

# Isle of Man Ship Registry

## CONSULTATION:

### Proposed legislation to update the Isle of Man Ship Registry's Merchant Shipping (Manning & STCW) Regulations

Opening Date: 10 August 2020

Closing Date: 21 September 2020



## **Isle of Man Ship Registry Consultation:**

### **Proposed legislation to update the Isle of Man Ship Registry's Merchant Shipping (Manning & STCW) Regulations**

This consultation paper sets out the Isle of Man Government's proposals to update the existing Merchant Shipping (Manning & STCW) Regulations to give effect to the latest amendments to the STCW Convention.

We would be grateful for any comments on the proposed regulations as detailed in this consultation paper (preferably by email) to:

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When responding, please consider whether you are willing to have your response published and indicate your preference from the following options:

- Response can be published together with your name/organisation
- Response can be published anonymously
- Response cannot be published

**This consultation will close at 1700 on 21 September 2020**

## Amendments to the STCW Convention and Code

### Overview

The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) entered into force on 28 April 1984 and has been revised on various occasions, the last major revision was the Manila amendments which was adopted on 25 June 2010. The purpose of the STCW Convention is to promote safety of life at sea and to protect the marine environment by establishing international standards on training, certification and watchkeeping for seafarers.

### Application

The STCW Convention has been extended to the Isle of Man and is given effect in Manx law by the Merchant Shipping (Manning & STCW) Regulations 2014 ("Regulations"). These Regulations apply the STCW Convention, including its Annex and the STCW Code up to and including the Manila Amendments. Since the Regulations entered into force the STCW Convention has been updated by several new Resolutions which require training and certification for seafarers working on ships subject to the IGF Code, ships operating in Polar waters and additional training for seafarers working on passenger ships.

The Ship Registry also intends to correct an omission in the existing Regulations by including specific provision in accordance with STCW Regulation I/5 for the withdrawal, suspension or cancellation of a seafarer's Isle of Man endorsement.

STCW Regulation I/5 requires –

"Each party to establish processes and procedures for the impartial investigation of any reported incompetency, act, omission or compromise to security that may pose a direct threat to safety of life or property at sea or to the marine environment by holders of certificates or endorsements issued by that Party in connection with their performance of duties related to their certificates and for the withdrawal, suspension and cancellation of such certificates for such cause and for the prevention of fraud"

The ability to withdraw, suspend or cancel a seafarers Isle of Man endorsement in the circumstances specified in STCW Regulation I/5 is not specifically included in the existing Regulations and we are taking this opportunity to correct this oversight. The procedure for investigating acts of fraud or incompetency is stated in Annex 1.

The Isle of Man Ship Registry is proposing to update the current Isle of Man STCW Regulations to give effect to the latest IMO Resolutions as described in the table below:

Entry in force date	Resolution	Description
01/01/16	MSC.373(93)	<b>STCW Convention - III Code audit scheme</b> This amendment relates to the III Code audit scheme. This is a requirement for the Ship Registry and not shipowners.

01/01/16	MSC.374(93)	<p><b>STCW Code - III Code audit scheme</b>  This amendment relates to the III Code audit scheme. This is a requirement for the Ship Registry and not shipowners.</p>
01/01/17	MSC.396(95)	<p><b>STCW Convention - ships subject to the IGF Code</b>  This updates the STCW Convention with the mandatory requirements for certification and training for masters, officers, ratings and other personnel serving on ships subject to the International Code of safety for ships using gases or other low-flashpoint fuels (IGF Code).</p> <p>The IGF code has been developed to provide an international standard for ships, using low flash-point fuels.</p> <p>The Ship Registry intends to make the training stated in MSC.396(95) mandatory for seafarers who have been assigned for service on a Manx ship or a foreign ship which is subject to the IGF Code, visiting an IoM port,.</p> <p>The Ship Registry is not an STCW certificate issuing authority, therefore we will not issue basic or advanced IGF Certificates of Proficiency. The Ship Registry is however required to issue an endorsement recognising other national Certificates and part of the endorsement process requires checking dangerous cargo certification, which includes IGF Certificates of Proficiency. Officers who intend to serve on a ship subject to the IGF Code must include a copy of their IGF Certificates of Proficiency when they apply for their Isle of Man Endorsement.</p> <p>Further information on the process for obtaining an Isle of Man Endorsement is stated in <a href="#">MSN 051</a></p>
01/01/17	MSC.397(95)	<p><b>STCW Code – ships subject to the IGF Code</b>  This amends Part A of the STCW Code with the mandatory minimum requirements for the training and qualification of masters, officers, ratings and other personnel on ships subject to the IGF Code. This includes the requirements for basic training and advanced training and provides tables which state the minimum standards of competence.</p> <p>MSC.397(95) includes the following exemption with respect to the training and certification of seafarers serving on ships to which the IGF Code applies. The Ship Registry intends to include this exemption in the Regulations:</p> <p>The Administration may, in respect of ships of less than 500 gross tonnage, except for passenger ships, if it considers that a ship’s size and the length or character of its voyage are such as to render the application of the full requirements of this section unreasonable or impracticable, exempt the seafarers on such a ship or class of ships from some of the requirements, bearing in</p>

		mind the safety of people on board, the ship and property and the protection of the marine environment.
01/01/18	MSC.416(97)	<p><b>STCW Convention – Passenger ships</b></p> <p>This amends Chapter V Regulation V/2 of the STCW Convention with the mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships.</p> <p>This is specific passenger ship safety training and the level of training depends upon the seafarers duties on board the ship. The training must be carried out prior to personnel being assigned shipboard duties.</p> <p>The training consists of:</p> <ol style="list-style-type: none"> <li>1. Passenger ship emergency familiarisation training – applies to all personnel.</li> <li>2. Safety training – applies to personnel providing direct service to passengers in passenger spaces.</li> <li>3. Crowd management on passenger ships – applies to Masters, officers and ratings.</li> <li>4. Crisis management and human behaviour training – applies to Masters, chief engineer officers, chief mates, second engineer officers and other persons designated on the muster list as having responsibility for the safety of passengers in emergency situations.</li> <li>5. Passenger safety, cargo safety and hull integrity training – masters, chief engineer officers, chief mates, second engineer officers and every person assigned immediate responsibility for embarking and disembarking passengers, for loading, discharging or securing cargo, or for closing hull openings on board ro-ro passenger ships.</li> </ol> <p>The Ship Registry intends to make the training stated in MSC.416(97) mandatory for seafarers working on a Manx registered passenger ship operating on both international or domestic voyages or for a foreign passenger ship visiting an Isle of Man port.</p>
01/07/18	MSC.417(97)	<p><b>STCW Code – Passenger ships</b></p> <p>This replaces the existing STCW Code Chapter V Section A-V/2 text with the new mandatory minimum requirements for the training and qualifications of masters, officers and other personnel on passenger ships and provides tables which state the minimum standards of competence.</p>
01/07/18	MSC.416(97)	<p><b>STCW Convention amendments – ships operating in Polar waters</b></p> <p>This amends Chapter 1 of the STCW Convention with two new definitions relating to the Polar Code and Polar waters.</p>

		<p>There is also a new paragraph which has been included after Regulation I/11, paragraph 3 of the STCW Convention. This states:</p> <p>Every master or officer shall, for continuing seagoing service on board ships operating in polar waters, meet the requirements of paragraph 1 of this regulation and be required, at intervals not exceeding five years, to establish continued professional competence for ships operating in polar waters in accordance with section A-1/11, paragraph 4 of the STCW Code.</p> <p>The Ship Registry intends to make the training and certification stated in MSC.417(97) mandatory for seafarers who have been assigned for service on a Manx ship operating in polar waters.</p>
01/07/18	MSC.417(97)	<p><b>STCW Code – ships operating in Polar waters</b></p> <p>This incorporates a new STCW Code Chapter V Section A-V/4 on the mandatory minimum requirements for the training and qualifications of masters and deck officers on ships operating in polar waters and provides tables which state the minimum standards of competence.</p>

## Annex 1

### STCW Regulation I/5- Procedure for the impartial investigation of any fraud or reported incompetency

In order to establish the processes and procedures for the impartial investigation of any report of incompetency, act, omission or compromise to security that may pose a direct threat to safety of life or property at sea or to the marine environment by a seafarer working on an Isle of Man registered ship, the following procedure is to be used.

#### **Acts of fraud**

When processing STCW certification in order to issue an Isle of Man (Flag State) endorsement we carry out checks of 75% of applications to ensure the seafarer has a genuine Certificate of Competency (CoC). If there is any evidence of fraud we will not issue an Isle of Man (IoM) Endorsement. If there is a subsequent report of a seafarer working on an IoM registered vessel with a fraudulently obtained CoC and/or IoM Endorsement, we will withdraw the Endorsement (on the basis it does not reflect a valid CoC). All IoM Endorsements are issued digitally and can therefore be withdrawn remotely. The decision to withdraw an Endorsement will be made by the Ship Registry's Director or Deputy Director and will be communicated directly to the seafarer and the shipowner of the vessel the seafarer is working on. The seafarer will have 21 days to appeal the decision. The Ship Registry's Director or Deputy Director will decide if the endorsement will be suspended during this time.

#### **Reported incompetency**

In the event of a report of an incompetency, act, omission or compromise to security that may pose a direct threat to safety of life or property at sea or to the marine environment the Ship Registry may carry out an investigation using the following procedure:

1. A Principal Surveyor will make an initial assessment of the report and decide if any further action is required. If further action is not required the decision for this will be recorded on a decision log.
2. If it is decided that an investigation is required, the Principal Surveyor will co-ordinate the investigation and delegate the investigation to a senior surveyor(s) who has attended a suitable investigation Course (e.g. Casualty investigation or Criminal procedures & investigation course).
3. A decision log will be maintained during the investigation.
4. The person designated to conduct the investigation will notify the seafarer and shipowner in writing that an investigation is being carried out and the grounds for the investigation.
5. On the basis of the initial report, a decision will be made by the Principal Surveyor on if the seafarer's Endorsement will be suspended during the course of the investigation, or if it will remain valid.
6. Where possible the investigation will be carried out remotely, however the surveyor may have to attend the vessel in order to carry out the investigation.
7. Although the investigation is not a casualty investigation it will be carried out with the principals of Chapter 22 Collection of Evidence of the Casualty Investigation Code.
8. On completion of the investigation a report will be completed by the surveyor and given to the Principal Surveyor to discuss and agree any findings.
9. The findings will then be discussed with the Ship Registry's Director or Deputy Director, where a course of action will be agreed. If it is decided that the issue is serious enough for the seafarer to have their IOM Endorsement removed. The seafarer and the

shipowner will be advised of the decision, including the date when the Endorsement will be removed in writing. The seafarer will have 21 days to appeal the decision, all appeals must contain all of the relevant supporting information relating to the appeal and this must be emailed to the Principal Surveyor using [marine.survey@gov.im](mailto:marine.survey@gov.im). The Ship Registry's Director or Deputy Director will decide if the endorsement will be suspended during the appeal.

## **Appeals**

All appeals will be sent to an independent body in order to make a final decision.

The final decision of the independent body will be communicated to the seafarer and (if relevant) to the shipowner of the vessel the seafarer is working on. If the final decision is to withdraw the seafarer's endorsement the shipowner must have the seafarer removed from the vessel and repatriated home as soon as is possible.