



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$2.20

WINDHOEK - 20 November 2003

No.3097

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Government Notice

MINISTRY OF WORKS, TRANSPORT AND COMMUNICATION

No. 240 2003

MERCHANT SHIPPING ACT, 1951: MANNING OF SHIPS REGULATIONS

The Minister of Works, Transport and Communication has under section 356 of the Merchant Shipping Act, 1951 (Act No. 57 of 1951) -

- (a) made the regulations set out in the Schedule; and
- (b) repealed the Manning of Ships Regulations promulgated by Government Notice No. 94 of 23 April 1998.

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Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Merchant Shipping Act, 1951 (Act No. 57 of 1951), shall bear that meaning and, unless the context otherwise indicates -

“attended machinery spaces” mean those spaces containing main propulsion and associated machinery and all sources of main electrical supply which are at all times manned under all operating conditions, including manoeuvring;

“certificate of competency” means a certificate of competency granted in terms of Chapter III of the Act;

“certificated officer” means a master or a ships’s officer holding a certificate of competency granted in terms of the Act;

“defined fishing zone” means the combined sea areas of the territorial sea and the exclusive economic zone as those areas are defined in the Territorial Sea and Exclusive Economic Zone of Namibia Act, 1990 (Act No. 3 of 1990);

“fishing vessel” means any vessel used to catch or harvest any living resource from the sea;

“GMDSS” means the global maritime distress and safety system as set out in Chapter IV of the Convention for the Safety of Life at Sea, 1974;

“gross tonnage” means the gross tonnage as defined in the International Convention on Tonnage Measurement, 1969;

“inshore mining” means mining of the sea bed within an area of no more than two nautical miles from the low water line;

“length”, in relation to a ship, means the registered length which is recorded on the relevant International Tonnage Certificate or Certificate of Registry;

“low water line” means the line of lowest astronomical tide;

“mining vessel” means a vessel designed, constructed or converted and equipped and used for mining operations;

“nautical mile” means the international nautical mile of 1 852 metres;

“offshore mining” means mining of the seabed more than two nautical miles from the low water line;

“other ships” means any ship inclusive of lighters, except a passenger ship, cargo ship, mining vessel, fishing vessel, pleasure craft, or high-speed craft;

“owner”, in relation to a ship, means the person or persons registered as owner of the ship and includes any other organisation or person such as the manager, or the bareboat charterer, who has assumed responsibility for the operation of the ship from the shipowner;

“periodically unattended machinery spaces” means those spaces containing main propulsion and associated machinery and all sources of main electrical supply which are not at all times manned under all operating conditions, including manoeuvring;

“Permanent Secretary” means the Permanent Secretary in the Ministry of Works, Transport and Communication;

“power”, in relation to a ship, means the total maximum continuous rated output power in kilowatts of all the ship’s main propulsion machinery which appears on the ship’s certificate of registry;

“radio personnel” means a person in charge of, or performing, radio duties on a ship or vessel;

“rating” means a seaman other than a ship’s officer;

“restricted operations” means operations, other than fishing operations, stated on the ship’s safety certificate as being restricted to within a defined area;

“ro-ro passenger ship” means a passenger ship with ro-ro or special category spaces as defined in the International Convention for the Safety of Life at Sea, 1974;

“seagoing ship” means a ship with a trading area greater than inland waters;

“the Act” means the Merchant Shipping Act, 1951 (Act No. 57 of 1951);

“tonnage”, in relation to a ship, means the gross tonnage units which are recorded on the relevant International Tonnage Certificate;

“STCW-F95 Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995;

“STCW-78 Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.

Application of regulations

2. (1) These regulations apply to every ship or vessel registered in Namibia, but not to any ship or vessel which is used on inland waters.

(2) Notwithstanding that the owner and master of a ship or vessel has employed the persons required to be employed in terms of these regulations, the Permanent Secretary may require that the crew be specially trained and qualified for employment on certain types of ships in accordance with Chapters IV, V and VI of the STCW-78 Convention.

(3) The owner or master of every ship or vessel of less than 50 gross tonnage, engaged in a commercial activity, shall employ on such ship or vessel a person in possession of a Small Vessel Certificate of Competence referred to in regulation 8(1) of the Standards of Seaworthiness, Manning and Licensing of Vessels Regulations promulgated by Government Notice R. 1025 of 30 May 1986.

Responsibility of owner and master

3. Notwithstanding that the owner and master of a ship or vessel has:
- (a) employed the persons required to be employed in terms of these regulations; or
 - (b) been granted by the Permanent Secretary in terms of these regulations any exemption or dispensation with regard to the employment of such persons,

the Permanent Secretary may require that additional personnel shall be employed on the ship or vessel to ensure safety of life and property at sea.

(2) The owner and master of the ship or vessel shall, for the purpose of employing additional persons on the ship or vessel under subregulation (1), take into consideration all relevant functions, including the following -

- (a) the capability of the crew to -
 - (i) maintain safe navigational, engineering and radio watches and also maintain general surveillance of the ship;
 - (ii) moor and unmoor the ship safely;
 - (iii) manage the safety functions of the ship when employed in a stationary or near-stationary mode at sea;
 - (iv) perform operations, as appropriate, for the prevention of damage to the marine environment;
 - (v) maintain the safety arrangements and the cleanliness of all accessible spaces to minimize the risk of fire;
 - (vi) provide for medical care on board a ship;
 - (vii) ensure the safe carriage of cargo during transit; and inspect and maintain, as appropriate, the structural integrity of the ship; and
- (b) the ability of the crew to operate -
 - (i) all watertight closing arrangements and maintain them in an effective condition and also deploy a competent damage control party;
 - (ii) all on-board fire-fighting and emergency equipment and life-saving appliances, carry out such maintenance of this equipment as is required to be done at sea, and muster and disembark all persons on board a ship; and
 - (iii) the main propulsion and auxiliary machinery and maintain them in a safe condition to enable the ship to overcome the foreseeable perils of the voyage.

(3) The owner and master of every ship or vessel of 50 gross tonnage or more shall only employ the persons required to be employed by these regulations if they meet the standards of medical fitness that are set out in the applicable law.

(4) A qualified medical practitioner shall be employed on every ship or vessel carrying more than 100 persons and navigating beyond the trade area III.

(5) The owner of every ship or vessel going to sea from any port shall, if such ship or vessel is of 50 gross tonnage or more, employ as master thereof a person holding

a certificate of competency not lower than the highest class of certificate required to be held by any other deck officer employed on such ship or vessel in terms of these regulations.

(6) All seafarers employed on board a ship or vessel of 50 gross tonnage or more, shall comply with the minimum requirements of training as laid down by the STCW-78 Convention and by the Seafarer's Training, Certification and Watchkeeping Code of 1995 and implemented in regulations for training, education and certification.

Working hours

4. (1) The master of a ship or vessel shall ensure that the officers and ratings employed on the ship do not work more hours than is safe in relation to the performance of their duties with regard to the safety of the ship or vessel.

(2) The master of the ship or vessel shall take into account the guidance contained in section B-VIII/1 of the STCW-78 Convention and in the Seafarer's Training, Certification and Watchkeeping Code of 1995.

(3) A record of the actual hours of work performed by an individual seafarer employed on a ship or vessel shall be maintained onboard.

Certificated officers in charge of navigational or deck watches on ships or vessels other than fishing vessels of 50 gross tonnage or more

5. (1) The owner and master of every ship or vessel of 50 gross tonnage or more, other than a fishing vessel, shall -

- (a) if such ship or vessel is of the tonnage set out in Column 2 in the Table below; and
- (b) if the operational area of such ship or vessel is as shown in that Table,

ensure that there are employed on board such ship or vessel as watchkeeping officers, in their appropriate capacities and holding the appropriate certificates of competency or deemed to be certificated under the Act, such number of officers as are shown in Column 3 of the relevant Item of the Table.

- (2) (a) Cargo ships such as, oil tankers, chemical tankers, liquefied gas carriers, passenger ships and ro-ro passenger ships shall be subject to special evaluation with regard to manning and training. The Permanent Secretary shall ensure the fulfilment of the requirements laid down in Chapter V of the STCW-78 Convention, when considering the total complement of the ships.
- (b) For the purposes of subregulation (2) -
 - (i) "cargo ship" means a ship used for the carriage of liquid or solid cargoes or a ship for which the Director of Maritime Affairs has issued a cargo ship certificate which is not a passenger ship or a fishing vessel;
 - (ii) "chemical tanker" means a ship constructed or converted and used for the carriage in bulk of any liquid product listed in Chapter 17 of the international code for the construction and equipment of ships carrying dangerous chemicals in bulk, 1983;
 - (iii) "Director of Maritime Affairs" means the person responsible for the Directorate of Maritime Affairs in the Ministry of Works, Transport and Communication;

(iv) "liquefied gas carrier" means a ship constructed or converted and used for the carriage in bulk of any liquefied gas or other products listed in Chapter 19 of the International Code for the construction and equipment of ships carrying liquefied gases in bulk, 1983;

(v) "oil tanker" means a ship constructed and used for the carriage of petroleum and petroleum products in bulk;

(3) The Permanent Secretary shall ensure that the manning complement of each mining vessel shall be determined on the basis of the technical standards, mode of operations, and operational areas of each mining vessel.

(4) The Permanent Secretary shall ensure that the manning complement of drilling vessels and mobile off-shore units are determined on the basis of the technical standards, operational areas and other criteria deemed relevant with regard to the safety of the people, property and the marine environment.

(5) (a) The Permanent Secretary shall ensure that the manning complement of high speed craft are determined on the basis of the trading areas, size of the craft, number of passengers, and as otherwise required by the International Code of Safety for High-Speed Craft of 1994.

(b) For purposes of this subsection "high speed craft" means a craft or vessel capable of reaching a speed of 25 knots or more.

(6) The Permanent Secretary shall ensure that the manning complement of any seagoing unit referred to in subregulations (1) to (5) of this regulation is re-determined, depending upon the actual circumstances, the total safety situation and other conditions which are relevant to the safety of the personnel and property and the protection of the marine environment.

Column 1 Item	Column 2 Gross tonnage of ship	Column 3 Class of certificates				Skipper/mate or Class	
		1	2	3	4	I-F/5	II-F/6
Part A	Unlimited trade						
1	3000 ton or more	1	1	1	1	-	-
2	500 ton or more but less than 3000 ton	-	1	1	1	-	-
3	less than 500 ton	-	1	1	-	-	-
Part B	Near-coastal						
4	3000 ton or more	1	1	1	-	-	-
5	500 ton or more but less than 3000(trading)	-	1	1	-	-	-
6	500 ton or more but less than 3000 ton (no-trading)	-	1	-	1	-	-
7	200 ton or more but less than 500	-	-	-	-	2	1
8	50 ton or more but less 200						2

9	50 ton or more	Two persons holder of the "Small Boat Certificate" if the voyage is more than 16 hours
10	50 ton or more	One person holder of the "Small Boat Certificate" if the voyage is less than 16 hours

Certificated officers in charge of engineering watches on ships or vessels other than fishing vessels of 350kW or more

6. (1) The owner and master of every ship or vessel, other than a fishing vessel, of 350 kW or more shall, if the power of the ship or vessel is as shown in Column 2 of any Item in the Table below, ensure that they are employed on board such ship or vessel as watchkeeping officers, in their appropriate capacities and holding the appropriate

certificate of competency or deemed to be certificated under the Act, such number of officers as are shown in Column 3 of the relevant Item of that Table:

(2) The Permanent Secretary shall ensure that regulation 5 of subregulation (2) to (6) shall apply with regard to the determination of the total complement of the engine department on board a ship or vessel.

Column 1 Item	Column 2 Registered power of ship (kW)	Column 3 Class of certificates					
		1	2	3	4	5	6
Part A. - Attended Machinery spaces							
1	3000 or more	1	1	-	2	-	-
2	750 or more but less than 3000	-	1	1	1	-	-
3	350 or more but less than 750	-	-	-	1	1	-
Part B. - Periodically unattended machinery space							
4*	3000 or more	1	1	-	1	-	-
5*	750 or more but less than 3000	-	1	1	-	-	-
6*	350 or more but less than 750	-	-	-	1	-	-

Notes applicable to Column 2:

The * in Items 4, 5 and 6 means that a ship or a vessel shall not operate without being periodically attended to while sailing -

- in and out of a port;
- within 3 nautical miles of the safety zone of an offshore installation;
- in high traffic density; and
- in reduced visibility.

Certificated officers in charge of navigational watches on ships or vessels other than fishing vessels of 50 gross tonnage or more engaged in restricted operations

7. (1) The owner and master of every ship or vessel, other than a fishing vessel, of 50 gross tonnage and more which is engaged in restricted operations, shall ensure that there are employed on board the ship or vessel as officers in charge of a navigational watch, in their appropriate capacities and holding the appropriate certificates of competency or deemed to be certificated under the Act, such number of officers as are shown in Column 3 of the relevant Item of the Table below.

(2) Regulation 5 subregulation (3) applies to certificated officers of navigational watches on mining vessels.

Column 1 Item	Column 2 Operational area	Column 3 Class of certificates					
		1	2	3	4	5	6
1	Ships of less than 500 gross tonnage operating within port limits extended by 10 nautical miles	-	-	-	-	-	1
2	Offshore mining* ships or vessels of less than 500 gross tonnage	-	-	-	1	2	-
3	Inshore mining*	-	-	-	-	-	2

Notes applicable to Column 2:

The * means that the master of a ship or vessel shall not perform any diving duties, unless to save life.

Certificated officers in charge of engineering watches on ships or vessels other than fishing vessels of 350 kW or more engaged in restricted operations

8. (1) The owner and master of every ship or vessel, other than a fishing vessel, of 350 kW or more, which is engaged in restricted operations and of the power shown in Column 2 in the Table below, shall ensure that there are employed on board the ship or vessel as watchkeeping officers, in their appropriate capacities and holding the appropriate certificates of competency or deemed to be certificated under the Act, such number of officers as are shown in Column 3 of the relevant Item of that Table.

(2) Regulation 5 subregulation (3) applies to certificated officers in charge of engineering on mining vessels.

Column 1 Item	Column 2 Operational area	Column 3 Class of certificates					
		1	2	3	4	5	6
PART A	Ship or vessel operating within port limits extended by 10 nautical miles and power of the ship or vessel in kilowatts						
1	750 kW or more but less than 3000 kW	-	-	-	1	1	-
2	350 kW or more but less than 750 kW	-	-	-	-	1	-
		-	-	-	-	-	
PART B	Offshore mining operations by a ship or vessel of any power	-	1	1	1	-	-
PART C	Inshore mining operations and power of ship						
4	350 kW or more	-	-	-	-	1	1

Certificated officers in charge of engineering watches on fishing vessels of 350 kW or more operating outside the defined fishing zone

9. The owner and master of every fishing vessel of 350 kW or more whose area of operations extends outside the defined fishing zone shall ensure that there are employed on board the vessel, in their appropriate capacities such certificated persons deemed to be certificated under the Act, as are shown in Column 3 of the Table below:

Column 1 Item	Column 2 Registered power of vessel (kW)	Column 3 Class of certificates					
		1	2	3	4	5	6
PART A	Attended machinery spaces						
1	3000 kW or more	1	1	-	2	-	-
2	750 kW or more but less than 3000 kW	-	1	1	1	-	-
3	750 kW or less	-	-	1	1	-	-
PART B	Periodically unattended machinery spaces						
4*	3000 kW	1	1	-	1	-	-
5*	750 kW or more but less than 3000 kW	-	1	1	-	-	-
6*	750 kW or less	-	-	1	-	1	-

Notes applicable to Column 2:

The * in Items 4, 5 and 6 means that a no vessel with more than 750 kilowats power shall operate without being periodically attended to while sailing -

- in and out of a port;
- within 3 nautical miles of the safety zone of an offshore installation;
- in high traffic density; and
- in reduced visibility.

Certificated officers in charge of navigational watches on fishing vessels

10. (1) The owner and master of every fishing vessel going to sea from any port and operating within the limits of the defined fishing zone shall, if such fishing

vessel is of the gross tonnage or length in metres shown in Column 2 in the Table below, ensure that there are employed on board such vessel as watchkeeping officers the minimum number of officers, duly certificated or deemed to be certificated under the Act, as are shown in Column 3 of the relevant Item of that Table.

(2) The owner and master of every fishing vessel of 24 metres or more, operating within or outside the defined fishing zone, shall ensure that every deck officer onboard inclusive of the master, complies with the requirements of the STCW-F95 Convention and the national requirements for the certification of officers on board fishing vessels.

Column 1 Item	Column 2 Length of vessel	Column 3 Class of certificates	
		Skipper or mate class I-F	Skipper or mate class II-F
1	24m or more	2	1
2	12 m or more but less than 24 m		2
3	12 m or more	Two persons holder of the "Small boat Certificate"	

Certificated officers in charge of engineering watches on fishing vessels of 350 kW or more operating within the defined fishing zone

11. (1) The owner and master of every fishing vessel of 350 kW or more operating within the defined fishing zone and of the power shown in Column 2 of the Table below shall ensure that there are employed on board the vessel, in their appropriate capacities such certificated persons or persons deemed to be certificated under the Act, as are shown in Column 3 of the relevant Item.

(2) The owner and master of every fishing vessel with a main propulsion machinery of 750 kW or more shall ensure that any engineering officer on board complies with the requirements of the STCW-F95 Convention and the national legal requirements for the certification of engineering officers on board fishing vessels.

Column 1 Item	Column 2 Power of engine	Column 3 Class of certificates					
		1	2	3	4	5	6
1	3000 kW or more	-	1	1	1	-	-
2	750 kW or more but less than 3000 kW	-	-	-	1	1	-
3	350 kW or more but less than 750 kW	-	-	-	-	1	1

Radio personnel

12. (1) The owner and master of every ship or vessel shall ensure that there are employed on board the ship or vessel as radio personnel, in their respective capacities and holding the appropriate certificates of competency as required by the STCW-78 Convention, regulation IV/2 and as specified in section A-IV/2 of the Seafarer's Training Certification and Watchkeeping code 1995.

(2) The owner and master of every ship or vessel shall ensure that the mandatory provisions relating to radio watchkeeping as set out in the Radio Regulations in force and in the International Convention for Safety of Life at Sea 1974.

(3) The owner and master of every ship or vessel shall ensure that the personnel described in subregulation (1) of this regulation, complies with the requirements of Chapter IV of the STCW-78 Convention and the STCW-F 1995 Convention, resolution 1 - training of radio operators for the GMDSS.

(4) All personnel responsible for radio communications on board a ship or vessel operating the GMDSS shall be certified in accordance with the relevant regulations.

(5) All personnel responsible for radio communications on board a ship or vessel not required to comply with the provisions of the GMDSS shall be certificated in accordance with the relevant regulations.

(6) The mandatory minimum manning of qualified radio personnel on board any ship or vessel shall be determined in accordance with the relevant regulations.

Minimum safe manning certificates on board

13. (1) Every ship or vessel of 25 gross tonnage or more shall have on board a minimum safe manning certificate similar to the form contained in Annexure A or Annexure B, as applicable, issued by the principal officer.

(2) The period of validity of a minimum safe manning certificate shall be the same as that of the cargo ship safety equipment certificate or local general safety certificate applicable to that ship.

Dispensations

14. (1) The Permanent Secretary may, in exceptional circumstances, grant dispensation in respect of the application or qualification of any provision of these regulations.

(2) The Permanent Secretary shall, before granting dispensation under subregulation (1), take into consideration all relevant factors, including the following -

- (a) the size and type of the ship or vessel;
- (b) the number, size and type of the main propulsion units and auxiliaries;
- (c) the construction and equipment of the ship or vessel;
- (d) the maintenance system of the ship or vessel;
- (e) the cargo to be carried;
- (f) the frequency of port calls, length and nature of the voyages to be undertaken;
- (g) the trading areas, waters and operations in which the ship or vessel is involved;
- (h) the extent to which the training activities are conducted on board; and
- (i) the applicable work hour limits and rest requirements.

Manning not in accordance with minimum safe manning and re-determination of minimum safe manning

15. (1) If circumstances arise, after a ship or vessel has been issued with a minimum safe manning certificate in terms of regulation 13, which result in the ship or vessel not being manned in accordance with the safe manning certificate, the Permanent Secretary shall ensure that the ship or vessel shall not sail from a port.

(2) The Permanent Secretary may at any time re-determine the minimum safe manning complement of a ship or vessel depending on any changes in the technical standards, equipment, trade, and trading areas of the ship or vessel.

Owner to appoint master or skipper and chief engineer

16. The owner of any ship or vessel shall subject to these regulations appoint in accordance with the regulations the master or skipper and chief engineer.

Documentation

17. The Permanent Secretary may, at any time, request any documentation relevant to the minimum safe manning of a ship or vessel.

Offences

18. The owner or master of a ship or vessel who sails the ship or vessels from a port without the minimum safe manning levels prescribed by these regulations shall be guilty of an offence, and shall on conviction be liable to a fine of N\$10 000 or imprisonment for a year or both such fine and imprisonment.

19. Short title

The regulations shall be called the Manning of Ships Regulations.
