
STATUTORY INSTRUMENTS

1997 No. 346

MERCHANT SHIPPING

SEAMEN

**The Merchant Shipping (Disqualification of
Holder of Seaman's Certificates) Regulations 1997**

<i>Made</i>	- - - -	<i>14th February 1997</i>
<i>Laid before Parliament</i>		<i>20th February 1997</i>
<i>Coming into force</i>	- -	<i>13th March 1997</i>

The Secretary of State for Transport, after consulting with the organisations referred to in section 306(4) of the Merchant Shipping Act 1995(1), in exercise of the powers conferred on him by section 62(6) of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Disqualification of Holder of Seaman's Certificates) Regulations 1997 and shall come into force on 13th March 1997.

(2) In these Regulations:

“the 1995 Act” means the Merchant Shipping Act 1995.

Application

2. These Regulations apply in relation to any certificate of competence issued under section 54 of the 1995 Act and to any certificate or other document issued under section 47 of the 1995 Act other than one certifying that a person is qualified as an officer.

Notice of suspension or cancellation of certificate

3.—(1) A notice served by the Secretary of State pursuant to section 62(1) of the 1995 Act shall be given to the holder of the certificate in the form set out in Schedule 1 to these Regulations.

(2) Service of such notice shall be effected either by serving the holder of the certificate concerned personally or by sending it to him at his last known address by registered post or by the recorded delivery service.

Representations

4.—(1) Within six weeks of the receipt of such notice, or such longer period as the Secretary of State may allow, the holder of the certificate may inform the Secretary of State of his intention to make written representations or claim to make oral representations to the Secretary of State.

(2) In the case of a claim to make oral representations the Secretary of State shall seek to agree with the holder of the certificate a suitable date and place for the oral representations to be heard and if no such agreement is reached they shall be heard at the address given in Schedule 1 to these Regulations on the last working day of the period for representations allowed by this regulation.

(3) If oral representations are to be made the holder of the certificate may be accompanied by a friend who may advise him or speak on his behalf.

(4) Representations, whether written or oral, shall be made within ten weeks of receipt of the notice.

Notice of decision

5.—(1) The Secretary of State shall give the holder notice of his decision in the form set out in Schedule 2 to these Regulations.

(2) Service of the notice referred to in this regulation shall be effected either by serving the holder of the certificate concerned personally or by delivering it to his last known address or by sending it by post to his last known address.

Signed by authority of the Secretary of State for Transport

14th February 1997

Goschen
Parliamentary Under-Secretary of State,
Department of Transport

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

SCHEDULE 1

Regulation 3

NOTICE OF INTENTION TO SUSPEND OR CANCEL CERTIFICATE

- 1. This Notice is given in respect of your certificate [of competence] as No.
- 2. The Secretary of State gives you notice, pursuant to section 62(1) of the Merchant Shipping Act 1995, that it appears to him that you are unfit to be the holder of such a certificate and that he is considering the suspension or cancellation of your certificate.
- 2. You appear to be unfit to be the holder of such a certificate [of competence] for the following reasons:

3. Within 6 weeks of receipt of this Notice you may inform the Secretary of State of your intention to make written representations or claim to make oral representations by completing and returning the final section of this Notice. If at the end of that period you have not so informed the Secretary of State your certificate will be dealt with without representations by you.

4. All communications concerning this Notice should be addressed to the Chief Examiner, at the Marine Safety Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG.

Date of Service	Department of Transport
I acknowledge receipt of your Notice dated cancellation of my certificate [of competence] as you that:	concerning the proposed suspension/ No. and hereby inform
(1)* I intend to make written representations which will be sent to you before	;
(2)* I claim to make oral representations and will be ready to do so not later than	; or
(3)* I do not wish to make any representations.	

Signed
Dated

* Delete if not applicable.

If you inform the Secretary of State that you wish to make written or oral representations you must make such representations within ten weeks of receipt of this Notice. [If at the end of that period you have not so informed the Secretary of State your certificate will be dealt with without representations by you.]

SCHEDULE 2

Regulation 5

NOTICE OF DECISION CONCERNING SUSPENSION OR CANCELLATION OF CERTIFICATE

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

1. Notice is hereby given pursuant to section 62(3) of the Merchant Shipping Act 1995 that in relation to your certificate [of competence*] as..... No..... the Secretary of State, after considering your representations*, has decided:

- (a) to suspend/cancel* your certificate.
- (b) not to suspend/cancel your certificate.

2.* Your certificate is suspended from..... for a period of

3.* The cancellation of your certificate takes effect from

4. You are required to deliver your certificate to the Chief Examiner, at the Marine Safety Agency, Spring Place, 105 Commercial Road, Southampton SO15 1EG not later than unless before that date you require your case to be dealt with by an inquiry under section 63 of the Merchant Shipping Act 1995.

5. If you require your case to be dealt with by an inquiry you must notify the Marine Safety Agency (at the address below) before the date specified in paragraph 4 above, and unless you withdraw your requirement, the suspension/cancellation* of your certificate will not take effect except as ordered in pursuance of the inquiry.

6. The Marine Safety Agency is at Spring Place, 105 Commercial Road, Southampton SO15 1EG.

Date.....

.....
Department of Transport

*Delete if not applicable

Warning: A person who fails to deliver a certificate as required pursuant to section 63 of the Merchant Shipping Act 1995 is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the procedure to be followed with respect to the making and consideration of representations where the Secretary of State is considering suspending or cancelling a certificate issued to a seaman pursuant to sections 47, other than one certifying that a person is qualified as an officer, and 54 of the Merchant Shipping Act 1995.

The Regulations prescribe the form of the notice to be served on the certificate holder concerned stating that the Secretary of State is considering suspending or cancelling his certificate (regulation 3(1)). The certificate holder may give notice of his intention to make written or oral representations to the Secretary of State within six weeks of receipt of the notice (regulation 4(1)). The representations, whether written or oral, must be made within ten weeks of the receipt of the notice (regulation 4(4)).

After considering any representations the Secretary of State must inform the certificate holder concerned of his decision in writing (regulation 5(2)).