



# PARLIAMENT OF THE COOK ISLANDS

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**PARLIAMENT PAPER NO. 42 (Re-numbered)**

Rarotonga.

Sir,

Pursuant to Section 94 and 108 of the Shipping Act 1998, the Regulations Act 1971-72 and the Legislative Service Act 1968-69, I have the honour to submit the Shipping (STCW Convention) Regulations 2001, Serial No. 2001/09

I have the honour to be,

Sir

Your obedient servant,

Mr A. Tairea  
**Secretary of Transport**

The HON. T. MARSTERS, Minister of Transport

Price \$8.50



# PARLIAMENT OF THE COOK ISLANDS

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## PARLIAMENT PAPER NO. 58

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2001/09



## SHIPPING (STCW CONVENTION) REGULATIONS 2001

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F. Goodwin

Queen's Representative

### ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga this 17th day of July 2001

Present:

### HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE IN EXECUTIVE COUNCIL

PURSUANT to Sections 94 and 108 of the Shipping Act 1998 the Queen's Representative, acting by and with the advice and consent of the Executive Council, hereby makes the following Order.

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### ORDER

1. Title and commencement - (1) These Regulations may be cited as the Shipping (STCW Convention) Regulations 2001.

(2) These Regulations shall come into force on the date that it is assented to by the Queen's Representative.

2. Application - (1) These Regulations shall apply to -

- (a) all vessels registered or licensed in Cook Islands; and
- (b) all seafarers who are employed on vessels referred to in paragraph (a) of this Regulation; and
- (c) all owners and masters of vessels referred to in paragraph (a) of this Regulation; and
- (d) all seafarers who are citizens of Cook Islands or holders of certificates recognised and endorsed by the Government; and
- (e) all certificates issued and recognised by the Government of Cook Islands.

(2) Notwithstanding Article III of the Convention, these Regulations shall apply to fishing vessels;

(3) For the purposes of control under Regulation 5 the provisions of the Convention, STCW Regulations and the Code shall apply to -

- (a) all foreign vessels in Cook Islands waters; and
- (b) all owners and masters of foreign ships in Cook Islands waters; and
- (c) all seafarers employed on foreign vessels in Cooks Islands waters.

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

"Act" means the Shipping Act 1998;

**"Administration"** means the Ministry of Transport, which shall also be responsible for the administration of the Convention;

**"agreement"** shall have the same meaning as in the Act;

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

**"certificate"** means -

- (a) Certificate of Competency issued to a seafarer under Section 96 of the Act and in accordance with Regulation 19 of these Regulations; or
- (b) a Certificate of Competency revalidated under Regulation 22; or
- (c) a Certificate of Competency issued to a seafarer by the maritime administration of another Contracting Party and recognised by the Director of Marine under Regulation 20;

**"clear grounds"** in respect of the control procedures set forth in Regulation 5 include a collision, grounding or stranding; an illegal discharge; operations which would pose a danger to seafarers, property and the environment; and any deficiencies in the vessel's equipment or documentation;

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

**"Convention"** means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 and any other amendments that are accepted by or binding on Cook Islands;

**"Cook Islands vessel"** means a vessel that is registered or licensed in the Cook Islands;

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

**"designated physician"** means a physician who is knowledgeable about seafaring and is designated by the Director of Marine or a physician recognised by the Government for the purpose of conducting medical examinations for seafarers;

**"Director of Marine"** means the person appointed under section 95 of the Act;

"dispensation" means a dispensation from a requirement of these Regulations or the Convention or the STCW Regulations or the Code, granted either generally or in a particular case by the Director of Marine under Regulation 23;

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

"endorsement" means an endorsement to a certificate made by the Director of Marine under Regulation 21 or made by the maritime administration of another Party;

"Government" means the Government of Cook Islands;

"GMDSS" means the global maritime distress and safety system as prescribed in SOLAS.

"IMO" means the International Maritime Organisation;

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

"Near-coastal voyage" means voyage within the 200 nautical mile Exclusive Economic Zone of Cook Islands and includes voyages, trades and operation of vessels within Cook Islands waters;

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

"Party" means a Party to the Convention;

"Physician" means a person who holds a current license to practice medicine issued under the Medical and Dental Practices Act 1976, or by a licensing authority recognised by the Government;

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

"seafarer" means a person in any capacity on a vessel and includes a person who is employed, or who seeks employment, as master, officer, or rating on a vessel, and "Cook Islands seafarer" means a seafarer that is a Cook Islander or a permanent resident of Cook Islands pursuant to the Entry, Residence and Departure Act 1971-72;

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

"seaman" has the same meaning as seafarer;

"Secretary" means the Secretary for the Ministry of Transport;

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

"STCW Regulations" means the Regulations contained in the Annex to the Convention;

"unlimited voyage" means voyage beyond the 200 nautical mile Exclusive Economic Zone of Cook Islands and includes voyages, trades and operation of vessels beyond Cook Islands waters.

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

(3) The Director of Marine may delegate any duty or power imposed by these Regulations, except the power of delegation, in writing to any person deemed appropriate to carry out such duty.

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

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

4. STCW Convention - (1) The STCW Regulations and the Code shall be incorporated into and shall have the force of law in the Cook Islands to the extent practicable, and to the extent that they are consistent with these Regulations and the Act and any other written laws of the Cook Islands.

(2) The carriage of the Convention, STCW Regulations and the Code shall be mandatory on all vessels registered in the Cook Islands to which the Convention applies.

(3) The carriage of these Regulations shall be mandatory on all vessels registered in the Cook Islands to which the Convention applies.

(4) Those training, assessment and certification procedures not covered by the Convention, STCW Regulations and the Code shall be those set forth in the South Pacific Maritime Code, 1986, published by the South Pacific Forum Secretariat and amended from time to time.

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

5. Control Procedures - (1) A Surveyor appointed under Section 54 of the Act and authorised to board any vessel under Section 58 of the Act, may exercise control procedures described in Article X and Regulation I/4 of the Convention and Section 58 of the Act.

(2) In the absence of clear grounds for believing that the standards of the Convention and Code are not being maintained, control shall be limited to the verification that all certificates are in order and that the numbers and certificates of seafarers are in conformity with the Safe Crewing Certificate.

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

6. Register of Seafarers and Certificates - (1) The Director of Marine, appointed under Section 95 of the Act, shall maintain a Register of seamen and shall record for masters, officers and as appropriate ratings, relevant particulars of documents issued under these Regulations, including -

- (a) all certificates issued;
- (b) all endorsements made to certificates;
- (c) all certificates suspended or cancelled;
- (d) all certificates issued by another country recognised as valid on Cook Islands vessels;
- (e) all dispensations and exemptions granted;
- (f) all certificates issued or recognised that have been revalidated;
- (g) all certificates issued to replace those lost or expired;
- (h) all medical certificates issued to seafarers.

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

7. Offences and Penalties - (1) In respect of these Regulations, or the Convention, or the STCW Regulations, or the Code, a person who does anything prohibited or omits to do anything required, commits an offence and, if no other penalty is prescribed, shall be liable upon conviction as follows:

- (a) where that person is an owner, agent or operator, to a fine not exceeding \$10,000;
- (b) where that person is a master, to a fine not exceeding \$10,000;
- (c) where that person is an officer or seafarer, to a fine not exceeding \$3,000.

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

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

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



(3) The policies and procedures referred to in paragraph (2) of this regulation shall include -

- (a) allocation of a reasonable period of time during which each seafarer will have an opportunity to become familiar with:
  - (i) the specific equipment the seafarer will be operating; and
  - (ii) vessel-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly; and
- (b) designation of a knowledgeable seafarer who will be responsible for ensuring that an opportunity will be provided for each seafarer to receive essential information in a language the seafarer understands; and
- (c) ensuring that seafarers are free from fatigue, that rest periods are observed and that watch schedules are posted in accordance with the Watchkeeping arrangements in accordance with Regulation 13 of these Regulations and that these schedules are readily available for inspection by Port State Control officers and seafarers.

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

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

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

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

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

- (a) every seafarer employed on the vessel is duly certificated; and
- (b) the vessel is crewed in compliance with the applicable safe crewing requirements prescribed in Regulations 13 to 15 inclusive; and
- (c) documentation and data relevant to all seafarers employed on their vessels are maintained and readily accessible and shall include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties; and
- (d) every seafarer employed on the vessel is familiarised with that seafarer's specific duties and with all vessel arrangements, installations, equipment, procedures and vessel characteristics that are relevant to their routine or emergency duties; and

- (e) the vessel's complement can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

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

(3) The following information shall be recorded by the owner or master in the Seaman's Employment Record Book (S.E.R.B) -

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

10. Responsibilities of master - (1) The master shall take all steps necessary to implement any company instructions issued in accordance with Regulation 8, which steps should include -

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

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

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

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

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

12. Offences and Penalties - (1) Every owner who fails to comply with all the obligations and provisions contained in Regulations 8 and 9 of these Regulations commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000.

(2) Every Master who fails to comply with all the obligations and provisions contained in regulations 9 and 10 of these Regulations commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000.

(3) Every Seafarer who fails to comply with all the obligations and provisions contained in regulation 11 of these Regulations commits an offence and shall be liable upon conviction to a fine not exceeding \$3,000.

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

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

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

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

- (a) when the vessel is at anchor or moored; and
- (b) when the vessel is carrying hazardous cargo.

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

(5) Every person to which these Regulations apply who fails to observe the requirements, principles and guidelines in respect of Watchkeeping set out in the STCW Convention and the Code commit an offence and shall, upon conviction, be liable as follows:

- (a) where that person is owner, to a fine not exceeding \$10,000;
- (b) where that person is a Master, a Chief Engineer, Officer or Watchkeeping Personnel, to a fine not exceeding \$10,000;
- (c) where that person is a Seafarer, to a fine not exceeding \$3,000.

14. Fitness for Duty - (1) The system of watches aboard a vessel shall be so arranged and that duties are so organised that -

- (a) the efficiency of all personnel with watchkeeping duties is not impaired by fatigue; and
  - (b) the first watch at the commencement of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.
- regulation - (2) Without limiting the general requirements of paragraph (1) of this
- (a) all seafarers who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be provided a minimum of 10 hours rest in any 24-hour period; and
  - (b) the hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length; and
  - (c) the requirements for the rest periods laid down above need not be maintained in the case of an emergency or drill, or in other over-riding operational conditions; and
  - (d) notwithstanding the provisions in sub-paragraphs (a) and (b) of this paragraph, the minimum period of 10 hours may be reduced to not less than six consecutive hours, provided that any such reduction shall not extend beyond two days and not less than 70 hours of rest are provided in each seven day period; and
  - (e) Watch schedules shall be posted on board where they are easily accessible.

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

(2) The minimum number of Cook Islands' seafarers employed on each vessel registered or licensed in the Cook Islands shall be determined by the Director of Marine.

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

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

16. Offences and Penalties - (1) Every owner of a Cook Islands vessel who engages, or causes or permits to be engaged, as a seafarer a person not duly certificated, commits an offence and shall be liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding \$20,000 or both.

(2) Every owner of a Cook Islands vessel, who causes or permits the vessel to go to sea when it is not safely crewed in accordance with these Regulations, commits an offence and shall be liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding \$20,000 or both.

(3) Every owner of a Cook Islands vessel, who causes or permits the vessel to go to sea when it is not crewed with the prescribed number of Cook Islands seafarers, commits an offence and shall be liable on conviction to a term of imprisonment not exceeding one year or to a fine not exceeding \$20,000 or both.

(4) Every Master of a Cook Islands vessel, who engages, as a seafarer a person not duly certificated, commits an offence and shall be liable on conviction to a term of imprisonment not exceeding one year or to a fine not exceeding \$10,000 or both.

(5) Every Master of a Cook Islands vessel, who takes the vessel to sea when it is not safely crewed in accordance with this Part, commits an offence and shall be liable on conviction to a term of imprisonment not exceeding one year or to a fine not exceeding \$10,000 or both.

(6) Every Master of a Cook Islands vessel, who takes the vessel to sea when it is not crewed with the prescribed number of Cook Islands seafarers, commits an offence and shall be liable on conviction to a term of imprisonment not exceeding one year or to a fine not exceeding \$10,000 or both.

(7) Where these Regulations require a function or service on a vessel to be performed by a seafarer holding an appropriate certificate, an owner or a master who requires or permits that function or service to be performed by a seafarer not holding the required certificate, a valid dispensation, or recognition endorsement, commits an offence and shall be liable on conviction to a term of imprisonment not exceeding one year or to a fine not exceeding \$20,000 or both.

17. Training and Assessment - (1) The training and assessment of competence of seafarers in the Cook Islands shall be administered, supervised, and monitored in accordance with the provisions of Section A-I/6 of the Code.

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

(3) Training programmes provided for seafarers in the Cook Islands shall be conducted in accordance with the provisions of the Convention, STCW Regulations and to the standards required by the Code.

(4) The assessment of competence of seafarers in the Cook Islands shall be in accordance with the provisions of the Convention and STCW Regulations and to the standards specified in relevant Sections of the Code.

(5) Curricula developed for training programmes offered in the Cook Islands shall, where possible, be based on the relevant IMO Model courses and shall incorporate the relevant requirements of the Code.

(6) If simulator training is to be used, it shall be in accordance with Regulation I/2 of the STCW Regulations.

- (7) The Director of Marine shall publish Rules establishing standards and procedures for:
- (a) course outlines, detailed curricula and methods of assessment;
  - (b) procedures for application for certificates, calculation of sea service and determination of prerequisites;
  - (c) conduct of examinations and determination of pass marks;
  - (d) procedures for retaking of examinations;
  - (e) the format of certificates of discharge.

18. Training Programmes - (1) The Director of Marine may approve, subject to compliance with the provisions of the Convention, STCW Regulations and the requirements of the Code, any training, assessment and issue of certificates in the Cook Islands.

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

(3) The Director of Marine may issue assessment criteria for each student who has satisfactorily completed an approved training programme.

(4) The Certificate of Competency issued by the Director of Marine shall be sufficient evidence of that seafarer's competence in the subjects mentioned in the certificate.

(5) The Director of Marine shall maintain a record of the assessment of all seafarers to whom Certificates of Competency are issued.

19. Issue of Certificates - (1) The Director of Marine has the authority to approve and issue certificates, exemptions and dispensations; recognise and endorse certificates; and suspend, cancel or take such other administrative action as is reasonably necessary for the proper administration of the training and certification of seafarers in accordance with the provisions of the Convention and the STCW Regulations, and the requirements of the Code.

(2) The Director of Marine may, at any time, in writing, delegate to any person or body deemed appropriate to carry out such duty, any or all of the powers referred to in paragraph (1), including the authority to issue, endorse, revalidate, suspend or cancel certificates, or issue dispensations.

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

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

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

(5) The certificates issued under paragraphs (1) and (2) of this Regulation, shall be in a format similar to that set forth in Schedule X to these regulations.

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

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

20. Recognition of Certificates - (1) Certificates issued by Parties to the Convention and endorsed by the issuing State as meeting the provisions of the Convention and Code, as set forth in Schedule I, shall be recognised in the Cook Islands, provided that such certificate is -

- (a) issued by the maritime administration of another Party to the Convention and meets the provisions of the Code; and
- (b) appropriate to the duties performed by the holder on the vessel; and
- (c) valid under the Convention for the vessel and the voyage on which the vessel is engaged.

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

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

21. Endorsements of Certificates - (1) Where a certificate is to be endorsed, such endorsement shall be made by the Director of Marine, in the English language, in a format similar to that illustrated in the Code, and may form part of the certificate.

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

22. Revalidation of Certificates - (1) Every seafarer holding a certificate issued or recognised under these Regulations shall, in order to qualify for seagoing service, be required at intervals not exceeding five years to -

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

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

(3) Where a seafarer seeking revalidation of a certificate produces evidence to the Director of Marine that he has

- (a) satisfactorily completed a re-training course in emergency procedures, survival functions, occupational safety, and first aid within the last five years; or

- (b) continued competence in those functions, and has paid the fee prescribed in Schedule VII to these Regulations, the Director of Marine may revalidate that seafarer's certificate for a period not exceeding five years.
- (4) A certificate, which is not so revalidated in accordance with these Regulations, shall not be valid for seagoing service.

23. Dispensations - No dispensation will be issued by the Administration except in strict accordance with Article VIII of the Convention.

24. Transitional Provisions - (1) The transitional provisions in respect of training and certification of seafarers shall be in accordance with Article VII and Regulation I/15 of the Convention.

(2) Holders of certificates issued in accordance with the provisions of the Convention which applied immediately prior to 1 February 1997 shall, for service after 1 February 2002, undergo appropriate refresher and updating training and/or assessment to meet the standards of competence for the appropriate certificates specified in Part A of the Code.

25. Offences and penalties - (1) Every seafarer who -

- (a) makes a false declaration in order to obtain a certificate or endorsement; or
- (b) obtains or uses forged documents or obtains documents by fraud for the purpose of obtaining a certificate; or
- (c) issues a false document or forges a document to facilitate the issue of a certificate;

commits an offence and shall be liable on conviction to a fine not exceeding \$3,000.

26. Fees - The fees payable for receiving applications, assessing competence and issuing certificates under these regulations shall be those prescribed in Schedule VII of these Regulations.

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

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



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

(2) Only medical practitioners registered under the Medical and Dental Practices Act 1989 or those physicians recognised and designated by the Director of Marine for the purpose of conducting medical examinations for seafarers shall conduct medical examinations in accordance with the "Guide to Physicians" published by the Secretariat to the Pacific Community.

(3) A list of medical practitioners so registered or recognised shall be maintained by the Director of Marine and made available to other Parties to the Convention and to owners.

29. Medical Certificates - (1) A physician shall, after completing the medical examination of a seafarer under these Regulations, issue a medical certificate for the seafarer in the form set forth in Schedule IX

(2) The physician shall set out in the medical certificate the physician's assessment of the seafarer's suitability as -

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

(3) A physician who assesses a seafarer as fit for service at sea with limitations shall state those limitations on the seafarer's medical certificate.

30. Duration - (1) Except where a re-examination is required under Regulation 31, and subject to paragraphs (2) and (3) below, a medical certificate shall be valid for a period of five years beginning on the day of its issuance.

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

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

31. Re-examination - The seafarer may at any time be re-examined -

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

32. Review of a Medical Certificate - (1) A seafarer may apply to the Director of Marine for a review by a reviewing physician of a medical certificate issued under these Regulations that indicates the seafarer to be-

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

(2) The reviewing physician shall be a designated physician.

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

(4) The reviewing physician shall -

- (a) confirm the medical certificate originally issued; or
- (b) where appropriate, based on further examinations conducted pursuant to paragraph (3), issue a new medical certificate.

33. Appeal of a Reviewed Medical Certificate - (1) A seafarer who requested a review of a medical certificate, may appeal to the Director of Marine for a further review of the case by an appeal board if the medical certificate confirmed or issued by the reviewing physician indicates that the seafarer is -

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

(2) An application for a review by an appeal board shall be accompanied by a review fee of \$250.00.

(3) On appeal from a seafarer pursuant to paragraph (1), the Director of Marine shall appoint an appeal board composed of at least -

- (a) a representative of the Director of Marine;
- (b) a representative proposed by the employer of the seafarer; and
- (c) a representative proposed by the seafarer.

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

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

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

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

34. Costs of Medical Examinations for Reviews and Appeals - The costs of any medical examination conducted as a result of a review under Regulation 32 or an appeal under Regulation 33 shall be borne by the applicant seafarer.

35. Offences and Penalties - (1) No owner shall employ a person as a seafarer unless the seafarer produces a valid medical certificate issued under these Regulations, attesting to the seafarer's fitness -

- (a) to perform the duties for which the seafarer is to be employed; and
- (b) to make the voyage to be undertaken by the vessel.

(2) An owner or master who employs a seafarer, whose function on the vessel requires a medical certificate without that seafarer having one, commits an offence and shall be liable on conviction to a fine not exceeding \$10,000.

(3) No person shall accept employment as a seafarer on board a vessel unless that seafarer holds a valid medical certificate issued under these Regulations.

(4) A seafarer that accepts employment on a vessel in a function, which requires a medical certificate without having one, commits an offence, and shall be liable upon to a fine not exceeding \$3,000.

(5) A seafarer that fails to declare an existing medical pre-condition or illness that would otherwise have led to a determination of his unfitness for duty commits an offence, and shall be liable upon conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding \$3,000 or both.

36. Quality Standards - (1) All training, assessment of competence, certification, endorsement and revalidation activities shall be continuously monitored through a quality standards system to ensure achievement of the defined objectives, including those concerning the qualifications and the experience of instructors and assessors is in accordance with the provisions of the Code.

(2) Activities carried out by governmental agencies and non-governmental agencies involved in the training, assessment of competence, certification, endorsement and revalidation required under the Convention shall be subject to the provisions of these Regulations in respect of quality standards

37. Quality of Training, Examination and Assessment - (1) Quality standards shall be established to cover the administration of the training, examination, and assessment carried out under the authority of the Government of the Cook Islands in accordance with the guidelines set forth in Section B-I/8 of the Code.

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

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

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

39. Reporting - (1) The evaluation report required by Regulation 38 shall be submitted to the Director of Marine as soon as it is completed.

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

40. Investigations and Inquires - (1) The conduct of proceedings in any impartial investigation carried out under Regulation I/5 of the Convention shall be in accordance with these Regulations.

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

(3) This Part shall apply to -

- (a) owners and agents of vessels registered or licensed in Cook Islands; and
- (b) all seafarers employed on vessels registered or licensed in the Cook Islands; and
- (c) all seafarers holding a certificate issued or recognised by the Government of the Cook Islands, and
- (d) all foreign vessels in the Cook Islands waters.

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

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

(3) The person conducting an impartial investigation may regulate the processes and procedures in such a manner as is advisable or necessary in the circumstances subject to paragraphs (4) and (5) of this Regulation and Part IV of the Act.

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

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

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

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

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

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

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

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

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

(11) Two or more assessors may be appointed when the investigation is of

(a) significant magnitude, such as that involving serious damage to or loss of a vessel, or serious injury to or loss of life of a seafarer, or significant damage to the environment; or

(b) significant complexity involving several issues.

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

(13) Where an impartial investigation is held, no person shall in relation to any person carrying out the inquiry or investigation -

(a) hinder or obstruct any such person; or

(b) fail to answer any question put by any person; or

(c) fail to produce any document or certificate in his possession or under his control when requested to do so by any such person.

42. Immunities - The person conducting the impartial investigation shall not be liable to any action or suit for any act, matter or thing done, or ordered to be done, by him in good faith in the execution of his duties.

43. Offence and Penalty - A person who contravenes or fails to comply with Regulations 40 and 41 of these Regulations, commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000.

44. Radio Regulations - The Radio Regulations annexed to the most recent International Telecommunications Union (ITU) Convention, which may be in force at any time, are incorporated into and have the force of law in the Cook Islands.

45. Certification of Radio Personnel - (1) Every seafarer in charge of a navigating watch or performing radio duties on a vessel required to participate in the GMDSS shall hold an appropriate certificate related to the GMDSS, issued or recognised by the Director of Marine under the provisions of the Radio Regulations.

(2) Every candidate for certification for service on a vessel under paragraph (1), which is required by SOLAS to have a radio installation, shall meet the provisions of Regulation IV/2 of the Convention and Section A-IV/2 of the Code.

(3) Until 1 February 1999, radio personnel on vessels complying with the provisions of SOLAS, in force immediately prior to 1 February 1992 shall comply with the provisions of the Convention, in force prior to 1 December 1992.

(4) Radio personnel on vessels not required to comply with the provisions of the GMDSS in Chapter IV of SOLAS are not required to meet the provisions of these Regulations. Radio personnel on these vessels are, nevertheless, required to comply with the Radio Regulations. The Director of Marine shall ensure that the appropriate certificates as prescribed by the Radio Regulations are issued to or recognised in respect of such radio personnel.

46. Radio Certificates - (1) Every seafarer in charge of a navigating watch, or required to perform radio duties operating with a GMDSS system shall hold:

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

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

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

47. Offences and Penalties - (1) Every person who fails comply with all the obligations contained in Regulations 44 to 46 of these Regulations, the Convention, the Regulations, the Code, and the Radio Regulations, commits an offence, and shall be liable upon conviction as follows -

- (a) where that person an owner, to a fine not exceeding \$10,000;
- (b) where that person is a master, to a fine not exceeding \$10,000;
- (c) where that person is a seafarer, to a fine not exceeding \$3,000.

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

(2) Prior to the full implementation of the Convention, Regulations, and STCW Code, all certificates issued under STCW 1978 shall continue to be recognised until 1 February 2002.

**A. Taripo**  
**Acting Clerk of the Executive Council**

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These Regulations are administered by the Ministry of Transport.

**BY AUTHORITY:**  
**COOK ISLANDS GOVERNMENT - 2001**

**SCHEDULES**

Schedule I	- Serving Capacity and STCW Regulations
Schedule II	- Certificates Issued in the Cook Islands
Schedule III	- List of Equivalent Certificates
Schedule IV	- Types of Certificates and the Pre-requisites for their Issue
Schedule V	- Crewing Requirements and Classes of Certificates
Schedule VI	- Safe Crewing Certificate
Schedule VII	- Fees for Examinations
Schedule VIII	- Medical Standards
Schedule IX	- Seafarers Medical Fitness Certificate
Schedule X	- Certificate of Competency

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