
STATUTORY INSTRUMENTS

2006 No. 3223

The Merchant Shipping (Inland Waterway and
Limited Coastal Operations) (Boatmasters'
Qualifications and Hours of Work) Regulations 2006

PART 2

BOATMASTER'S LICENCES AND BOATMASTERS' CERTIFICATES

General

Interpretation of Part 2

5.—(1) In this Part—

“bareboat charter terms” has the meaning given in section 17(11) of the 1995 Act;

“boatmaster’s certificate” means a certificate issued—

- (a) in the United Kingdom, by the Secretary of State under Part 2 of these Regulations, or
- (b) in an EEA State other than the United Kingdom, by a competent authority of that state, in accordance with Council Directive [96/50/EC](#) of 23 July 1996 on the harmonisation of the conditions for obtaining national boatmasters’ certificates for the carriage of goods and passengers by inland waterway⁽¹⁾;

“boatmaster’s licence” means a licence issued by the Secretary of State under Part 2 of these Regulations;

“competent navigation authority” means a person in whom there is vested, under any enactment, a power or duty to manage navigation in any part of United Kingdom waters;

“EEA State” means a Member State, Norway, Iceland or Liechtenstein;

“immediate family”, in relation to a user of a pleasure vessel, means—

- (a) the husband, wife or civil partner of the individual,
- (b) the brother, sister, ancestor or lineal descendant of the individual, and
- (c) the brother, sister, ancestor or lineal descendant of the individual’s husband, wife or civil partner;

“limited coastal area” means an area of sea where the vessel is neither more than 15 miles (exclusive of waters of category A, B, C or D) from its point of departure nor more than 3 miles from land;

“load line length” means the greater of the following distances measured at the waterline—

(1) OJNo. L235, 17.9.96, p.31. The directive was applied to the European Economic Area by a Decision of the EEA Joint Committee of 1st May 1997 (OJ No. L424, 4.9.97, p. 70) and amended by Regulation [\(EC\) 1882/2003](#) of the EU Parliament and Council of 29 September 2003 (OJ No. L284, 31.10.2003, p.1).

- (a) 96% of the total length of the vessel on a waterline at 85% of the least moulded depth measured from the top of the keel, or
- (b) the length from the foreside of the stem of the vessel to the axis of the rudder stock on that waterline,

(and, for the purpose of determining those lengths, where a vessel is designed with a rake of keel the waterline is to be treated as parallel to the designed waterline);

“normal duties”, in relation to the holder of a boatmaster’s licence or certificate or a Rhine navigation licence, means the duties normally performed by a person holding a boatmaster’s licence (with or without an endorsement) or boatmaster’s certificate of the relevant class or a Rhine navigation licence, as the case may be;

“pleasure vessel” means—

- (a) any vessel which is—
 - (i) wholly owned or operated on bareboat charter terms by an individual and used only for the sport or pleasure of that individual, his immediate family and his friends, or
 - (ii) wholly owned or operated on bareboat charter terms by a body corporate and used only for the sport or pleasure of employees or officers of the body corporate, or the immediate family or friends of those persons ,

and which is on a voyage for which the owner is not paid for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage; or

- (b) any vessel which is wholly owned or operated on bareboat charter terms by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club;

and for the use of which no payments other than those mentioned above are made by or on behalf of the users of the vessel, other than by the owner;

“Port of London area” means the waters within the Port of London described in paragraph 6 of Part 3 of Schedule 3 (and includes, unless the context otherwise requires, a part of those waters);

“prescribed fee” means the fee prescribed by the Secretary of State under section 302 of the 1995 Act;

“relevant local knowledge endorsement” has the meaning given in Part 3 of Schedule 3;

“relevant medical condition” means a medical condition or disability which affects a person’s ability to perform normal duties;

“small commercial vessel” means a vessel which is neither a pleasure vessel nor a passenger ship and which is—

- (a) less than 24 metres in load line length, or
- (b) of less than 150 tons, where the keel was laid, or where the vessel was at a similar stage of construction, before 21st July 1968,

(and “similar stage of construction” means a stage at which construction identifiable with a specific vessel has begun and assembly of that vessel comprising at least 1% of the estimated mass of all structural material has commenced);

“small passenger vessel” means a vessel carrying not more than 12 passengers;

“UK certificate” has the meaning given in regulation 15(1); and

“vessel” means a vessel of a kind mentioned in regulation 7(2).

(2) A reference in this Part to—

- (a) a boatmaster’s licence of any class (with or without a reference to an endorsement), or
- (b) an endorsement of any class,

is a reference to a licence or endorsement of that class as specified in Part 1 of Schedule 3.

(3) A reference in this Part to a boatmaster’s certificate of any group is a reference to a certificate of that group as specified in Part 2 of Schedule 3.

Expressions relating to qualifications other than boatmaster’s licences and certificates

6. In this Part, expressions relating to qualifications other than boatmasters’ licences and boatmasters’ certificates have the following meanings—

“appropriate”, in relation to any such qualification, means appropriate both to the vessel being navigated and to the waters in which it is being navigated;

“certificated”, in relation to a small commercial vessel, means complying with the requirements as to the possession and display of a certificate contained in the SCV Regulations;

“Inshore Tug Certificate” means—

- (a) a Certificate of Competency (Master) (Inshore Tugs) issued by the Secretary of State in accordance with Regulation II/3.6 of Chapter II of the Annex to the STCW Convention, or
- (b) a Certificate of Equivalent Competency issued in recognition of a certificate issued by another Party to the STCW Convention equivalent to that Certificate of Competency;

“IWSPB Code qualification” means a qualification recognised by the Secretary of State under the Inland Waters Small Passenger Boat (IWSPB) Code and specified in Part 1 of Schedule 2;

“Rhine navigation licence” means a licence issued in accordance with the revised Convention for the Navigation of the Rhine;

“SCV Code qualification” means a qualification specified in a code of practice for the safety of seagoing small commercial vessels which satisfies a requirement as to the manning of vessels imposed by the SCV Regulations;

“SCV Regulations” means the Merchant Shipping (Small Workboats and Pilot Boats) Regulations 1998(2) and the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998(3);

“STCW Class II/2 or 3 Certificate” means—

- (c) a Certificate of Competency for a person acting in the capacity of master of a vessel issued by the Secretary of State in accordance with Regulation II/2 or II/3 of Chapter II of the Annex to the STCW Convention, or
- (d) a Certificate of Equivalent Competency issued in recognition of a certificate issued by another Party to the STCW Convention equivalent to that Certificate of Competency;

“STCW Class II/3 Certificate (Master, Category D)” means—

- (a) a Certificate of Competency for a person acting in the capacity of master of a vessel of less than 500 tonnes gross tonnage in waters up to category D issued by the Secretary of State in accordance with Regulation II/3.6 of Chapter II of the Annex to the STCW Convention, or

(2) [S.I. 1998/1609](#).

(3) [S.I. 1998/2771](#), amended by [S.I. 2005/2114](#).

- (b) a Certificate of Equivalent Competency issued in recognition of a certificate issued by another Party to the STCW Convention equivalent to that Certificate of Competency;
- “STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978(4) and its annexes and attachments, including all the amendments adopted by the 1995 Conference of Parties and by the Maritime Safety Committee of the International Maritime Organization and in force on or before 1st January 2003(5).

Application of Part 2

7.—(1) Subject to paragraph (4), this Part applies to any person serving as master of a vessel of a kind mentioned in paragraph (2) engaged on a voyage of a kind mentioned in paragraph (3).

(2) The vessels are United Kingdom and non-United Kingdom ships of Classes IV, V, VI, VI(A), IX(A) and IX(A)(T), other than pleasure vessels.

(3) The voyages are—

- (a) any voyage in waters of category A, B, C or D, and
- (b) any voyage to sea within United Kingdom waters in the course of which the vessel is never more than 15 miles (exclusive of waters of category A, B, C or D) from its point of departure or more than 3 miles from land.

(4) This Part does not apply to a person serving as—

- (a) the master of a certificated small commercial vessel if he holds an appropriate SCV Code qualification;
- (b) the master of a seagoing vessel, other than a pleasure vessel, if he holds an appropriate STCW Class II/2 or 3 Certificate other than an STCW Class II/3 Certificate (Master, Category D) or an Inshore Tug Certificate.

Masters to be qualified

8.—(1) A person to whom this Part applies must be qualified in accordance with this regulation.

(2) A person is qualified to serve as master of a vessel if he holds—

- (a) a boatmaster’s licence of a class appropriate both to the vessel which is being navigated and to the waters in which it is being navigated (subject to paragraph (6)),
- (b) a boatmaster’s certificate of a class appropriate both to the vessel which is being navigated and to the waters in which it is being navigated (subject to paragraph (6)), or
- (c) a Rhine navigation licence appropriate to the vessel which is being navigated (subject to paragraphs (3), (4) and (6)).

(3) A person holding a Rhine navigation licence is not qualified to serve as master of a vessel at sea.

(4) A person holding a Rhine navigation licence is not qualified to serve as master of any vessel in waters where (if he were the holder of a boatmaster’s licence) a relevant local knowledge endorsement would be required, unless—

- (a) he is authorised to do so by virtue of a supplementary licence,
- (b) he either is an authorised pilot or holds a pilotage exemption certificate issued by the competent navigation authority in relation to those waters, or

(4) Cmnd. 9266 (Treaty Series No. 50).

(5) Amendments are made by Cm. 3116 (Treaty Series No. 110), Cm. 3136, Cm. 3772 and Cm. 4784.

(c) the vessel is carrying an authorised pilot.

(5) A person not holding a boatmaster's licence, boatmaster's certificate or Rhine navigation licence is qualified to serve as master of—

(a) a non-seagoing small commercial vessel or non-seagoing small passenger vessel in waters other than the sea, if he holds an appropriate IWSPB Code qualification and satisfies the condition (if any) applied to that qualification by Part 2 of Schedule 2,

(b) a vessel having a gross tonnage of less than 500 tonnes in waters of category C or D, if he holds an STCW Class II/3 Certificate (Master, Category D), or

(c) a tug on inshore towage operations, if he holds an Inshore Tug Certificate,

(subject in each case to paragraph (6)).

(6) A person to whom this Part applies is not qualified to serve as master of any vessel to which a pilotage direction applies unless—

(a) he is an authorised pilot,

(b) he holds a pilotage exemption certificate issued by the competent navigation authority, or

(c) the vessel is carrying an authorised pilot.

(7) In this regulation—

“authorised pilot” means a person authorised in accordance with section 3 of the Pilotage Act 1987⁽⁶⁾;

“inshore towage operations” means operations in waters of category A, B, C or D or in a limited coastal area with a vessel constructed solely for the purpose of, and normally used for, providing external motive power for floating objects or vessels;

“pilotage direction” has the meaning given in section 7(1) of the Pilotage Act 1987;

“pilotage exemption certificate” has the meaning given in section 8(1) of that Act; and

“supplementary licence” means a licence issued under regulation 20.

Boatmaster's licences

Classes of licence and endorsement

9.—(1) A boatmaster's licence must bear the title “Boatmaster's Licence” and must be of a class specified in column (1) of the table in Part 1 of Schedule 3.

(2) An endorsement of a boatmaster's licence must be of a class specified in column (1) of the table in Part 1 of Schedule 3.

(3) Parts 1 and 3 of Schedule 3 have effect to determine whether a class of boatmaster's licence (with or without endorsement) is appropriate to the vessel on which its holder is serving as master and to the waters in which the vessel is at any time being navigated.

Applications for licences

10.—(1) An application for a boatmaster's licence or an endorsement of a licence—

(a) must be in such form and contain, or be accompanied by, such particulars and documents as the Secretary of State may specify, and

(b) must be accompanied by the prescribed fee.

(6) 1987 c.21.

(2) The Secretary of State may in particular specify, as a document required to support an application, the written record of the applicant's service and experience kept in accordance with paragraph 7(b) of Part 1 of Schedule 4.

(3) Subject to regulation 11, a person may apply concurrently for both a Tier 1 licence and an endorsement of that licence.

Minimum age and qualifying service for licences and endorsements

11.—(1) A person may not apply for a boatmaster's licence, or an endorsement of a licence, of a class specified in column (1) of Table 1 at the end of this regulation ("Table 1") if he is under the age specified in column (2) of Table 1 in relation to that class of licence or endorsement.

(2) Save as provided in paragraphs (6) and (7), a person may not apply for a Tier 1 boatmaster's licence of any class, or an endorsement of a licence, unless he can satisfy the Secretary of State that—

- (a) he has completed in aggregate a period of qualifying service (the "qualifying service time") not less than that (if any) specified in column (3) of Table 1 in relation to the relevant class of licence or endorsement, and
- (b) the conditions in paragraph (3) are fulfilled.

(3) The conditions are that—

- (a) the qualifying service has been undertaken during the period of 5 years ending on the date of the application, and
- (b) in relation to the relevant class of licence or endorsement, a period not less than the period (if any) specified in column (4) of Table 1 (the "minimum qualifying period") has elapsed between the first day of the qualifying service time and the date of the application.

(4) In calculating the qualifying service time (but not, except in a case where paragraph (8)(b) applies, the minimum qualifying period) for the purpose of an application for an endorsement of a Tier 1 licence, qualifying service undertaken for the purpose of an application for—

- (a) the licence itself, or
- (b) another endorsement,

is to be disregarded.

(5) A large passenger vessel endorsement may not be issued to a person unless—

- (a) he holds a passenger operations (general) endorsement,
- (b) in addition to the qualifying service time prescribed for the large passenger vessel endorsement, he has served as master of a passenger ship carrying fewer than 250 passengers for an aggregate period of 120 days, and
- (c) not less than one year has elapsed between the first and last days of the period of service mentioned in sub-paragraph (b).

(6) A person may not apply for a fast craft endorsement unless, at the date of his application, he has completed a period of qualifying service—

- (a) on vessels of the same type as the vessel on which he will normally serve as master, and
- (b) on voyages following a route on which that vessel will normally operate,

which the Secretary of State considers sufficient to justify the issue of the licence.

(7) A person applying for a radar endorsement is not required to complete a period of qualifying service.

(8) A person may not apply for a relevant local knowledge endorsement in respect of the waters specified in column (1) of Table 2 at the end of this regulation unless—

- (a) he has completed the qualifying service specified in column (2) of that table in relation to those waters, and
- (b) in the case of an application for a relevant local knowledge endorsement for the Port of London area, the whole of that qualifying service has been undertaken after the expiration of the minimum qualifying period for the issue of a Tier 1(Level 2) licence.
- (9) A person may not apply for a Tier 2 boatmaster’s licence unless he can satisfy the Secretary of State that, at the date of his application, he has completed a period of qualifying service sufficient to justify the issue of the licence.
- (10) In this regulation—
- “qualifying service” means service which has been undertaken—
- (a) in the United Kingdom or in another EEA State,
- (b) in an appropriate deck capacity, and
- (c) (save in the case of qualifying service for a fast craft endorsement) in appropriate waters on vessels of a type appropriate to the class of licence or endorsement applied for;
- “Padstow Harbour”, “Portsmouth Harbour” and “Isles of Scilly” mean respectively the waters so described in paragraph 6 of Part 3 of Schedule 3.

Table 1. Minimum ages and qualifying service time for boatmasters’ licences: general

<i>(1) Class of licence or endorsement</i>	<i>(2) Minimum age</i>	<i>(3) Qualifying service time</i>	<i>(4) Minimum qualifying period</i>
Tier 1 (Level 1) without endorsement	18	120 days	12 months
Tier 1 (Level 2) without endorsement	18	240 days	24 months
A passenger operations (general) endorsement: for waters of category A and B only	21	60 days	6 months
A passenger operations (general) endorsement: for waters of category C and D and in a limited coastal area	21	120 days	12 months
A large passenger vessel endorsement	22	60 days	6 months
A towing and pushing endorsement: for waters of category A and B only	21	60 days	6 months
A towing and pushing endorsement: for waters of category C and D	21	120 days	12 months
A cargo endorsement	18	60 days	6 months
An oil and chemical cargo endorsement	18	60 days	6 months
A dredging endorsement	18	60 days	6 months
A fast craft endorsement	21	The period specified in paragraph (6)	N/a
A radar endorsement	18	N/a	N/a

Status: This is the original version (as it was originally made).

<i>(1) Class of licence or endorsement</i>	<i>(2) Minimum age</i>	<i>(3) Qualifying service time</i>	<i>(4) Minimum qualifying period</i>
A local knowledge endorsement	18	None, unless paragraph (8) applies	N/a
Tier 2 (passenger-carrying operations): vessels carrying not more than 100 passengers	18	The period specified in paragraph (9)	N/a
Tier 2 (passenger-carrying operations): vessels carrying not more than 250 passengers	20	The period specified in paragraph (9)	N/a
Tier 2 (passenger-carrying operations): any vessel	21	The period specified in paragraph (9)	N/a
Tier 2 (other vessels)	18	The period specified in paragraph (9)	N/a

Table 2. Qualifying service for relevant local knowledge endorsements

<i>(1) Local area</i>	<i>(2) Qualifying service required</i>
Port of London area	Not less than 60 days' qualifying service, undertaken in varying conditions including trips in different directions and trips during the hours of darkness, with the last day of that service being undertaken not less than 6 months after the first day
Padstow Harbour	6 voyages outward from the harbour and 6 voyages inward to the harbour under the supervision of a person authorised by the Padstow Harbour Authority
Portsmouth Harbour	Not less than 60 days' qualifying service with the last day of that service being undertaken not less than 6 months after the first day
Isles of Scilly	Not less than 60 days' qualifying service with the last day of that service being undertaken not less than 6 months after the first day

Medical fitness: boatmasters' licences

12.—(1) The Secretary of State may not issue a boatmaster's licence or an endorsement of a licence to a person unless that person satisfies him that he is medically fit to perform normal duties.

(2) If the holder of a boatmaster's licence becomes aware that he is suffering from a relevant medical condition which he has not previously disclosed, he must forthwith notify the Secretary of State in writing of the fact.

(3) If the Secretary of State becomes aware that the holder of a boatmaster's licence may be suffering from a relevant medical condition he may require that person—

- (a) to undergo, at his own expense, an examination by a registered medical practitioner for the purpose of determining whether he is fit to perform normal duties, and

(b) to authorise that medical practitioner to provide the Secretary of State with a report of the result of that examination.

(4) If the Secretary of State is satisfied (whether by virtue of a report received from a registered medical practitioner under paragraph (3) or otherwise) that the holder of a boatmaster's licence is suffering from a relevant medical condition he may suspend or revoke the licence but if he is satisfied that the person is fit to perform the normal duties of a holder of a licence or endorsement of a different class he may issue him with a licence of that class.

(5) If the holder of a boatmaster's licence fails to comply with a requirement made under paragraph (3), the Secretary of State may suspend the licence until such time as the holder complies with the requirement.

Standards of competence for licences and endorsements

13.—(1) The Secretary of State may not issue a boatmaster's licence or an endorsement of a licence to a person who has not previously held one unless the applicant satisfies him that he has the practical skills and knowledge necessary for a holder of the relevant class of licence or endorsement.

(2) Part 1 of Schedule 4 to these Regulations specifies—

- (a) the practical skills and knowledge required in respect of each class of boatmaster's licence and endorsement,
- (b) the means by which the attainment of the appropriate level of such skills and knowledge is to be evidenced, and
- (c) the grievance procedure.

Validity periods and re-validation of licences

14.—(1) Except where paragraph (7) or (9) of regulation 33 or paragraph (6) of regulation 35 applies, both a Tier 1 and a Tier 2 boatmaster's licence remain in force—

- (a) in the case of a licence issued to a person aged 59 or under, for a period of 5 years commencing on the date it is issued;
- (b) in the case of a licence issued to a person aged not less than 60 or more than 63, for a period ending on his 65th birthday;
- (c) in the case of a licence issued to a person aged 64 or over, for a period of 1 year commencing on the date it is issued.

(2) Except where regulation 33(8) applies, an endorsement of a Tier 1 boatmaster's licence remains in force for the same period as the licence.

(3) The Secretary of State may not issue a Tier 1 boatmaster's licence to commence on or after the expiry of a Tier 1 licence previously held by the applicant ("the previous licence") unless the applicant satisfies him that he has completed (or will by the date of expiry of the previous licence have completed) 120 days' service in a suitable deck capacity during the period of 5 years ending on the date of expiry of the previous licence.

(4) The Secretary of State may not issue a Tier 2 boatmaster's licence to commence on or after the expiry of a Tier 2 licence previously held by the applicant ("the previous licence") unless the applicant satisfies him that he has completed (or will by the date of expiry of the previous licence have completed) 50 days' service in a suitable deck capacity during the period of 5 years ending on the date of expiry of the previous licence.

(5) Where the Secretary of State is not satisfied in accordance with paragraph (3) or (4), as the case may be—

- (a) he may require the applicant to satisfy him that he has the practical skills and knowledge (or any part of those skills or that knowledge) required in respect of the relevant class of licence, and
- (b) paragraphs 7 to 18 of Part 1 of Schedule 4 apply for the purpose of assessing those skills or that knowledge.

(6) The Secretary of State may not issue a relevant local knowledge endorsement for any waters within the Port of London area to commence on or after the expiry of a previous endorsement unless the applicant satisfies him that he has the practical skills and knowledge of the local navigational requirements necessary for the holder of that endorsement.

Boatmasters' certificates

Classes of certificate

15.—(1) A boatmaster's certificate issued by the Secretary of State (a "UK certificate") must be of a class specified in column (1) of the table in Part 2 of Schedule 3.

(2) Parts 2 and 3 of Schedule 3 have effect to determine whether—

- (a) a class of UK certificate, and
- (b) a certificate issued in an EEA State other than the United Kingdom,

is appropriate to the vessel on which its holder is serving as master and to the waters in which the vessel is at any time being navigated.

Applications for boatmasters' certificates made to the Secretary of State

16.—(1) A person wishing to apply in the United Kingdom for a UK certificate must be the holder of—

- (a) a Tier 1 boatmaster's licence, or
- (b) a boatmaster's certificate issued in an EEA State other than the United Kingdom.

(2) An application for a UK certificate must—

- (a) be made to the Secretary of State,
- (b) be in such form and contain, or be accompanied by, such particulars and documents as the Secretary of State may specify, and
- (c) be accompanied by the prescribed fee.

(3) The Secretary of State may in particular specify, as a document required to support an application, a record of the applicant's service and experience on an appropriate vessel in appropriate waters.

Minimum age and qualifying service time for certificates

17.—(1) A person—

- (a) may not apply for a UK certificate if he is under the age of 21;
- (b) holding a boatmaster's certificate issued in an EEA State other than the United Kingdom may not serve as the master of any vessel if he is under the age of 21.

(2) A person may not apply for a UK certificate of either Group A or B unless he can satisfy the Secretary of State that—

- (a) he has completed in aggregate a period of not less than 480 days' qualifying service, and

(b) a period of not less than four years has elapsed between the first day of the period of qualifying service and the date of the application.

(3) All qualifying service must be entered on a personal service record and produced to the Secretary of State with the application.

(4) In this regulation “qualifying service” means professional experience which has been undertaken in the United Kingdom or another EEA State and which the Secretary of State considers to have been undertaken—

- (a) in an appropriate deck capacity,
- (b) in appropriate waters, and
- (c) on vessels appropriate to the class of certificate applied for.

Validity of boatmasters’ certificates: medical fitness

18.—(1) The Secretary of State may not issue a UK certificate to a person unless that person satisfies him that he is medically fit to perform normal duties.

(2) Where the holder of a UK certificate is aged 45 or over, the certificate does not authorise him to serve as master of any vessel unless he also holds a certificate issued by a registered medical practitioner, in a form approved by the Secretary of State, satisfying the conditions in paragraph (3).

(3) The conditions are that the certificate—

- (a) states that the person is medically fit to perform normal duties, and
- (b) was issued—
 - (i) in the case of a person aged 64 or under, not more than 5 years ago, or
 - (ii) in the case of a person aged 65 or over, not more than 1 year ago.

(4) Where the holder of a certificate other than a UK certificate is aged 65 or over, the certificate does not authorise him to serve as master of any vessel unless he also holds a certificate issued by a registered medical practitioner, in a form approved by the Secretary of State, satisfying the conditions in paragraph (5).

(5) The conditions are that the certificate—

- (a) states that the person is medically fit to perform normal duties, and
- (b) was issued not more than 1 year ago.

(6) If the holder of a boatmaster’s certificate becomes aware that he is suffering from a relevant medical condition which he has not previously disclosed, he must forthwith notify the Secretary of State in writing of the fact.

(7) If the Secretary of State becomes aware that the holder of a boatmaster’s certificate may be suffering from a relevant medical condition, he may require that person—

- (a) to undergo, at his own expense, an examination by a registered medical practitioner for the purpose of determining whether he is fit to perform normal duties, and
- (b) to authorise that medical practitioner to provide the Secretary of State with a report of the result of that examination.

(8) If the Secretary of State is satisfied (whether by virtue of a report received from a registered medical practitioner under paragraph (7) or otherwise) that the holder of a boatmaster’s certificate is suffering from a relevant medical condition he may—

- (a) in the case of a UK certificate, suspend or revoke the certificate, or
- (b) in the case of a certificate other than a UK certificate, suspend the certificate in so far as it authorises its holder to serve as master of a vessel in United Kingdom waters.

(9) Where the Secretary of State has revoked or suspended a boatmaster's certificate under paragraph (8) but is satisfied that the person is fit to undertake the normal duties of a holder of a boatmaster's licence (with or without an endorsement) of any class, he may issue him with a licence of that class.

(10) If the holder of a boatmaster's certificate fails to comply with a requirement made under paragraph (7), the Secretary of State may suspend the certificate in so far as it authorises its holder to serve as master of a vessel in United Kingdom waters until such time as the holder complies with the requirement.

(11) Where the Secretary of State suspends a boatmaster's certificate other than a UK certificate under paragraph (8)(b), he must inform the competent authority of the EEA State which issued the certificate of—

- (a) the suspension,
- (b) the reason for the suspension, and
- (c) whether he has issued a boatmaster's licence of a different class to the holder of the certificate.

Standards of competence for UK certificates

19.—(1) The Secretary of State may not issue a UK certificate to a person who has not previously held one unless that person satisfies him that he has the practical skills and knowledge necessary for a holder of a certificate of the relevant group.

(2) Part 2 of Schedule 4 to these Regulations specifies—

- (a) the practical skills and knowledge required in respect of each class of boatmaster's certificate,
- (b) the means by which the attainment of the appropriate level of such skills and knowledge is to be evidenced, and
- (c) the grievance procedure.

Rhine navigation licences

Rhine navigation licences

20.—(1) A person holding a Rhine navigation licence may not serve as master of any vessel in waters of any category unless he is medically fit to perform normal duties.

(2) If the holder of a Rhine navigation licence becomes aware that he is suffering from a relevant medical condition, which he has not previously disclosed, he must forthwith notify the Secretary of State in writing of the fact.

(3) If the Secretary of State becomes aware that the holder of a Rhine navigation licence may be suffering from a relevant medical condition he may require that person—

- (a) to undergo, at his own expense, an examination by a registered medical practitioner for the purpose of determining whether he is fit to perform normal duties, and
- (b) to authorise that medical practitioner to provide the Secretary of State with a report of the result of that examination.

(4) If the Secretary of State is satisfied (whether by virtue of a report received from a registered medical practitioner under paragraph (3) or otherwise) that the holder of a Rhine navigation licence is suffering from a relevant medical condition he may suspend the licence in so far as it authorises its holder to serve as master of a vessel in United Kingdom waters.

(5) Where the Secretary of State has suspended a licence under paragraph (4) but is satisfied that the person is fit to undertake the normal duties of a holder of a boatmaster's licence (with or without an endorsement) of any class, he may issue him with a boatmaster's licence of that class.

(6) If the holder of a Rhine navigation licence fails to comply with a requirement made under paragraph (3), the Secretary of State may suspend the licence in so far as it authorises its holder to serve as master of a vessel in United Kingdom waters until such time as the holder complies with the requirement.

(7) A person holding a Rhine navigation licence who wishes to obtain a supplementary licence authorising him to serve as master of a vessel in waters where (if he were the holder of a boatmaster's licence) a relevant local knowledge endorsement would be required must apply to the Secretary of State and such an application—

- (a) must be in such form and contain, or be accompanied by, such particulars and documents as the Secretary of State may specify, and
- (b) must be accompanied by the prescribed fee.

(8) The Secretary of State may not issue a supplementary licence to a person applying pursuant to paragraph (7) ("the applicant") unless the applicant satisfies him that he has the practical skills and underpinning knowledge specified in section 11 of paragraph 19 of Part 1 of Schedule 4 (syllabus for a relevant local knowledge endorsement) and for the purpose of assessing whether the applicant has those practical skills and that underpinning knowledge paragraphs 7 to 18 of Part 1 of Schedule 4 shall apply, but as if the reference to the candidate were a reference to the applicant.

Licensing requirements under local legislation

Licensing requirements under local legislation

21.—(1) In the Port of London Act 1968(7)—

- (a) in section 162, after subsection (1), insert—

“(1A) Paragraph (1) of subsection (1) of this section does not authorise the imposition of requirements as to the standards of competence and experience of a person serving as master of a vessel (within the meaning of regulation 5(4) of the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006.”;

- (b) section 164 is repealed.

(2) Subject to paragraph (3), a local enactment which—

- (a) requires a person to whom this Part applies to meet any conditions in order to qualify to serve as master,
- (b) authorises the issue of a licence, certificate or other document permitting a person to whom this Part applies to serve as master, or
- (c) confers power to do anything mentioned in paragraph (a) or (b),

shall cease to have effect to the extent that it makes such provision.

(3) Nothing in paragraph (2) affects the operation of any local enactment which authorises the issue of a boatman's licence, or makes provision in connection with the issue of any such licence, where the licence would enable a person to whom this Part applies to meet the condition in regulation 8(5)(a) that he hold an appropriate IWSPB Code qualification.

(4) In this regulation—

(7) 1968 c.xxxii. Sections 162(1)(l) and 164 were substituted by the Port of London Authority Harbour Revision Order 2003 (S.I. 2003/2556).

- (a) “boatman’s licence” means a licence or other document authorising a person to serve as master of a vessel (whether or not of a specified class) in waters to which the local enactment applies;
- (b) “local enactment” means an enactment contained in—
 - (i) any local Act (other than the Port of London Act 1968),
 - (ii) any order, regulations, rules, scheme, bye laws or other instrument made under a local Act, or
 - (iii) any order made under section 14 of the Harbours Act 1964⁽⁸⁾;
- (c) a reference to serving as master is a reference to serving as master of a vessel on a voyage of a kind mentioned in regulation 7(3).

Records, surrender and loss of documents

Records of documents

22.—(1) Subject to paragraph (2), the Secretary of State must keep, in such manner as he thinks fit, a record of—

- (a) every boatmaster’s licence (including endorsements) and boatmaster’s certificate issued pursuant to these Regulations and currently valid,
- (b) every licence, certificate or other qualification previously held by the holder of a boatmaster’s licence or certificate,
- (c) every suspension, cancellation or alteration of those licences, certificates or other qualifications, and
- (d) all examination and assessment evidence, application forms, documents relating to applications (including medical evidence) and other matters affecting current and previous licences, certificates and other qualifications.

(2) The Secretary of State need not retain a record of any document mentioned in paragraph (1) (a) or (b) for a period of more than 10 years after the date when that document expired or otherwise ceased to be valid.

Surrender and loss of documents

23.—(1) Where the Secretary of State issues—

- (a) a boatmaster’s licence to a person who already holds a licence of a lower class, or
- (b) a boatmaster’s certificate to a person who already holds a certificate of a lower class,

the person to whom the new boatmaster’s licence or certificate is issued must immediately surrender the licence or certificate he holds to the Secretary of State or to such person as the Secretary of State may specify.

(2) If the holder of a boatmaster’s licence or boatmaster’s certificate loses it, the Secretary of State must—

- (a) if he is satisfied that the loss occurred through no fault of the holder, issue a replacement of the licence or certificate to the holder free of charge, or
- (b) if he is not so satisfied, issue a replacement licence or certificate to the holder on payment of the prescribed fee.

⁽⁸⁾ 1964 c.40. Section 14 was amended by the Transport Act 1981, Schedule 6, paragraphs 2, 3, 4 and 14, and Schedule 12 Part II; and by the Transport and Works Act 1992, Schedule 3 paragraph 1.

Enforcement

Part 2: offences

24.—(1) If a person serving as master of a vessel contravenes regulation 12(2), 18(6) or 20(2) he is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If the owner of a vessel causes or permits it to begin a voyage when the person serving as its master is a person who contravenes regulation 12(2), 18(6) or 20(2), he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) For the purposes of section 49 (prohibition of going to sea undermanned), and 52 (unqualified persons going to sea as qualified officers or seamen) of the 1995 Act, a person does not contravene regulation 8(1)—

- (a) while he is navigating a vessel as part of the qualifying service required under regulation 11 or 17, if he is under the direction of a person who is qualified in accordance with regulation 8,
- (b) while he is undergoing a practical test of seamanship and vessel handling skill in accordance with paragraph 12(1)(a) of Part 1 of Schedule 4 or paragraph 11(1)(a) of Part 2 of that Schedule, or
- (c) while he is authorised to serve as master of a vessel under regulation 32, 33 or 34.

(4) It is a defence for a person charged with an offence under this regulation to prove that he took all reasonable steps to avoid commission of the offence.

Offences by bodies corporate, Scottish partnerships, etc

25.—(1) If an offence under regulation 24 committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer, or a person purporting to act in the capacity of an officer, of a body corporate, or
- (b) to be attributable to any neglect on the part of any such person,

that officer or person as well as the body corporate is guilty of the offence and liable to be punished accordingly.

(2) If 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 functions of management as if he were a director of the body.

(3) If an offence under regulation 24 committed by a partnership or unincorporated association in Scotland is shown—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on his part,

that partner as well as the partnership is guilty of the offence and liable to be punished accordingly.

(4) If an offence under regulation 24 committed by an unincorporated association (other than a partnership) is shown—

- (a) to have been committed with the consent or connivance of a person concerned in the management or control of the association, or
- (b) to be attributable to any neglect on the part of such officer or person,

that officer or person as well as the association is guilty of the offence and liable to be punished accordingly.

(5) It is a defence for a person charged with an offence under this regulation to prove that he took all reasonable steps to avoid commission of the offence.

Detention of vessels

26.—(1) Where a person (a “relevant inspector”) mentioned in paragraph (a), (b) or (c) of section 258(1) of the 1995 Act (powers to inspect ships and their equipment, etc) is satisfied that an offence under regulation 24 or 25 is being committed in relation to any vessel, the vessel is liable to be detained.

(2) Where a vessel is liable to be detained under paragraph (1), the relevant inspector detaining it must serve on the master of the vessel a detention notice which—

- (a) states that the relevant inspector is of the opinion that an offence under regulation 24 or 25 has been committed,
- (b) specifies the reasons for that opinion, and
- (c) prohibits the vessel from commencing a voyage until a relevant inspector is satisfied it can do so in circumstances where no such offence is committed.

(3) Sections 96 and 97 of the 1995 Act (arbitration and compensation in connection with detention notices) apply in relation to a detention notice under paragraph (2) as they apply in relation to a detention notice under section 95 (power to detain dangerously unsafe ship) but with the following words omitted from section 96—

- (a) in subsection (1), “in pursuance of section 95(3)(b)”,
- (b) in subsection (3), “to whether the ship was or was not a dangerously unsafe ship”,
- (c) in subsection (5), “as a dangerously unsafe ship”.

(4) Where a vessel is liable to be detained under this regulation, section 284 of the 1995 Act (enforcing detention of ship) has effect with the following modifications—

- (a) for subsection (1) there is substituted—
 - “(1) Where under the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters’ Qualifications and Hours of Work) Regulations 2006 a ship is liable to be detained a relevant inspector may detain the ship.”;
- (b) in subsection (4), for the words from “any of the following” to “any surveyor of ships” there is substituted “any relevant inspector”;
- (c) subsections (6) and (7) are omitted; and
- (d) at the end there is inserted—
 - “(9) In this section, “relevant inspector” means any person mentioned in paragraph (a), (b) or (c) of section 258(1).”