

Circular - Series R

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Amendments to the Regulations on qualifications and certificates for seafarers to ensure proper implementation of Directive 2008/106/EC and the STCW

1. Introduction

The Norwegian Maritime Authority (NMA) has laid down amendments to the Regulations of 22 December 2011 No. 1523 on qualifications and certificates for seafarers (henceforth "[Qualification Regulations](#)") to ensure the implementation of Directive 2008/106/EC and equivalent provisions in the STCW.

Necessary amendments have been made to the Qualification Regulations section 14 on educational institutions and training institutions, section 19 on renewal of certificates of competency and certificates of proficiency, section 24 on Certificate of Competency Deck Officer Class 5, and section 38 on Certificate of Competency Engineer Officer Class 4. Moreover, minor clarifications and linguistic adjustments have been made to the Regulations section 14, as well as section 15 on simulators used in training and assessment.

Reference is made to the evaluation conducted by the European Maritime Safety Agency (EMSA) on behalf of the EFTA Surveillance Authority (ESA) regarding the implementation of Directive 2008/106/EC in Norway, and to the fact that the proposed regulatory amendments are grounded in the findings presented in the subsequent report from EMSA. As the Directive encompasses requirements of the STCW (both the Convention and the Code), we also refer to the STCW in the Circular.

2. Consultation

The proposed amendments to the Qualification Regulations were circulated for review from 23 June to 7 August 2023. The deadline for comments was shorter than usual. The NMA deems this time frame justifiable due to the nature of the regulatory amendments, which involve the implementation of international obligations and minor clarifications to the wording of the Regulations.

The NMA received 10 consultative statements, with four of them not providing comments on the proposal. The NMA reviewed every comment received, but no grounds were identified to warrant amendments to the circulated proposal. For reference, a list of relevant consultative bodies and their respective comments is available in the attached consultation matrix.

3. Details of the amendments

3.1 Regarding the amendments to section 14 on educational institutions and training institutions

The rationale behind these amendments is rooted in the misalignment of the Qualification Regulations' training requirements for assessors and instructors in the use of simulators with Directive 2008/106/EC articles 17(2)(d)(iii) and 17(2)(f)(v), cf. STCW sections A-I/6.4 and A-I/6.6.

In addition to addressing this misalignment, we are incorporating minor clarifications to refine requirements and terminology in section 14. While working on amending the Qualification Regulations section 14 fifth paragraph, we identified a need for linguistic adjustments to enhance the clarity the regulatory requirements.

Amendment to the Qualification Regulations section 14 second paragraph first sentence (*amendment in italics*):

The quality standards system shall incorporate the institution's organisational structure, responsibilities and standards for quality, the procedures, objectives and quality standards of each course and training programme, including a record of the qualifications and experience of instructors and *assessors*.

Comments on the regulatory amendment

In the Norwegian version of the Qualification Regulations, the term “eksaminator” has been replaced with “assessor” to ensure consistent use of these terms in section 14 second paragraph first sentence. We find the term “assessor” to be more user-friendly, and this is the primary term used in the Qualification Regulations, including section 13 on instructor for on-board training and assessor for assessment of competence. The IMO model course 6.10 “Train the simulator trainer and assessor” is directed at instructors and assessors. The term “assessor” is also employed in our industry information and relevant qualification documents.

Amendments to the Qualifications Regulations section 14 fifth paragraph (*amendments in italics*):

Instructors shall have an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted. In addition, instructors shall be *qualified* at least at the same level as the functions for which the training is conducted, or have qualifications at a higher *relevant* educational level. *Assessors* shall be qualified for the function for which the assessment applies and *shall* have received training in *relevant* assessment methods and practice. *Instructors and assessors teaching using a simulator, shall have training based on the IMO Model Course “6.10 Train the simulator trainer and assessor”. In addition, they must have received training making them familiar with the simulators used for training and assessment.*

Comments on the regulatory amendment

The term “qualified” has been introduced in section 14 fifth paragraph second sentence, replacing the requirement for the instructor to have “had a certificate” (not applicable to the English version). This amendment aims to align with the qualification requirements outlined in Directive 2008/106/EC Article 17(2)(a)(ii), which specifies that the training and assessment of seafarers should be conducted, monitored, evaluated and supported by individuals qualified in accordance with Article 17(2)(d), (e) and (f).

The term “relevant” has been added before “higher education level” in section 14 fifth paragraph second sentence. This addition clarifies that the requirement applies exclusively to higher education levels in the maritime field. The amendment will not alter current practices, but maritime training institutions have expressed a need for clarification that other higher education is not deemed sufficient in this specific context.

In the Norwegian version of the Regulations section 14 fifth paragraph third sentence, the term “eksaminator” is used. The term “eksaminator” has been replaced with “assessor” to ensure consistency in terminology throughout the Regulations.

New fourth and fifth sentences have been introduced to section 14 fifth paragraph with the purpose of ensuring the satisfactory implementation of Article 17(2)(d)(iii) and Article 17(2)(f)(v) of the Directive.

3.2 Regarding the amendment to section 15 on simulators used for training and assessment

The term “eksaminator” is also used in the Norwegian version of the Regulations section 15 second paragraph. The term “eksaminator” is replaced with “assessor” to ensure consistent use of these terms in the Regulations.

Proposed amendment to the section 15 second paragraph (f) (*amendments in italics*):

- f. permit the *assessor* to control, monitor and record exercises in order to question the assessee.

3.3 Regarding the amendments to section 19 fourth paragraph on renewal of certificates of competency

The background for these amendments is that the Qualification Regulations do not include the option of carrying out a test instead of a course, cf. section 19 fourth paragraph, which means that Directive 2008/106/EC Article 12(1)(b), cf. the STCW Section A-I/11.1.3, is not sufficiently implemented in Norwegian legislation.

Amendments to the introductory text of the Qualification Regulations section 19 fourth paragraph (*amendments in italics*):

All certificates of competency except the Certificate of Competency Deck Officer Class 6, cf. the fifth paragraph, may be renewed for seafarers who hold a valid health certificate for employees on board ship, have completed an approved refresher safety course and can provide evidence of continued professional competence in one of the following ways: [...].

Amendments to the new subparagraph e of the Qualification Regulations section 19 fourth paragraph (*amendments in italics*):

e. completed approved certificate test.

Comments on the regulatory amendments

The term “all certificates of competency” refers to all certificates of competency regulated by the Qualification Regulations, with the exception of the Certificate of Competency Deck Officer Class 6.

For the Certificate of Competency Deck Officer Class 6, section 19 fifth paragraph (c) sets out a requirement for a practical test.

The Certificate for Master Fisherman Class C, cf. section 31, is intentionally excluded from the definition of Certificate of Competency.

3.4 Regarding the repeal of section 19 sixth paragraph on the option of being issued with a certificate of competency of a lower class when the requirement for continued professional competence is not met

The decision for repeal section 19 sixth paragraph stems from the recognition that the option for continued professional competence provided by this provision is in conflict with Directive 2008/106/EC 12(1)(b), cf. the STCW Section A-I/11, cf. Regulation I/11.

Continued professional competence as required under regulation A-I/11 of the STCW Code can only be established through means explicitly listed in its provisions. However, the Qualification Regulations section 19 sixth paragraph allows for the issuance of a certificate of competency of a lower class even when the requirements for continued competence are not met.

The Norwegian Maritime Authority aims to support flexible solutions that align with safety standards and international legislation. However, the NMA does not think it is a viable alternative to maintain section 19

sixth paragraph of the Regulations as it currently stands, as it contradicts requirements of Directive 2008/106/EC and the STCW. Furthermore, the provision appears unfounded and contradicts the requirements for continued professional competence in section 19 fourth paragraph, which means that there is also no reason to maintain the provisions on Master Fisherman Certificates, even though they are not covered by Directive 2008/106/EC and the STCW.

The NMA emphasises that, even after the repeal of section 19 sixth paragraph, alternative pathways for gaining experience equivalent to relevant seagoing service will still be available.

The STCW Section A-I/11.1.2 allows for the establishment of continued professional competence as required by Regulation I/11, may be established by performing functions equivalent to the seagoing services required by Section A-I/11.1.1. Shore-based work, maintaining relevant professional competence, is acknowledged as an alternative in Regulations section 19 fourth paragraph (a), equating the performance of a function similar to seagoing service within the last five years with a valid Certificate of Competence. Reference is made to the Regulations section 16 ninth paragraph, which stipulates that “other experience which may be considered equal to relevant seagoing service, including length of naval service, may be considered as seagoing service”.

3.5 Regarding the amendments to section 24 on Certificate of Competency Deck Officer Class 5

The background for these amendments is to ensure that the Qualification Regulations align with Directive 2008/106/EC Article 3 and Annex I Regulation II/1, cf. the STCW Regulation II/1. The existing reference to “Annex III table A-II/4” in section 24 third paragraph is incorrect.

Amendments to the Qualification Regulations section 24 third paragraph (b) second sentence (*amendments in italics*):

The seagoing service must be a part of an approved training programme on a seagoing ship of 15 metres in overall length or above, included training in navigational watchkeeping duties that covers the areas specified in Annex III table A-III/1.

3.6 Amendments to section 38 on Certificate of Competency Deck Officer Class 4

The background for this amendment is to make sure that the Qualification Regulations are in accordance with Directive 2008/106/EC Article 3 and Annex I Regulation III/1, cf. the STCW Regulation III/1. The existing reference to the STCW “Annex IV table A-III/4” in section 38 fourth paragraph is incorrect.

Amendments to the Qualification Regulations section 38 fourth paragraph first sentence (*amendments in italics*):

Seagoing service pursuant to the third paragraph (b) and (c) must be a part of an approved training programme with on-board training, included training in engine-room watchkeeping duties that covers the areas specified in Annex IV table A-III/1.

4. Administrative and financial implications

4.1 Private sector

4.1.1 General

Our assessment indicates that the regulatory amendments will have minimal consequences for seafarers working on board Norwegian ships and for companies with Norwegian ships.

The primary objective of these amendments is to implement mandatory requirements outlined in Directive 2008/106/EC and the STCW. The requirements of the Qualification Regulations will be uniformly applicable to all Norwegian ships, without introducing any specific provisions for Norway. None of the regulatory amendments will have a retroactive effect.

4.1.2 Regarding the repeal of the Qualification Regulations section 19 sixth paragraph

The repeal of the Qualification Regulations section 19 sixth paragraph signifies that the issuance of a Certificate of Competency of a lower class when the requirement for professional competence, as set out in section 19 fourth paragraph or section 16 ninth paragraph, has not been met, will no longer be possible. Seafarers and shipping companies may view this change as a disadvantage. In the opinion of the NMA, however, retaining this provision is not viable, as the possibility of continued professional competence contradicts Directive 2008/106/EC Article 12(1)(b), cf. the STCW Section A-I/11, cf. Regulation I/11.

Upon the amendments of the Regulations, seafarers who were previously covered by this exemption provision must, as a minimum, comply with one of the requirements for continued professional competence outlined in section 19 fourth paragraph or section 16 ninth paragraph.

4.2 Public sector

There will be some additional work for the NMA, as guidance on the regulatory amendments will need to be provided.

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This document has been electronically approved, and therefore does not contain handwritten signatures.