



MERCHANT SHIPPING (OFFICIAL LOG BOOK AND LIST OF CREW) REGULATIONS 2015

Index

Regulation	Page
PART 1 – INTRODUCTORY	2
1 Title	2
2 Commencement	2
3 Interpretation.....	2
PART 2 – OFFICIAL LOG BOOK	3
4 Exemption from the requirement to keep an official log book	3
5 Responsibility of shipowner and master	3
6 Format of official log book	4
7 Entries in the official log book	4
8 Opening and closing of official log book.....	4
9 Loss of official log book	5
PART 3 – LIST OF CREW	5
10 Exemption from the requirement to make and maintain a list of crew	5
11 Responsibility of shipowner and master	5
12 Particulars to be contained in a list of crew	5
13 Format, opening and closing of a list of crew	6
PART 4 – SUPPLEMENTARY	7
14 Provisions relating to offences	7
15 General exemption	7
16 Consequential amendments.....	7
17 Revocation	8
SCHEDULE	9
CONSEQUENTIAL AMENDMENTS	9

Statutory Document No. 2015/0387

*Merchant Shipping Act 1985*

MERCHANT SHIPPING (OFFICIAL LOG BOOK AND LIST OF CREW) REGULATIONS 2015

Laid before Tynwald: 15 December 2015
Coming into Operation: 1 January 2016

The Department of Economic Development, having carried out the consultation required by section 1 and section 2(2) of the Merchant Shipping Act 1985, makes the following Regulations under sections 1 and 2 of that Act.

PART 1 – INTRODUCTORY

1 Title

These Regulations are the Merchant Shipping (Official Log Book and List of Crew) Regulations 2015.

2 Commencement

These Regulations come into operation on 1 January 2016.

3 Interpretation

In these Regulations –

“**IMO number**” means the 7 digit ship identification number assigned to a ship when constructed;

“*inspector*” means a person appointed as an inspector under section 3 of the Merchant Shipping Act 1985;

“**MSN**” means a Manx Shipping Notice issued by the Department and includes any document amending the same;

“**official log book**” means an official log book published by the Department and includes any document annexed to the official log book;

“**official number**” means the number issued to a ship under regulation 7(2) of the Merchant Shipping Registration Regulations 1996¹, or for a ship

¹ SD689/96



registered under Part IV of the Merchant Shipping Registration Act 1991 (the Demise Charter Register), the number issued to a ship under regulation 7(2) of the Merchant Shipping (Demise Charter Register) Regulations 1991²;

“**RO**” means any recognised organisation specified in MSN 020 which is authorised by the Department to undertake the specified function;

“**seafarer**” means any person who is employed or engaged or works in any capacity on-board a ship to which these Regulations apply;

“**seafarer’s employment agreement**” means the agreement required by regulation 19 of the Merchant Shipping (Maritime Labour Convention) Regulations 2013³; and

“**shipowner**” means the owner of the ship or another organisation or person, such as the manager, agent or bareboat charterer, who has assumed responsibility for the operation of the ship from the owner.

PART 2 – OFFICIAL LOG BOOK

4 Exemption from the requirement to keep an official log book

The requirement in section 51 of the Merchant Shipping (Masters and Seamen) Act 1979 to keep an official log book in every ship registered in the Island does not apply to a –

- (a) pleasure vessel;
- (b) ship which navigates exclusively within 60 nautical miles of the Island’s coast;
- (c) ship which is owned and operated by the Government and used only on Government non-commercial service;
- (d) ship of traditional build such as a dhow or junk; or
- (e) warship or naval auxiliary.

5 Responsibility of shipowner and master

- (1) It is the responsibility of the shipowner and the master of a ship to ensure an official log book is maintained in accordance with the requirements of these Regulations.
- (2) A shipowner or master who fails to comply with paragraph (1) commits an offence and is liable –
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;

² GC394/91

³ SD0234/13

- (b) on summary conviction, to a fine not exceeding **£10,000**⁴.

6 Format of official log book

An official log book must be in the format specified in MSN004.

7 Entries in the official log book

- (1) Entries in the official log book must be made in accordance with the requirements of MSN004.
- (2) No person shall make an entry in the official log book which he or she knows or has reason to believe is false, inaccurate or incomplete.
- (3) No person shall wilfully destroy or mutilate or render illegible any entry in the official log book.
- (4) Any person who contravenes paragraphs (2) or (3) commits an offence and is liable –
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding **£10,000**⁵.

8 Opening and closing of official log book

- (1) Only one official log book may be open at any one time.
- (2) The official log book must be closed if the period of time specified in MSN004 has elapsed from the date of opening the official log book.
- (3) *It is the responsibility of the shipowner and the master to ensure the official log book is –*
 - (a) *kept on board the ship and made available for inspection by an inspector or RO for a period of 3 years from the date of closure; and*
 - (b) *produced to the Department upon request as soon as is practicable but in any case within 3 months of the date of the request.*
- (4) A shipowner or master who fails to comply with paragraph (3) commits an offence and is liable –
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding **£10,000**⁶.

⁴ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

⁵ and ⁶ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

9 Loss of official log book

- (1) If the official log book, or any part of an official log book is lost the master must —
 - (a) open a new official log book;
 - (b) make a statement in the new official log book describing the circumstances of the loss of the official log book, or part thereof and any steps taken for its recovery; and
 - (c) inform the Department as soon as is practicable.
- (2) The statement referred to paragraph (1) must be signed by the master and by an officer.

PART 3 — LIST OF CREW

10 Exemption from the requirement to make and maintain a list of crew

The requirement in section 52 of the Merchant Shipping (Masters and Seamen) Act 1979 to make and maintain a list of crew in every ship registered in the Island does not apply to a —

- (a) ship which navigates exclusively within 60 nautical miles of the Island's coast;
- (b) ship which is owned and operated by the Government and used only on Government non-commercial service;
- (c) ship of traditional build such as a dhow or junk; or
- (d) warship or naval auxiliary.

11 Responsibility of shipowner and master

- (1) It is the responsibility of the shipowner and the master of a ship to ensure a list of crew contains the particulars specified in regulation 12.
- (2) A shipowner or master who fails to comply with paragraph (1) commits an offence and is liable —
 - (a) on conviction on indictment, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding **£10,000**⁷.

12 Particulars to be contained in a list of crew

- (1) A list of crew must contain the following particulars of the ship —

⁷ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

- (a) name;
 - (b) port of registry; and
 - (c) IMO number, or for ships which do not have an IMO number the ships official number.
- (2) Subject to paragraph (3), a list of crew must contain the following particulars for each seafarer on board the ship —
- (a) name and address;
 - (b) date of joining the ship;
 - (c) name and relationship of next of kin and address of next of kin if different from the seafarer;
 - (d) capacity on board the ship; and
 - (e) date and place the seafarer left the ship and the reason for leaving.
- (3) A passenger ship which has regular crew changes with rotational crew, may record the date and place when the seafarer's employment agreement is terminated instead of the information specified in paragraph 2(e).

13 Format, opening and closing of a list of crew

- (1) A list of crew may be made in the format specified in MSN004 or using any other format provided it contains the information specified in regulation 12.
- (2) Only one list of crew may be open at any one time.
- (3) *A list of crew must be —*
 - (a) *opened and closed at the same time as the official log book; and*
 - (b) *kept on board the ship and made available for inspection by an inspector or RO for a period of 3 years from the date of closure.*
- (4) It is the responsibility of the shipowner and master to produce a list of crew upon demand to the Department.
- (5) A shipowner or master who fails to comply with paragraph (4) commits an offence and is liable —
 - (a) on conviction on information, to custody for not more than 2 years, a fine, or both;
 - (b) on summary conviction, to a fine not exceeding **£10,000**⁸.

⁸ Increased to a fine not exceeding £10,000 by section 55 of the Interpretation Act 2015 with effect from 1 January 2018

PART 4 – SUPPLEMENTARY

14 Provisions relating to offences

- (1) It is a defence for a person charged under these Regulations to show that he or she took all reasonable steps to avoid the commission of the offence.
- (2) If the commission by any person of an offence under these Regulations is due to the act or default of some other person, that other person is guilty of the offence and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.
- (3) If a body corporate is guilty of an offence under these Regulations, and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished accordingly.
- (4) If the affairs of a body corporate are managed by its members, paragraph (3) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.
- (5) For the purposes of this regulation, “**body corporate**” includes a limited liability company constituted under the Limited Liability Companies Act 1996 and, in relation to that company, any reference to a director or other officer of a body corporate is a reference to a member and to the company’s manager and registered agent.

15 General exemption

- (1) The Department may grant an exemption from specified provisions of these Regulations for individual cases or classes of ships on such terms (if any) as may be specified in the exemption, if compliance with such provision is either impracticable or unreasonable.
- (2) The exemption specified in paragraph (1) is only valid –
 - (a) if it is in writing; and
 - (b) if any conditions stated in it are complied with.

16 Consequential amendments

The Schedule (consequential amendments) has effect.

17 Revocation

The Merchant Shipping (Official Log Books) Regulations 1992⁹ are revoked.

MADE 26 November 2015

LAURENCE SKELLY
Minister for Economic Development

⁹ GC363/92



SCHEDULE

CONSEQUENTIAL AMENDMENTS

REGULATION 16

1 Merchant Shipping (Demise Charter Register) Regulations 1991¹⁰

- (1) The Merchant Shipping (Demise Charter Register) Regulations 1991 are amended as follows.
- (2) In Schedule 2, Part II (from the table entitled “application of subordinate legislation”) omit –

“

363/92	Merchant Shipping (Official Log Books) Regulations 1992	The whole Regulations
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”

2 Merchant Shipping Act 1970 (Unregistered Ships) Regulations 1991¹¹

- (1) The Merchant Shipping Act 1970 (Unregistered Ships) Regulations 1991 are amended as follows.
- (2) In Schedule 1, Part II, from column 1 omit –
“The Merchant Shipping (Official Log Book) Regulations 1992”.

3 Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations 1991¹²

- (1) The Merchant Shipping (Crew Agreements, List of Crew and Discharge of Seamen) Regulations 1991 are amended as follows.
- (2) Part II is omitted.

4 Merchant Shipping (Life-Saving Appliances) Regulations 1999¹³

- (1) The Merchant Shipping (Life-Saving Appliances) Regulations 1999 are amended as follows.

¹⁰ GC394/91

¹¹ SI 1991 No.1366 as they apply to the Island by virtue of the Merchant Shipping (Masters and Seamen) (Unregistered Ships) (Application) Order 1991 GC388/91

¹² SI 1991 No. 2144 as they apply to the Island by virtue of the Merchant Shipping (Masters and Seamen)(Application) Order 1992 GC215/92

¹³ SD431/99

SCHEDULE

- (2) In regulation 2(1) (interpretation) after the definition of “Manx Ship” insert—

“MSN” means a Manx Shipping Notice issued by the Department and includes any document amending the same;”.

- (3) For regulation 35(5) substitute—

In accordance with MSN004, details of drills, musters and training on board must be recorded in the ship’s official log book.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 51 and Section 52 of the Merchant Shipping (Masters and Seamen) Act 1979 (“the Act”) require all Manx ships (except as provided by regulation) to keep an official log book and to make and maintain a list of crew containing such particulars as may be specified.

These Regulations make it the responsibility of the shipowner and the master of a ship to ensure the official log book is maintained and the list of crew contains the particulars in accordance with the requirements of these Regulations.

Part 2 of these Regulations requires the official log book to be in the format specified in Manx Shipping Notice No.004 (MSN004) and for entries in the official log book to be made in accordance with the requirements of that notice.

Regulation 4 of these Regulations exempts certain Manx ships from the requirement in the Act to keep an official log book. Regulation 7 makes it an offence for any person to wilfully make false, inaccurate or incomplete entries or to destroy, mutilate or render illegible any entry in the official log book.

Regulation 8 makes provision for the opening and closing of the official log book and Regulation 9 prescribes the actions which must be taken if the official log book or any part thereof is lost.

Part 3 of these Regulations specifies the particulars which must be contained in a list of crew. Regulation 10 of these Regulations exempts certain Manx ships from the requirement in the Act to keep a list of crew.

Regulation 13 makes provision for the format and for the opening and closing of the list of crew.

The Regulations revoke and replace existing statutory provisions on official log books and list of crew and come into operation on 1 January 2016.

The requirements of these Regulations do not apply to fishing vessels or pleasure vessels.

Amendments:

These Regulations are marked with amendments (*in bold italics*) made to these Regulations by –

SD2018/0324 Merchant Shipping (Amendment) Regulations 2019

Section 55 of the Interpretation Act 2015 which increase the fines with effect from 1 January 2018.

The functions in these Regulations have been transferred from the Department of Economic Development to the Department for Enterprise by the Transfer of Functions (Economic Development and Education) Order 2017 (SD2017/0325) with effect from 24 November 2017.