

CHAPTER 2

LEGISLATIVE REQUIREMENTS

2.1 Definitions

“International Safety Management (ISM) Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the International Maritime Organization (IMO) by Resolution A.741(18), as may be amended by the Organization (1.1.1 of the code).

“Company” means the owner of a ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the ship-owner and who, on assuming such responsibility, has agreed to take over all duties and responsibility imposed by the ISM Code (1.1.2 of the code).

“Administration” means the Government of the State whose flag the ship is entitled to fly (1.1.3 of the code).

“Safety Management System (SMS)” means a structured and documented system enabling Company personnel to effectively implement the Company’s Safety and Environmental Protection Policy (1.1.4 of the code).

“Document of Compliance (DOC)” means a document issued to a Company which complies with the requirements of the ISM Code (1.1.5 of the code).

“Safety Management Certificate (SMC)” means a document issued to a ship which signifies that the Company and its shipboard management operate in accordance with the approved SMS (1.1.6 of the code).

“Safety Management Audit” means a systematic and independent examination to determine whether the SMS activities and related results comply with planned arrangements, whether these arrangements are implemented effectively and whether they are suitable to achieve the objectives of the ISM Code.

“Observation” means a statement of fact made during a Safety Management Audit and sustained by objective evidence (1.1.8 of the code).

“Objective evidence” means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a SMS element, which is based on observation, measurement or test and which can be verified (1.1.7 of the code).

“Non-conformity” means an observed situation where objective evidence indicates the non-fulfilment of a specified requirement of the ISM Code (1.1.9 of the code).

“Major non-conformity” means an identifiable deviation which poses a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement of this Code (1.1.10 of the code).

“Designated Person” is defined in Section 4 of the ISM Code.

“Ro-Ro passenger ferry” means a seagoing passenger vessel with facilities to enable road or rail vehicles to roll on and roll off the vessel and which carries more than twelve passengers.

“Anniversary date” means the day and month of each year that corresponds to the date of expiry of the relevant document or certificate (1.1.11 of the code).

“Convention” means the International Convention for the Safety of Life at Sea, 1974, as amended (1.1.12 of the code).

2.2 International Legislation

The new Chapter IX of SOLAS '74, Management for the Safe Operation of Ships, requires the mandatory application of the ISM Code on ships engaged on international voyages.

2.3 European Union Legislation

The Council of the European Union adopted Council Regulation (EC) No. 3051/95 in December 1995, which required advance mandatory application of the ISM Code for all sea going passenger roll-on/roll-off ferries operating a regular service to or from a port of a Member State of the European Community, regardless of the vessel's flag. The Regulation entered into force on 1 July 1996.

EC Reg. 336/2006 repeals the above regulation (3051/95) and requires certain domestic cargo & passenger vessels to comply with ISM Code not later than 24 March 2008. This Regulation requires the following vessels to comply with the ISM Code: a) Cargo ships over 500 gt in domestic waters which ply in categorised waters (EU Class A, B, C & D waters) b) All ro-ro passenger ships which ply in categorised waters (EU Class A, B, C & D waters) c) Passenger ships which ply in categorised waters (EU Class A & B waters)

2.4 Merchant Shipping (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997

The Merchant Shipping (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997 provide for the enforcement of the Council Regulation (EC) No. 3051/95, which implements SOLAS Chapter IX, Management for the Safe Operation of Ships.

2.5 Merchant Shipping (ISM Code) Regulations 1998

The Merchant Shipping (ISM Code) Regulations 1998 (S.I. 1998 No. 1561) provide for the application of SOLAS Chapter IX on all vessels to which the SOLAS Convention applies, other than those ships for which legislation has been provided under the Merchant Shipping (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997 .

2.6 The ISM Code: Basic Competence for Performing Verification

2.6.1 Minimum Educational Requirements

In accordance with the requirements of the ISM Code, appendix “Standards on ISM Code certification arrangements” sections 3 and 4, prospective MCA ISM Code auditors must have a minimum of formal education comprising of the following:-

- (i) qualifications from a tertiary institution recognised by the MCA within a relevant field of engineering or physical science (minimum two year programme), or
- (ii) qualifications from a marine or nautical institution and relevant seagoing experience as a certified ship’s officer.

2.6.2 Each application for Lead Auditor training will be reviewed on a case by case basis. In general the minimum standard of certification from a tertiary institution will be Higher National Diploma (or equivalent) in a relevant engineering or technical subject.

2.6.3 The minimum level of certification from a marine college will be either Master (Unlimited) STCW II/2 or Chief Engineer (Unlimited) STCW III/2.

2.6.4 Minimum Training Requirements

Provided that prospective ISM Code Lead auditors meet the educational standards as detailed above, the following minimum standard of training must be met in order to ensure an adequate level of competence and skills particularly with regard to:-

- (i) knowledge and understanding of the ISM Code
- (ii) mandatory rules and regulations

- (iii) the terms of reference which the ISM Code requires that the Companies take into account
- (iv) assessment techniques of examining, questioning, evaluating and reporting
- (v) technical and operational aspects of safety management
- (vi) basic knowledge of shipping and shipboard operations; and
- (vii) participation in a minimum of three Safety Management System audits

2.6.5 Theoretical Training

All prospective auditors must achieve a pass grade from either the MCA Lead Auditor Course or an acceptable equivalent.

2.6.6 Practical Training

In general the practical phase of training will not commence until the theoretical phase has been completed.

Three supervised audits are to be successfully completed prior to qualification, this is the absolute minimum. It is to be expected that some candidates will need to fulfil in excess of three audits before qualifying as Lead Auditor. There is no maximum number of audits after which a candidate automatically qualifies.

In general the three minimum audits will comprise one DOC, one SMC and one more of either.

Initial or Renewal audits may only be conducted by auditors who have completed their three initial or renewal audits under supervision. The trainee's performance will be recorded on the Auditor Assessment Form. Instructions for completion of these forms are printed on the reverse. Interim/Additional Audits would not be considered as Qualification Audits for a Lead Auditor

Interim Audits may be conducted by all auditors qualified in either Initial, Renewal, Annual or Intermediate verifications.

Some Marine Office surveyors may have little or no opportunity to take part in DOC audits, in that case they may qualify as SMC auditors only.

New entrants into the MCA who have qualified as Lead Auditors with any of the 7 recognised classification societies and have maintained their continuous professional development need not attend the MCA Lead Auditor Course. They will however need to conduct a minimum of two audits under supervision in order that familiarity with MCA requirements and procedures may be verified.

2.7 The Document of Compliance (DOC)

A Document of Compliance (DOC) will be issued to a Company when the shore side aspects of the Safety Management System are found to fully comply with the requirements of the ISM Code. The DOC is specific to the ship type(s) operated by the Company and for which the SMS is implemented at the time of the audit. During an SMC audit on board a ship, a DOC should be accepted as evidence that the Company's shore-side management structure complies with the requirements of the Code. A copy of the DOC should be placed on board each of the company's ships, it is not necessary for this copy of the DOC to be authenticated in any way.

2.8 The Safety Management Certificate (SMC)

Subsequent to a successful audit a Safety Management Certificate (SMC) will be issued to each individual ship provided that the company holds a valid DOC. A copy of each SMC should be retained in the company's office records, the original being placed on board and filed along with all other statutory certificates.