. Colour vision meets standards in section A-1/9? -Date of last colour vision test:(dd/mm/yyyy): _/_/_	#	#
6. Fit for look-out duties? (Deck and Engine Dept. only)	#	#
7. Limitations or restrictions on fitness?	#	#
If "Yes", specify limitations or restrictions:	Examination form No:	
8. Is the seafarer free from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board?		
Date _/_/ of Issue (dd/mm/yyyy): *Expiry certificate (dd/mm/yyyy): date _/_/ of		

RECOGNIZED MEDICAL PRACTITIONER	REGISTRAR OF KENYAN SEAFARERS
Sign:	Sign:Name
Name (print):	(print): Place of
Place of Examination:	Issue:
Seal/Stamp:	

Seafarer's Declaration

I hereby confirm that I have been informed about the content of this certificate and my right to appeal in accordance with the Merchant Shipping (Seafarer Medical and Eyesight) Regulations, 2016.

Signature of the seafarer: _____

**Valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year.*

SECOND SCHEDULE

(R.7)

MINIMUM IN-SERVICE EYESIGHT STANDARDS FOR SEAFARERS

STCW Convention of regulation	Category of seafarer	Distance vision Aided ¹		Near/ immediate vision	Colour vision ³	Visual fields ⁴	Night blindness	Diplopia (double vision) ⁴
		One eye	Other eye	Both eyes together, aided or unaided				
I/II, II/1, II/2, II/3, II/4, II/5, VII/2	Masters, deck officers and ratings required to undertake look-out duties	0.5 ²	0.5	Vision required for ship's navigation (e.g., chart and nautical publication reference, use of	See Note 6	Normal Visual fields	Vision required to perform all necessary functions in darkness	No significant condition evident

[Issue 3]

Merchant Shipping

[Subsidiary]

				bridge instrumentation and equipment, and identification of aids to navigation)			without compromise	
I/11, II/1, II/2, II/3, II/4, II/5, VII/2	All engineer officers, electro-technical officers, electro-technical ratings and ratings or others forming part of an engine-room watch	0.4 ⁵	0.4 (see Note 5)	Vision required to read instruments in close proximity, to operate equipment, and to identify systems/ components as necessary	See Note 7	Sufficient visual fields	Vision required to perform all necessary functions in darkness without compromise	No significant condition evident
I/11, IV/2	GMDSS Radio operators	0.4	0.4	Vision required to read instruments in close proximity, to operate equipment, and to identify systems/ components as necessary	See Note 7	Sufficient visual fields	Vision required to perform all necessary functions in darkness without compromise	No significant condition evident

Notes:

1. Values given in Snellen decimal notation.

2. A value of at least 0.7 in one eye is recommended to reduce the risk of undetected underlying eye disease.

3. As defined in the *International Recommendations for Colour Vision Requirements for Transport* by the Commission Internationale de l'Eclairage (CIE 143–2001 including any subsequent versions).

4. Subject to assessment by a clinical vision specialist where indicated by initial examination findings.

5. Engine department personnel shall have a combined eyesight vision of at least 0.4.

6. CIE colour vision standard 1 or 2. Other equivalent confirmatory test methods currently recognized by the Board may continue to be used.

7. CIE colour vision standard 1, 2 or 3. Other equivalent confirmatory test methods currently recognized by the Board may continue to be used.

