
STATUTORY INSTRUMENTS

1995 No. 1428

MERCHANT SHIPPINGMASTERS AND SEAMEN

The Fishing Vessels (Certification of Deck Officers and Engineer Officers) (Amendment) Regulations 1995

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| <i>Made</i> | - - - - | <i>1st June 1995</i> |
| <i>Laid before Parliament</i> | | <i>13th June 1995</i> |
| <i>Coming into force</i> | - - | <i>1st August 1995</i> |

Whereas the Secretary of State is a Minister designated(1) for the purpose of section 2(2) of the European Communities Act 1972(2) in relation to measures relating to recognition of higher education diplomas or formal qualifications required for the pursuit of professions or other occupations;

And whereas, in so far as the following Regulations are made in the exercise of powers conferred by section 43 of the Merchant Shipping Act 1970(3), the Secretary of State has in pursuance of subsection (2) of section 99 of that Act consulted with the organisations referred to in that subsection;

Now therefore, the Secretary of State for Transport, in exercise of the powers conferred by the said section 2(2) of the European Communities Act 1972, and by the said section 43 of the Merchant Shipping Act 1970(4) and now vested in him(5), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

1. These Regulations may be cited as the Fishing Vessels (Certification of Deck Officers and Engineer Officers) (Amendment) Regulations 1995 and shall come into force on 1st August 1995.

2. The Fishing Vessels (Certification of Deck Officers and Engineer Officers) Regulations 1984(6) shall be amended as follows.

3. In regulation 1(2) there shall be inserted:

(i) after the definition of “the Act of 1979” the following definitions:

““certificate of equivalent competency” means a certificate entitled “certificate of equivalent competency” issued under regulation 6A below;

(1) S.I.1989/1327.

(2) 1972 c. 68.

(3) 1970 c. 36.

(4) Section 43 was amended by the Merchant Shipping Act 1979 (c. 39), section 37(2) and (3).

(5) See S.I. 1970/1537.

(6) S.I. 1984/1115.

“equivalent foreign certificate” means a certificate, issued by an authority of a specified country outside the United Kingdom, referred to in regulation 7A below;” and

- (ii) at the end of “specified by the Secretary of State”, the following—
 “and in relation to certificates of equivalent competency, means specified in Merchant Shipping Notice M. 1559 and any subsequent amendment to that Notice which is considered by the Secretary of State to be relevant from time to time and is specified in a Merchant Shipping Notice”.

4. There shall be inserted after regulation 1 the following regulation:

“Designated Authority

1A. The Secretary of State for Transport is the designated authority for the purposes of Council Directive [92/51/EEC](#)(7) on a second general system for the recognition of professional education and training to supplement Directive [89/48/EC](#)(8) in respect of the following professions:

FISHING VESSEL OFFICER CLASS 1 FISHING VESSEL OFFICER CLASS 2 FISHING VESSEL OFFICER CLASS 3”.

5. Regulation 5(1) shall be replaced by the following:

- (a) “(1) Subject to sub-paragraph (b) below, for the purposes of these Regulations an officer shall be qualified if he is the holder for the time being of:
- (i) a certificate of competency issued under these Regulations; or
 - (ii) a certificate which is to be treated as equivalent to such a certificate of competency by virtue of regulation 7 below; or
 - (iii) an equivalent foreign certificate and a certificate of equivalent competency, and if also, at the material time, the certificate or certificates, are in force in relation to the person named in it and are of a type (whether deck or engineer) and class appropriate to the officer’s capacity in the fishing vessel.
- (b) (i) Notwithstanding sub-paragraph (a)(iii) above, before 1st August 1997 an officer who is the holder of a certificate issued prior to 1st August 1995 by a relevant country shall be qualified for the purpose of these Regulations, provided that at any material time until 1st August 1997 such certificate held by him is in force in relation to the person named in it and is of a class appropriate to the officer’s capacity in that fishing vessel.
- (ii) In this sub-paragraph “relevant country” means a country specified by the Secretary of State as a country whose certificates were recognised immediately prior to 1st August 1995 as having the same force as certificates under these Regulations.”.

6. There shall be inserted after regulation 6 the following new regulation:

“Certificates of equivalent competency

6A. Subject to regulation 8 below, the Secretary of State may authorise any person already holding an equivalent foreign certificate to serve as an officer and shall accordingly

(7) O.J. No. L209, 24.7.92, p.25.

(8) O.J. No. L19, 24.1.89, p.16.

issue to such person a certificate of equivalent competency under this regulation of equivalent class and with the same endorsements as the equivalent foreign certificate.”.

7. There shall be inserted after regulation 7 the following regulation:

“Equivalent foreign certificates

7A. The Secretary of State may specify that the standard of competence to be attained by officers of any description is, in whole or in part, the standard of competence required for the issue of a certificate of competence by an authority empowered in that behalf by the laws of a specified country outside the United Kingdom.”.

8. In regulation 8:

- (i) in paragraph (1) “paragraphs (3) and (4)” shall be substituted for “paragraph (3)”;
- (ii) in paragraph (1)(a) there shall be inserted “or certificate of equivalent competency” after “certificate of competency”;
- (iii) in the tailpiece to paragraph (1) all the words after “Secretary of State” shall be replaced by:—
 - “either
 - (i) in relation to certificates of competency or certificates of equivalent competency in general; or
 - (ii) in relation to either of such certificates of a particular class as may be so specified.”;
- (iv) in paragraph 8(3) there shall be inserted “, a certificate of equivalent competency” after “certificate of competency”;
- (v) there shall be added the following paragraph—
 - (a) “(4) This paragraph applies when, pursuant to regulation 7A, the Secretary of State has recognised the standard of competence required for the issue of a certificate by an authority of some country outside the United Kingdom as being in part the standard to be obtained for officers qualified for the purposes of these Regulations.
 - (b) In such cases any conditions by the Secretary of State specified for the issue of a certificate of equivalent competency shall be limited to—
 - (i) an aptitude test for the purpose of assessing the applicant’s ability to pursue the profession of officer on United Kingdom fishing vessels, in the light of subjects, training and related assessment procedures which differ substantially from those covered by the applicant’s equivalent certificate, necessary to pursue that profession; or
 - (ii) in the case of applicants who are EEA nationals, (at the applicant’s option except as provided in Merchant Shipping Notice M. 1559), to an adaptation period, as specified by the Secretary of State.”.

9. In regulation 9:

- (i) in paragraph (1) there shall be inserted “, certificates of equivalent competency” after “Certificates of competency”;
- (ii) paragraph (2) shall be renumbered as paragraph (2)(a), and the following sub-paragraph added as (b):
 - “(b) (i) A certificate of equivalent competency shall remain valid only so long as the holder holds a valid equivalent foreign certificate.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(ii) A certificate of equivalent competency may be issued for a limited period where the equivalent foreign certificate does not require revalidation at intervals.”;

(iii) in paragraph (3) there shall be inserted “and certificates of equivalent competency” after “certificates of competency”.

10. In regulation 10 there shall be inserted “or certificate of equivalent competency” after “certificate of competency”.

11. In regulation 11 “or certificate of equivalent competency” shall be inserted after “certificate of competency” in both paragraphs (1) and (2).

Signed by authority of the Secretary of State for Transport

1st June 1995

Goschen
Parliamentary Under Secretary of State,
Department of Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fishing Vessels (Certification of Deck Officers and Engineer Officers) Regulations 1984. The Regulations give effect, in relation to Fishing Vessel Class I Officers, Fishing Vessel Class II Officers and Fishing Vessel Class III Officers, to Council Directive [92/51/EEC](#) (OJNo. L209, 24.7.92, p.25) on a second general system for the recognition of professional education and training to supplement Directive [89/48/EC](#).

They provide for the recognition of equivalent foreign certificate issued by certain authorities abroad, and provide for the issue of certificates of equivalent competency for the holders of such certificates to enable the holders to serve as qualified officers on United Kingdom fishing vessels in the appropriate position. There is provision for aptitude tests or adaptation periods, but only to the extent that such foreign certifications are not equivalent to United Kingdom certificates. Certificates of equivalent competency are made certificates under section 43 of the Merchant Shipping Act 1970.

There is a saving by which certificates of equivalent competency are not required until 1st August 1997 by certain holders of certificates issued before that date by those countries where certificates were recognised before 1st August 1995.

A cost compliance assessment has been prepared and copies can be obtained from the Marine Information Centre, Marine Safety Agency, Department of Transport, Spring Place, 105b Commercial Road, Southampton SO15 1EG. A copy has been placed in the library of each House of Parliament.

Merchant Shipping Notices are obtainable from the Marine Information Centre, Marine Safety Agency, Department of Transport, Spring Place, 105 Commercial Road, Southampton SO15 1EG, and from any Marine Office of the Marine Safety Agency.