



STATUTORY INSTRUMENTS.

S.I. No. 242 of 2014



EUROPEAN UNION (TRAINING, CERTIFICATION AND
WATCHKEEPING FOR SEAFARERS) REGULATIONS 2014

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EUROPEAN UNION (TRAINING, CERTIFICATION AND WATCHKEEPING FOR SEAFARERS) REGULATIONS 2014

I, LEO VARADKAR, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purposes of giving effect to Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008¹ (as amended by Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012²), hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Training, Certification and Watchkeeping for Seafarers) Regulations 2014.

Interpretation

2. (1) In these Regulations—

“approved” means approved by the Minister;

“authorised officer” means a person appointed under section 724 of the Merchant Shipping Act 1894 (c. 60) to be a surveyor of ships;

“certificate” means a valid document, by whatever name it may be known, issued by or under the authority of the Minister under these Regulations, or recognised by the Minister, authorising the lawful holder to serve as stated in the document;

“certificate of competency” means a certificate, other than a certificate of proficiency, issued under Regulation 10;

“certificate of equivalent competency” means a document entitled “certificate of equivalent competency” issued under Regulation 12(1) or (2);

“certificate of equivalent proficiency” means a document entitled “certificate of equivalent proficiency” issued under Regulation 12(1) or (2);

“certificate of proficiency” means a certificate, other than a certificate of competency, issued under Regulation 10;

“code” means the Seafarers’ Training, Certification and Watchkeeping Code and any amendments thereto up to and including those amendments adopted by the Maritime Safety Committee of the International Maritime Organisation at its eighty-fourth session held between 21 to 25 June 2010;

¹OJ No. L 323, 3.12.2008, p.33

²OJ No. L 343, 14.12.2012, p.78

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 6th June, 2014.

“Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 and any amendments thereto up to and including those amendments adopted by the Maritime Safety Committee of the International Maritime Organisation at its eighty-fourth session held between 21 to 25 June 2010;

“Directive”, subject to Regulation 31, means Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008¹ (as amended by Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012²);

“fixed payment notice” has the meaning assigned to it by Regulation 26;

“Irish ship” has the same meaning as it has in section 2 of the Merchant Shipping Act 2010 (No. 14 of 2010);

“Marine Notice” means a notice described as such, issued by the Minister and includes a subsequent Marine Notice amending or replacing a Marine Notice;

“Minister” means Minister for Transport, Tourism and Sport;

“partially smooth waters” means the areas of water so specified in a Marine Notice within the period or periods, if any, specified therein;

“Regulations of 1998” means Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1998 (S.I. No. 551 of 1998);

“Regulations of 2005” means Merchant Shipping (Medical Examinations) Regulations 2005 (S.I. No. 701 of 2005);

“Regulations of 2011” means European Communities (Passenger Ships) Regulations 2011 (S.I. No. 322 of 2011);

“Safety Convention” has the same meaning as it has in the Merchant Shipping (Safety Convention) Act 1952 (No. 29 of 1952);

“seagoing”, in relation to a ship, means—

- (a) a ship in respect of which load line certification is required to be in force in accordance with the Merchant Shipping (Load Lines) Act 1968 (No. 17 of 1968),
- (b) a passenger boat of—
 - (i) Class P3,
 - (ii) Class P4, which proceeds to sea,
 - (iii) Class P5, or
 - (iv) Class P6, which proceeds to sea,

in respect of which a passenger boat licence is required to be in force accordance with the Merchant Shipping Act 1992 (No. 2 of 1992),

- (c) a passenger ship of Class I, II, II(A), III or VI in respect of which a passenger ship certificate is required to be in force in accordance with the Merchant Shipping Act 1992,
- (d) a passenger ship of Class A, B, C or D in respect of which a passenger ship safety certificate is required to be in force in accordance with the Regulations of 2011,
- (e) a high-speed passenger craft in respect of which a High Speed Craft Safety Certificate and a Permit to Operate outside waters of Categories A, B, C or D are required to be in force in accordance with the Regulations of 2011,
- (f) a Dynamically Supported Craft (DSC) in respect of which a DSC Construction and Equipment Certificate, and a DSC Permit to Operate High Speed Craft outside waters of Categories A, B, C or D are required to be in force in accordance with the Regulations of 2011, or
- (g) any other vessel that proceeds to sea beyond the limits of smooth or partially smooth waters;

“smooth waters” means any areas of water not being to sea or partially smooth waters, and in particular, the areas of water specified in a Marine Notice.

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

(3) In these Regulations a reference—

- (a) to an Article is a reference to an Article of the Directive,
- (b) to an Annex is a reference to an Annex to the Directive,
- (c) to a Chapter is a reference to a Chapter of Annex I, and
- (d) to Part A is a reference to Part A of the code.

Competent authorities

3. (1) Subject to paragraph (2), the Minister is designated as the competent authority for the purposes of these Regulations and Articles 6, 8(2) and 17.

(2) The Minister may designate by Marine Notice a person or any category of person as an authority for—

- (a) the provision of training under Regulation 7, and
- (b) the conduct of examinations under Regulation 8.

Application

4. (1) These Regulations apply to all masters and seafarers serving on board a seagoing Irish ship wherever it may be, other than—

- (a) a warship, naval auxiliary or other ship owned or operated by the State and engaged only on non-commercial government service,
- (b) a fishing vessel,
- (c) a pleasure yacht not engaged in trade, or
- (d) a wooden ship of primitive build.

(2) Compliance with the Merchant Shipping (Passenger Boat Manning) Regulations 2005 (S.I. No. 649 of 2005) by a person serving on board boats to which those Regulations apply, shall constitute compliance by such a person with the requirements of the Convention.

Prohibition on serving on board in certain circumstances

5. (1) A person shall not serve, or attempt to serve, on a seagoing Irish ship in any capacity to which these Regulations relate unless the person—

- (a) is qualified in accordance with Regulation 6,
- (b) has completed the training specified in Regulation 7, and
- (c) has passed the relevant examination, if any, conducted under Regulation 8.

(2) A person who contravenes subparagraph (a), (b) or (c) of paragraph (1) commits an offence.

Qualification

6. (1) A person is qualified for the purposes of these Regulations if such a person holds a certificate of competency, a certificate of equivalent competency or a certificate to which Regulation 30(2) relates in respect of any function the person is to perform in one of the following capacities:

- (a) master;
- (b) chief mate;
- (c) officer in charge of a navigational watch;
- (d) chief engineer officer;
- (e) second engineer officer;
- (f) officer in charge of an engineering watch;
- (g) electro-technical officer;

(h) GMDSS radio operator.

(2) A person is qualified for the purposes of these Regulations if such a person holds a certificate of proficiency, a certificate of equivalent proficiency or a certificate to which Regulation 30(2) relates in respect of any function the person is to perform in one of the following capacities:

- (a) master of an oil, chemical or liquefied gas tanker;
- (b) chief engineer officer of an oil, chemical or liquefied gas tanker;
- (c) chief mate of an oil, chemical or liquefied gas tanker;
- (d) second engineer officer of an oil, chemical or liquefied gas tanker;
- (e) any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on oil, chemical or liquefied gas tankers as the case may be;
- (f) any person designated to perform any of the emergency, occupational safety, security, medical care and survival functions as specified in Chapter VI.

(3) Every rating forming part of a navigational watch on a ship of 500GT or more, other than ratings under training and ratings whose duties while on watch are of an unskilled nature, shall hold a certificate to perform such duties as specified in Regulation II/4 of Chapter II.

(4) Every able seafarer deck serving on a seagoing ship of 500GT or more shall hold a certificate as specified in Regulation II/5 of Chapter II.

(5) 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 hold a certificate to perform such duties as specified in Regulation III/4 of Chapter III.

(6) Every able seafarer engine serving on a seagoing ship powered by main propulsion machinery of 750kW propulsion power or more shall hold a certificate as specified in Regulation III/5 of Chapter III.

(7) Every electro-technical rating serving on a seagoing ship powered by main propulsion machinery of 750kW propulsion power or more shall hold a certificate as specified in Regulation III/7 of Chapter III.

(8) Every officer and rating assigned specific duties and responsibilities related to cargo or cargo equipment on oil, chemical or liquefied gas tankers shall hold a certificate in basic training for oil, chemical or liquefied gas tanker cargo operations as specified in Regulations V/1-1 or V/1-2 of Chapter V.

(9) Where a person is required to be certified in accordance with Regulation III/10.4 of the Safety Convention that person shall hold a certificate as specified in Regulation VI/2 of Chapter VI.

(10) Every master, officer, rating and other person serving on a passenger ship engaged on—

- (a) an international voyage shall be qualified and trained as specified in Regulation V/2 of Chapter V, and
- (b) a domestic voyage shall be qualified and trained in accordance with those requirements of Regulation V/2 of Chapter V which the Minister specifies in a Marine Notice and the Minister may provide for different standards of qualification and training in respect of different categories of person and different categories of domestic voyage.

(11) In this Regulation “GT” means gross tonnage as defined in the International Convention on Tonnage Measurement of Ships 1969.

Training

7. The training in relation to a certificate shall—

- (a) be provided by a person designated under Regulation 3(2),
- (b) be approved,
- (c) be, at a minimum, the training as required by the Regulation in Annex I corresponding to that certificate, and
- (d) be in a form appropriate to the theoretical knowledge and practical skills required by the Regulation in Annex I corresponding to that certificate.

Examinations

8. The Minister may conduct or arrange for the conduct of examinations of persons who are applying or might apply for a certificate.

Use of simulators

9. The requirements prescribed in Part A, including performance standards and provisions set out in section A-I/12 of Part A, for any certificate shall be complied with in respect of—

- (a) all mandatory simulator-based training,
- (b) any assessment of competence required by Part A 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.

Certificates and endorsements

10. (1) Certificates shall be issued and endorsed by the Minister as provided for by this Regulation.

(2) A certificate of competency shall be issued by the Minister in accordance with paragraphs 1 and 3 of Regulation I/2 of the Annex to the Convention.

(3) A certificate of proficiency shall be issued by the Minister in accordance with paragraph 3 of Regulation I/2 of the Annex to the Convention.

(4) In the case of radio operators, the Minister may:

(a) include the additional knowledge requirement under Chapter IV in the examination for the issue of a certificate complying with the Radio Regulations;

(b) issue a separate certificate indicating that the operator has the additional knowledge required under Chapter IV.

(5) An endorsement shall be issued in accordance with paragraph 2 of Article VI of the Convention.

(6) The Minister may incorporate endorsements in the format of the certificates being issued as provided for in section A-I/2 of the code.

(7) Where the Minister incorporates an endorsement as provided under paragraph (6) the endorsement shall be in the form set out in paragraph 1 of section A-I/2 of the code.

(8) Where the Minister incorporates an endorsement otherwise than as provided under paragraph (6) the endorsement shall be in the form set out in paragraph 2 of section A-I/2 of the code.

(9) An endorsement attesting the issue of a certificate of competency or a certificate of proficiency, as the case may be, issued to a master or an officer in accordance with Regulations V/1-1 or V/1-2 of Chapter V shall not be issued unless the requirements of the Convention and the Directive have been complied with.

(10) Where, under the procedure laid down in Regulation 12, the Minister recognises a certificate of competency or a certificate of proficiency issued to a master or officer in accordance with Regulations V/1-1 and V/1-2 of Chapter V he or she shall not endorse such certificate to attest its recognition unless he or she is satisfied as to the authenticity and validity of the certificate concerned.

(11) The form of an endorsement by the Minister under paragraph (10) shall be that set out in paragraph 3 of section A-I/2 of the code.

(12) Notwithstanding paragraphs (7), (8) and (11), the Minister may use a different form from that laid down in section A-I/2 of the code, provided that at a minimum, the required information is provided in Roman characters and

Arabic figures, taking account of the variations permitted under that section of the code.

(13) The Minister may issue endorsements as separate documents.

(14) Subject to paragraph (15), the Minister shall assign a unique number to every endorsement.

(15) The Minister may assign an endorsement attesting the issue of a certificate of competency the same number as the certificate of competency, provided that the number is unique.

(16) An endorsement of a certificate of competency or certificate of proficiency issued to a master or officer in accordance with Regulations V/1-1 and V/1-2 of Chapter V shall expire—

(a) as soon as such certificate is withdrawn, suspended or cancelled by the Minister, Member State or third country which issued it, or

(b) within 5 years of the date of issue of the endorsement,

whichever date is the earliest.

(17) The Minister shall identify the capacity in which the holder of a certificate is authorised to serve in terms identical to those used in the safe manning document required under the Regulations of 1998.

(18) A holder of a certificate issued by the Minister under these Regulations must keep the certificate available in its original form on board the ship on which the holder is serving.

(19) A person seeking a certificate, other than a person seeking recognition of an endorsement under Regulation I/10 of the Convention, shall provide satisfactory proof to the Minister—

(a) of their identity,

(b) that their age is not less than the age prescribed in Annex I corresponding to the certificate applied for,

(c) that they meet the standards of medical fitness, specified in the Regulations of 2005,

(d) that they have completed the seagoing service and any related compulsory training prescribed in Annex I corresponding to the certificate applied for, and

(e) that they meet the relevant standards of competence prescribed in Annex I for the capacities, functions and levels that are to be identified in the endorsement of the certificate.

(20) The Minister may issue a certificate of competency limited to service on near-coastal voyages in accordance with the provisions relating to near-coastal voyages contained in Part A.

(21) The Minister shall incorporate near-coastal voyage limits referred to in paragraph (20) in an endorsement issued under this Regulation.

(22) In this Regulation “near-coastal voyage” means a voyage during which the vessel is at any time during the voyage not more than 170 nautical miles from the coast of the State or not more than 30 nautical miles from the coast of the United Kingdom.

(23) A person who fails to comply with paragraph (18) commits an offence.

Revalidation of certificates

11. (1) The Minister may, in accordance with this Regulation, revalidate a certificate.

(2) A person, referred to in Regulation 6(1), who holds a certificate of competency issued or recognised by the Minister under any part of Annex I other than Chapter VI, who is serving at sea or intends to return to sea after a period ashore shall, at intervals not exceeding 5 years, in order to continue to qualify for seagoing service and revalidation of such certificate—

(a) meet the standard of medical fitness prescribed by the Regulations of 2005, and

(b) establish continued professional competence in accordance with section A-I/11 of the code.

(3) Where a person referred to in paragraph (2) is seeking revalidation for service on board a ship for which special training requirements have been internationally agreed upon, the person shall successfully complete relevant approved training.

(4) A person, referred to in Regulations 6(2)(a) to (d) who holds a certificate of proficiency for seagoing service on board an oil, chemical or liquefied tanker, who is serving at sea or intends to return to sea after a period ashore shall, at intervals not exceeding 5 years, in order to continue to qualify for such seagoing service and revalidation of such certificate—

(a) meet the requirements of paragraph (2), and

(b) establish continued professional competence for tankers in accordance with paragraph 3 of section A-I/11 of the code.

Recognition of certificates

12. (1) The Minister shall recognise—

(a) a certificate of competency, and

- (b) a certificate of proficiency for masters or officers serving on board oil, chemical or liquefied gas tankers,

issued by another Member State.

(2) The Minister may recognise a certificate of competency or certificate of proficiency issued to a seafarer by or under the authority of the government of another state where the Minister is satisfied that—

- (a) a decision on the recognition of the certificate has been adopted in accordance with paragraphs 2 to 6 of Article 19,
- (b) prompt notification will be given to the Minister of any significant change in the arrangements for training and certification in that state, and
- (c) measures are in place to ensure that where the seafarer is applying for recognition of a certificate for functions at management level that he or she has an appropriate knowledge of the legislation of the State relevant to the functions they are permitted to perform.

(3) Without prejudice to Regulation 10, recognition under paragraph (1) or (2) shall be in the form of an endorsement in a separate document entitled “certificate of equivalent competency” or “certificate of equivalent proficiency”.

(4) The Minister may allow a seafarer to serve in a capacity other than as radio officer or radio operator (except as provided by the Radio Regulations) for a period not exceeding 3 months on board an Irish ship, while holding an appropriate and valid certificate issued and endorsed as required by a third country but not yet endorsed for recognition by the Minister so as to render it appropriate for service on board an Irish ship.

(5) An applicant for an endorsement under paragraph (4) shall keep documentary proof of such application readily available on board a ship on which he or she is serving.

(6) In this Regulation “state” means a country that is recognised by the European Commission under Article 19(3), is a party to the Convention and is a country in which the Convention has entered into force.

Refusal of certificates and appeal against refusal

13. (1) Notwithstanding that an applicant for a certificate complies with the standards or fulfils the conditions required by, or by virtue of, these Regulations the Minister shall not issue, revalidate or recognise the certificate unless satisfied that the applicant is a fit person to be the holder of such certificate and to act in the capacity to which such certificate relates.

(2) Where, pursuant to paragraph (1), the Minister refuses to issue, revalidate or recognise a certificate, he or she shall notify the applicant in writing of his or her refusal and the reasons therefor and shall, if any representations are made

in writing to him or her by or on behalf of such applicant within 21 days of such notification, consider those representations.

(3) Where the Minister after considering any representations made under paragraph (2) maintains his or her decision to refuse to issue, revalidate or recognise a certificate then the Minister shall notify the applicant in writing of the decision and such applicant may within 21 days of receipt of such notification appeal to the District Court against such decision.

(4) A decision to refuse to issue, revalidate or recognise a certificate has effect pending an appeal under this Regulation unless the judge of the District Court before whom the appeal is brought directs otherwise.

(5) On the hearing of an appeal under this Regulation, the District Court may either confirm the refusal or allow the appeal and, where an appeal is allowed, the Minister shall issue, revalidate or recognise the certificate, as the case may be.

(6) A decision of the District Court on an appeal under this Regulation shall be final save that, by leave of the Court, an appeal from the decision shall lie to the High Court on a specified question of law.

Replacement certificate

14. (1) If a person loses or is deprived of a certificate issued to him or her, the Minister shall, if satisfied that the person has lost or been deprived of the certificate without fault on his or her part, issue a replacement certificate to the person.

(2) If a person loses or is deprived of a certificate issued to him or her, the Minister may, if not satisfied that the person has lost or been deprived of the certificate without fault on his or her part, issue a replacement certificate to the person upon receipt of a fee, not exceeding the cost of providing the replacement certificate.

Register

15. (1) The Minister shall establish and maintain a register of certificates to be known as the Irish Register of Seafarers Certificates (in this section referred to as “the Register”).

(2) Each certificate issued under these Regulations shall be registered in the Register.

(3) The Register shall consist of different Parts, as deemed necessary by the Minister to facilitate the registration of different certificates and endorsements and for different purposes and circumstances.

(4) The Register shall, subject to paragraph (5), contain particulars (if any), in relation to certificates, of the following:

(a) the name and address of the holder of a certificate;

- (b) any change of address of the holder of a certificate;
- (c) the number of a certificate;
- (d) the date of the grant of a certificate;
- (e) the endorsement, together with any limits therein, of a certificate;
- (f) the revalidation of a certificate under Regulation 11;
- (g) the recognition by the Minister of a certificate under Regulation 12;
- (h) an appeal under Regulation 13;
- (i) the suspension or cancellation applying to a certificate, including the period of suspension or cancellation, a reference to the reason for the suspension or cancellation and particulars of all removals of such suspensions or cancellations as the case may be;
- (j) details of any replacement certificate, including a reference to the reason provided by the holder for the loss and the decision of the Minister as to whether to issue a replacement certificate;
- (k) details of any dispensation granted under Regulation 18;
- (l) any other particulars which the Minister deems necessary having regard to the code.

(5) The Register shall contain the particulars—

- (a) of a certificate of competency and endorsement attesting issue of the certificate, as referred to in paragraph 1 of Annex V, and
- (b) of a certificate of proficiency issued to a rating in accordance with Chapter II, III or VIII of the Annex to the STCW Convention, as referred to in paragraph 2 of Annex V.

(6) The Minister may amend the form of the Register as he or she deems appropriate or to give effect to technical changes required by European Union law, international treaties and conventions and for the proper administration of the Register.

(7) Information contained in the Register shall, subject to a determination by the Minister that certain information relating to a person referred to in the Register should remain confidential, be available for inspection at all reasonable times.

(8) The Minister may amend the Register where—

- (a) an error has occurred, or

(b) sufficient evidence is produced to satisfy the Minister that an entry is incorrect.

(9) The Register may be maintained in a form that is not legible if it is capable of being converted into a legible form.

Responsibilities of companies

16. (1) A company shall ensure that—

- (a) a seafarer assigned to any of its Irish ships is qualified and certified in accordance with these Regulations,
- (b) its Irish ships are manned in accordance with the Regulations of 1998,
- (c) documentation and data relevant to all seafarers employed on its Irish ships are maintained and are readily accessible, and include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties,
- (d) on being assigned to any of its Irish ships seafarers are familiarised with their specific duties and with all ship arrangements, installations, equipment, procedures and characteristics that are relevant to their routine or emergency duties,
- (e) the ship's crew can effectively coordinate their activities in an emergency situation and in performing functions vital to safety and to the prevention or mitigation of pollution,
- (f) seafarers assigned to any of its Irish ships have received refresher and updating training as required by the Convention, and
- (g) there is at all times on board its Irish ships effective oral communication in accordance with paragraphs 3 and 4 of Regulation 14 of Chapter V of the Safety Convention.

(2) Companies and seafarers shall take all reasonable measures to ensure that the obligations set out in this Regulation are given full and complete effect and that such other measures as may be necessary to ensure that each crew member can make a knowledgeable and informed contribution to the safe operation of an Irish ship are taken.

(3) A company shall provide written instructions to the master of an Irish ship setting out the policies and procedures to be followed to ensure that a newly employed seafarer is given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of his or her duties before being assigned to those duties.

- (4) The policies and procedures referred to in paragraph (3) shall include—
- (a) the allocation of a reasonable period of time for a newly employed seafarer to have an opportunity to become acquainted with—
 - (i) the specific equipment the seafarer will be using or operating, and
 - (ii) ship-specific watchkeeping, safety, environmental protection, security and emergency procedures and arrangements that the seafarer needs to know to perform the assigned duties properly,
 and
 - (b) the designation of a knowledgeable crew member who will be responsible for ensuring that a newly employed seafarer is given an opportunity to receive essential information in a language the seafarer understands.

(5) A company shall ensure that seafarers assigned specific duties and responsibilities on board their ro-ro passenger ships shall have completed familiarisation training to attain the abilities that are appropriate to the capacity to be filled and duties and responsibilities to be taken up, taking into account the guidance given in section B-I/14 of the code.

(6) A company that fails to comply with this Regulation commits an offence.

Responsibilities of masters

17. (1) A master shall ensure that every person engaged by them is certified in accordance with these Regulations.

(2) Where any service, which under these Regulations must be performed by a person who is certified in accordance with these Regulations, is to be performed, a master shall ensure that the service is performed by a person who—

- (a) is certified in accordance with these Regulations,
- (b) has the necessary permission under Regulation 12(4), or
- (c) has a dispensation under Regulation 18.

(3) A master who fails to comply with this Regulation commits an offence.

Dispensations

18. (1) Subject to this Regulation, the Minister may, in exceptional circumstances, if in his or her opinion there is no danger to persons, property or the environment, issue a dispensation permitting a seafarer to serve on a ship for a period, not exceeding 6 months, in a capacity for which that person does not hold the appropriate certificate, provided that the Minister is satisfied that the person to whom the dispensation is issued is adequately qualified to fill the vacant post in a safe manner.

(2) The Minister may not issue a dispensation under paragraph (1)—

- (a) to a seafarer to serve as the radio operator except as provided for by the Radio Regulations, or
- (b) to a master or chief engineer officer except in circumstances of *force majeure* and then only for the shortest possible period.

(3) A dispensation under paragraph (1) may not be issued to a person unless that person is properly certificated for the post immediately below that for which a dispensation is sought.

(4) Where certification of the post immediately below that for which a dispensation is sought is not required by the Convention the Minister may issue a dispensation to a person whose qualification and experience are in the opinion of the Minister of equivalence to the requirements of the post to be filled, provided that if such a person holds no certificate of competency, the person shall be required to pass a test accepted by the Minister as demonstrating that the dispensation may be issued.

(5) The Minister shall ensure that a vacant post is filled by the holder of an appropriate certificate as soon as possible.

Inquiry

19. (1) Where it appears to the Minister that the holder of a certificate is unfit to discharge his or her duties relating to that certificate, due to—

- (a) the holder's incompetence, or
- (b) an act, omission or compromise to security by the holder,

in a manner that may cause a direct threat to safety of life or property at sea or to the marine environment, the Minister may cause an inquiry to be held by a person appointed by him or her for that purpose and may, pending the outcome of the inquiry, suspend any certificate issued to the holder in relation to whom the inquiry is to be held and require the holder to surrender the certificate to the Minister.

(2) The Minister may arrange for the conduct of an inquiry under this Regulation and may provide for the appointment of one or more than one assessor to assist a person holding such an inquiry.

(3) As soon as practicable after its conclusion the person holding an inquiry under this Regulation—

- (a) shall make a report on the inquiry to the Minister,
- (b) may cancel or suspend any certificate held by the person in relation to whom the inquiry was held,

(c) may make such order relating to the costs of the inquiry as he or she thinks just.

(4) Any costs which a person is ordered to pay under this Regulation may be recovered from that person by the Minister as a simple contract debt in a court of competent jurisdiction.

(5) A person in relation to whom an inquiry under this Regulation is to be, or has been, held may appeal to the High Court against a suspension or cancellation under this Regulation and the High Court may revoke the suspension or cancellation.

Return of certificate

20. (1) Any certificate suspended or cancelled under Regulation 19 shall be returned to the Minister by the holder as soon as practicable after it is suspended or cancelled.

(2) A person who fails, or refuses, to comply with paragraph (1) commits an offence.

Restoration or re-issue of certificate

21. Subject to Regulation 19(5), the Minister may restore or re-issue a certificate suspended or cancelled under Regulation 19 or reduce the period of suspension imposed under that Regulation.

Fees

22. (1) The Minister may charge a fee in respect of an application for—

- (a) an examination,
- (b) a certificate,
- (c) a replacement certificate,
- (d) an endorsement,
- (e) a revalidation of a certificate,
- (f) a recognition of a certificate, and
- (g) a dispensation,

not exceeding the cost of providing the service to which the fee relates.

(2) A fee payable under this Regulation may be recovered by the Minister from the person by whom it is payable as a simple contract debt in a court of competent jurisdiction.

(3) A fee payable to the Minister under this Regulation shall be disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform may direct.

Forgery

23. (1) A person shall not forge or utter knowing it to be forged a certificate, an endorsement, a dispensation, a document or other thing required by these Regulations.

(2) A person shall not alter with intent to defraud or deceive, or utter knowing it to be so altered a certificate, an endorsement, a dispensation, a document or other thing required by these Regulations.

(3) A person shall not have, without lawful authority (the proof of which lies on him or her), in his or her possession or under his or her control any document or thing that has been forged or altered in contravention of paragraph (1) or (2).

(4) A person shall not obtain or attempt to obtain by fraud or forged documents an engagement to perform any function or serve in any capacity that under these Regulations must be performed or fulfilled by a person holding a certificate or dispensation.

(5) A person who contravenes this Regulation commits an offence.

(6) A person who commits an offence under this Regulation is liable—

(a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 3 months, or both, or

(b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 12 months, or both.

Powers of authorised officer

24. (1) An authorised officer shall, for the purposes of ascertaining whether these Regulations have been or are being complied with, have the power to do one or more than one of the following:

(a) board, enter and search any Irish ship on which the authorised officer has reasonable grounds to believe that an offence under Regulation 5(2), 10(23), 16(6), 17(3), 20(2) or 23(5) has been or is being committed;

(b) inquire into, search, examine and inspect the records kept on any Irish ship and for that purpose take with him or her from the ship any document or thing;

(c) require the person in charge of any Irish ship to produce to the authorised officer any records and, in the case of such information in non-legible form, to reproduce it in legible form and to give to the authorised officer such information as he or she may reasonably require in relation to any entries in those records;

(d) inspect and take copies of or extracts from any such records or any electronic information system on any Irish ship, including in the case of information in a non-legible form, copies of or extracts from such

information in a permanent legible form or require that such copies be provided;

- (e) require a person on any Irish ship by whom or on whose behalf a computer is or has been used to produce or store records or any person having control of, or otherwise concerned with the operation of the computer, to afford the authorised officer access thereto and all reasonable assistance as the authorised officer may require;
- (f) remove and retain from any Irish ship records (including documents stored in a non-legible form) and copies taken thereof and detain the records for such period as the authorised officer reasonably considers to be necessary for further examination or until the conclusion of any legal proceedings;
- (g) require that records on any Irish ship be maintained for such period as may be reasonable;
- (h) require the person in charge of any Irish ship to give the authorised officer such information as the authorised officer may reasonably require for the purposes of any search, examination, investigation, inspection or inquiry under these Regulations;
- (i) require the person in charge of any Irish ship to give the authorised officer such assistance and facilities within the person's power or control as are reasonably necessary to enable the authorised officer to exercise any of his or her powers under this Regulation.

(2) Where an authorised officer, upon reasonable grounds, believes that a person has committed an offence under these Regulations the authorised officer may require that person to provide him or her with his or her name and the address at which he or she ordinarily resides.

(3) A person shall not—

- (a) obstruct or interfere with an authorised officer in the course of the exercise by him or her of a power conferred on him or her by these Regulations,
- (b) impede the exercise by an authorised officer, of a power conferred on him or her by these Regulations,
- (c) fail or refuse to comply with a request or requirement of, or to answer a question asked by an authorised officer pursuant to a power conferred by these Regulations, or
- (d) in purported compliance with a request or requirement or in answer to a question under paragraph (c) give information to an authorised officer that he or she knows to be false or misleading in any material respect.

(4) A person who contravenes paragraph (3) commits an offence.

(5) In this Regulation—

“person in charge” means, in relation to an Irish ship—

- (a) the person under whose direction and control the activities on board that ship are being conducted or,
- (b) the person whom the authorised officer has reasonable grounds for believing is in control of that ship;

“record” includes any memorandum, book, report, certificate, statement, register, plan, chart, map, drawing, specification, diagram, pictorial or graphic work or other document, any photograph, film or recording (whether of sound or images or both), any form in which data (within the meaning of the Data Protection Acts 1988 and 2003) are held, any form (including machine-readable form) or thing in which information is held or stored manually, mechanically or electronically, and anything that is a part or copy, in any form, of any, or any combination, of the foregoing.

Penalties

25. A person who commits an offence under these Regulations is liable, on summary conviction, to a class A fine.

Fixed payment notice

26. (1) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence under Regulation 5(2), 10(23), 16(6), 17(3), 20(2), 23(5) or 24(4) and is liable to summary prosecution in respect thereof, the authorised officer may give to the person a notice in writing (in these Regulations referred to as a “fixed payment notice”) stating that—

- (a) the person is alleged to have committed that offence,
- (b) the person may during the period of 21 days beginning on the date of the notice make to the Minister at the address specified in the notice a payment in the amount specified in paragraph (5) in respect of that offence, accompanied by the notice,
- (c) the person is not obliged to make the payment specified in the notice, and
- (d) a prosecution of the person to whom the notice is given in respect of the alleged offence will not be instituted during the period of 21 days beginning on the date of the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

- (2) Where a fixed payment notice is given under paragraph (1)—
- (a) the person to whom it applies may, during the period of 21 days beginning on the date of the notice, make to the Minister at the address specified in the notice a payment in the amount specified in the notice accompanied by the fixed payment notice,
 - (b) the Minister may, upon receipt of the payment, issue a receipt for it, and
 - (c) a prosecution in respect of the alleged offence shall not be instituted in the period of 21 days beginning on the date of the notice, and if a payment in the amount specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.
- (3) In summary proceedings for an offence specified in paragraph (1) it shall be a defence for the defendant to prove that he or she has made a payment, in accordance with this Regulation, pursuant to a fixed payment notice issued in respect of that offence.
- (4) A fixed payment notice shall be in the form set out in Schedule 1.
- (5) The amount referred to in subparagraph (b) of paragraph (1) in a fixed payment notice in respect of an offence under that paragraph is the amount indicated in column (4) of the table in Schedule 2 opposite the offence described in column (3) of the said table.
- (6) Moneys paid pursuant to a fixed payment notice shall not be recoverable by the person who paid them.
- (7) Moneys received pursuant to a fixed payment notice shall be disposed of in a manner determined by the Minister with the prior consent of the Minister for Public Expenditure and Reform.

Costs of prosecution

27. Where a person is convicted of an offence under these Regulations, the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order the person to pay to the prosecutor the costs and expenses, measured by the court, incurred by the prosecutor or other person in relation to the investigation, detection and prosecution of the offence.

Offence — body corporate

28. (1) Where an offence under these Regulations is committed by a body corporate and is proven to have been committed with the consent or connivance on the part of any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person shall, in addition to the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

Summary proceedings

29. (1) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Minister.

(2) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, summary proceedings for an offence under these Regulations may be instituted within 12 months from the date on which the offence was committed or alleged to have been committed.

Revocation and saver

30. (1) The following are revoked:

- (a) the Merchant Shipping (Certification of Able Seamen) Regulations, 1973 (S.I. No 91 of 1973);
- (b) the Merchant Shipping (Training and Certification) Regulations 2007 (S.I. No. 703 of 2007);
- (c) the Merchant Shipping (Training and Certification) (Amendment) Regulations 2010 (S.I. No. 506 of 2010).

(2) Notwithstanding paragraph (1), any certificate, endorsement or standard of competency and training already issued, granted or met under the Merchant Shipping (Training and Certification) Regulations 2007 (S.I. No. 703 of 2007) (as amended by the Merchant Shipping (Training and Certification) (Amendment) Regulations (S.I. No. 506 2010)) shall, subject to Regulation 10, and unless the contrary intention otherwise appears, continue in force as if issued, granted or met under these Regulations.

Transitional provisions

31. (1) Where, before 1 July 2013, a seafarer has commenced—

- (a) approved seagoing service,
- (b) an approved education and training programme, or
- (c) an approved training course,

the Minister may, until 1 January 2017, issue, recognise and endorse a certificate of competency in relation to that seafarer in accordance with the Directive.

(2) The Minister may, until 1 January 2017, continue to renew and revalidate certificates of competency and endorsements in accordance with the requirements of the Directive.

(3) In this Regulation “Directive” means the Directive before it was amended by Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012².

SCHEDULE 1

Regulation 26(4)

FIXED PAYMENT NOTICE IN RELATION TO AN ALLEGED OFFENCE

To:

Address:

It is alleged that you have committed an offence under Regulation of the European Union (Training, Certification and Watchkeeping for Seafarers) Regulations 2014

At: *

On:..... 20.....

A description of the alleged offence is given at reference number..... in the table overleaf.

A prosecution in respect of the alleged offence specified above will not be instituted during the period of 21 days beginning on the date of this notice if during the period you pay to the Minister for Transport, Tourism and Sport at..... the sum set out in column (4) of the table overleaf opposite reference number..... together with this notice, either personally or by post.

Authorised Officer..... Dated..... 20.....

*Insert the place where the offence is alleged to have been committed

SCHEDULE 2*Regulation 26(5)***Offences under the European Union (Training, Certification and Watchkeeping for Seafarers) Regulations 2014 (S.I. No of 2014)**

Ref. No. (1)	Regulation (2)	Description of Alleged Offence (3)	Fixed Payment Amount (4)
1	5(2)	Serving or attempting to serve on a seagoing Irish ship in any capacity while unqualified or untrained.	€150
2	10(23)	Failure to keep certificate available in its original form on board a ship on which the holder is serving.	€150
3	16(6)	Failure by a company to comply with responsibilities.	€500
4	17(3)	Failure by a master to comply with responsibilities.	€300
5	20(2)	Failure to return a suspended or cancelled certificate.	€150
6	23(5)	Forgery	€300
7	24(4)	Obstruction or interference with an authorised officer in the course of the exercise of his or her powers; Impeding the exercise by an authorised officer of his or her powers; Failure or refusal to comply with a request or requirement of, or answer a question asked by an authorised officer; or Giving false or misleading information to an authorised officer.	€150



GIVEN under my Official Seal,
4 June 2014.

LEO VARADKAR,
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations transpose Directive 2012/35/EU of the European Parliament and of the Council (amending Directive 2008/106/EC) on the minimum level of training of seafarers of 21 November 2012.

The Directive gives effect in European law to the major revisions to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW) (adopted on 25 June 2010) referred to commonly as the Manila Amendments.

These Regulations ensure that Ireland is compliant with its obligations under both the STCW Convention and related EU Directives.

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