
STATUTORY INSTRUMENTS

1995 No. 1429

MERCHANT SHIPPING

MASTERS AND SEAMEN

The Merchant Shipping (Certification of Deck and Marine Engineer Officers) (Amendment) Regulations 1995

<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:—

INTRODUCTION

Citation and commencement

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

(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.

PART I

Amendment of the Merchant Shipping (Certification of Deck Officers) Regulations 1985

2. The Merchant Shipping (Certification of Deck Officers) Regulations 1985(6) shall be amended as follows in regulations 3 to 12 below.

3. In regulation 2:

(i) there shall be inserted after the definition of “certificate of competency” the following definition:

““certificate of equivalent competency” means a document entitled “certificate of equivalent competency” issued under regulation 4A below;”;

(ii) there shall be inserted after the definition of “command endorsement” the following definition:

““equivalent foreign certificate” means a certificate, issued by an authority of a specified country outside the United Kingdom, referred to in regulation 5(1) below;”;

(iii) there shall be added to the end of the definition of “specified by the Secretary of State”, the following:

“and in relation to certificates of equivalent competency means specified in Merchant Shipping Notice 1558 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. After regulation 2 the following regulation shall be inserted:

“Designated Authority

2A.—(1) The Secretary of State for Transport is the designated authority for the purposes of Council Directive 89/48/EEC(7) on a general system for the recognition of higher education diplomas awarded on the completion of professional education and training of at least three years duration in respect of the following profession:

DECK OFFICER CLASS 1 (Master Mariner)

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

DECK OFFICER CLASS 2 DECK OFFICER CLASS 3
DECK OFFICER CLASS 4 DECK OFFICER CLASS 5.”

5. For paragraph (2) of regulation 4 there shall be substituted the following:

(a) “(2) 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 5(2) to (9) below; or

(6) S.I. 1985/1306; the only relevant amending instrument is S.I. 1987/884.

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

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

(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 class appropriate to the officer's capacity in the ship.

(b) (i) Notwithstanding sub-paragraph (a)(iii) above, before 1st August 1997 an officer who is the holder of a certificate issued prior to that date by a relevant country shall be qualified for the purpose of these Regulations, provided that at any material time prior to 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 ship.

(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 the Regulations."

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

"Certificates of equivalent competency

4A. Subject to regulation 6 below, the Secretary of State may authorise any person already holding an equivalent foreign certificate to serve as an officer and shall accordingly 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. For the heading to regulation 5 and paragraph (1) of that regulation there shall be substituted the following heading and paragraph:

"Equivalent foreign certificates, and certificates equivalent to a certificate of competency

5.—(1) The Secretary of State may specify that the standard of competence to be attained by deck 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 6:

(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, or either of such certificates with a command endorsement in general; or

(ii) in relation to any of such certificates of a particular class as may be so specified.";

(iv) in paragraph (3) there shall be added "a certificate of equivalent competency" after "certificate of competency,";

(v) there shall be added the following paragraph—

- (a) “(4) This paragraph applies where, pursuant to regulation 5(1), 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 deck officers qualified for the purposes of these Regulations.
- (b) In such cases any conditions specified by the Secretary of State 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 deck officer on United Kingdom ships, in the light of subjects and 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 M Notice No. M 1558), an adaptation period, as specified by the Secretary of State.”

9. In regulation 10:

- (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 a new 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.
 - (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 “, all certificates of equivalent competency” after “certificates of competency”.

10. In regulation 11 there shall be inserted “or a certificate of equivalent competency” after “certificate of competency”.

11. In regulation 18, there shall be inserted after the first sentence the following sentence:

“If either of those officers is the holder of a certificate of equivalent competency, then either his equivalent foreign certificate or his certificate of equivalent competency shall have been appropriately endorsed by the issuing authority (in the case of an equivalent foreign certificate) or the Secretary of State (in the case of a certificate of equivalent competency).”

12. In regulation 19 there shall be inserted “, a certificate of equivalent competency” after “certificate of competency” in both paragraphs (1) and (2).

PART II

Amendment of the Merchant Shipping (Certification of Marine Engineer Officers and Licensing of Marine Engine Operators) Regulations 1986

13. The Merchant Shipping (Certification of Marine Engineer Officers and Licensing of Marine Engine Operators) Regulations 1986⁽⁹⁾ shall be amended as follows in regulations 14 to 24 below.

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

(9) 1986/1935, relevant amending instrument is S.I. 1987/884.

- (i) after the definition of “certificate of competency” the following definition:
 - ““certificate of equivalent competency” means a document entitled “certificate of equivalent competency” issued under regulation 5A below”;
- (ii) after the definition of “certificate of service (engineer officer)” the following definition:
 - ““equivalent foreign certificate” means a certificate, issued by an authority of a specified country outside the United Kingdom, referred to in regulation 6(2) below;”;
- (iii) at the end of the definition of “specified by the Secretary of State”, the following—
 - “and in relation to certificates of equivalent competency means specified in Merchant Shipping Notice M. 1558 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”.

15. After regulation 2 the following regulation shall be inserted:

“Designated Authority

2A.—(1) The Secretary of State for Transport is the designated authority for the purposes of Council Directive [89/48/EEC](#) on a general system for the recognition of higher education diplomas awarded on the completion of professional educations and training of at least three years duration in respect of the following profession:

ENGINEER OFFICER CLASS 1

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

ENGINEER OFFICER CLASS 2 ENGINEER OFFICER CLASS 3 ENGINEER OFFICER CLASS 4”.

16. Regulation 4(2) shall be replaced by the following:

- (a) “(2) Subject to paragraph (b) below, for the purposes of these Regulations an engineer 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 of such a certificate of competency by virtue of regulation 6(2) 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 class appropriate to the engineer officer’s capacity in the ship.
- (b) (i) Notwithstanding sub-paragraph (a)(iii) above, before 1st August 1997 an officer who is the holder of a certificate issued prior to that date by a relevant country shall be qualified for the purpose of these Regulations, provided that at any material time prior to 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 ship.
- (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 the Regulations.”.

17. There shall be inserted after regulation 5 the following regulation:

“Certificates of equivalent competency

5A. Subject to regulation 6 below, the Secretary of State may authorise any person already holding an equivalent foreign certificate to serve as an officer and shall accordingly 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.”.

18. In regulation 6:

(i) the heading shall be replaced by the heading “*Certificates equivalent to a certificate of competency, and equivalent foreign certificates*”;

(ii) paragraph (2) shall be replaced by the following paragraph:

“(2) The Secretary of State may specify that the standard of competence to be attained by engineer 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.”.

19. In regulation 7:

(i) in paragraph (1) “paragraphs (2) and (3)” shall be substituted for “paragraph (2)”;

(ii) there shall be inserted in paragraph (1)(a) “or certificate of equivalent competency” after “certificate of competency” where those words first appear;

(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 or either of such certificates, with a command endorsement in general; or

(ii) in relation to any of such certificates of a particular class as may be so specified.”;

(iii) in paragraph (2) there shall be added “certificate of equivalent competency” after “certificate of competency.”;

(iv) there shall be added the following paragraph—

(a) “(3) This paragraph applies where, pursuant to regulation 6(2), 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 engineer officers qualified for the purposes of these Regulations.

(b) In such cases any conditions specified by the Secretary of State 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 engineer officer on United Kingdom ships, in the light of subjects and 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. 1558), an adaptation period, as specified by the Secretary of State.”

20. In regulation 9:

- (i) 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.
 - (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”.

21. In regulation 10 “a certificate of equivalent competency” shall be added after “certificate of competency”.

22. In each of sub-paragraphs (a), (b) and (c) of regulation 18(1) there shall be inserted “or certificate of equivalent competency” after “certificate of service”.

23. In regulation 20(c), there shall be inserted after the first sentence of paragraph (i), and at the end of paragraph (ii):

“If either of those officers is the holder of a certificate of equivalent competency then either his equivalent foreign certificate or his certificate of equivalent competency shall have been appropriately endorsed by the issuing authority (in the case of an equivalent foreign certificate) or the Secretary of State (in the case of a certificate of equivalent competency).”

24. In regulation 21—

- (i) in paragraph (1), after “certificate of service” there shall be inserted “, certificate of equivalent competency”;
- (ii) in paragraph (2), after “certificate of service” there shall be inserted “or a certificate of equivalent competency”.

PART III

Amendment of the European Communities (Recognition of Professional Qualifications) Regulations 1991

25. The European Communities (Recognition of Professional Qualifications) Regulations 1991(10) are hereby amended by omitting from Part I of Schedule 1 the following entries:

(Profession)	(Designated Authority)
DECK OFFICER CLASS 1 (Master Mariner)	Secretary of State for Transport
MARINE ENGINEERING OFFICER CLASS 1	Secretary of State for Transport

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

Signed by authority of 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 Merchant Shipping (Certification of Deck Officers) Regulations 1985 and the Merchant Shipping (Certification of Marine Engineer Officers and Licensing of Marine Engine Operators) Regulations 1986. The Regulations give effect, in relation to Deck Officers Class I (Master Mariner) and Marine Engineering Officers Class I, to Council Directive [89/48/EEC](#) (O.J. No. L19, 24.1.89, p.16) on a general system of the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration; and, in relation to the other certificates specified in the Regulations, to Council Directive [92/51/EEC](#) (O.J. No. 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 certificates issued by certain authorities abroad, and 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 ships in the appropriate position. There is provision for aptitude tests or adaptation periods, but only to the extent that such foreign certificates are not equivalent to United Kingdom certificates.

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 whose 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, 105 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, Spring Place, 105 Commercial Road, Southampton SO15 1EG, and from any Marine Office of the Marine Safety Agency.