

MERCHANT SHIPPING (SAFE MANNING, HOURS OF WORK AND WATCHKEEPING) REGULATIONS



ARRANGEMENT OF REGULATIONS

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S. I. 12 of 2010

MERCHANT SHIPPING ACT
(2007 No. 27)

**Merchant Shipping (Safe Manning, Hours of Work
and Watchkeeping) Regulations 2010**

[9th March, 2010] Commence-
ment

In exercise of the powers conferred upon me by Section 82 of the Merchant Shipping Act, 2007 and of all other powers enabling me in that behalf, I, IBRAHIM ISA BIO, Minister of Transportation, hereby make the following Regulations :

1.—(1) These regulations applies to Nigerian ships only.

(2) A shipping company shall ensure that—

(a) a seafarer assigned to any of the company's ships holds an appropriate certificate in respect of any function the seafarer is to perform on that ship;

(b) a seafarer on any of the company's ships has undergone the training specified in the Training and Certification Regulations in respect of functions performed on the company's ship;

(c) documentation and data relevant to a seafarer employed in the company's ship is maintained and readily available for inspection and shall include the documentation and data on the seafarer's experience, training, medical fitness and competency in assigned duties.

(3) Nothing in paragraph (2) of this regulation prohibits the allocation of tasks for training under supervision or in case of force *majeure*.

(4) The company shall provide written instructions to the master of the company's ship setting out the policies and the procedures to be followed to ensure that a newly employed seafarer who is on board the ship is given reasonable opportunity to get familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of his duties, before being assigned to those duties.

(5) The policies and procedures referred to in paragraph (4) of this regulation include—

(a) allocation of a reasonable period of time during which a newly employed seafarer shall have opportunity to become acquainted with—

(i) the specific equipment the seafarer uses or operates; and

(ii) ship-specific watch-keeping, safety, environmental protection and emergency procedures and arrangements the seafarer requires to properly perform the duties assigned to him;

Responsibilities of Companies, Masters and Others.

(b) designation of a knowledgeable crew member who shall ensure that opportunity is created for a newly employed seafarer to receive essential instruction in a language the seafarer understands.

(6) A master and a member of a crew designated with an obligation under paragraph (4) of this regulation shall carry out that obligation.

Safe
Manning
Documents.

2.— (1) A company shall ensure that every of its ship of 500 gross tonnage or more has—

(a) a safe manning document, which is in force in respect of the ship and the manning of the ship;

(b) the safe manning document kept on board the ship at all times; and

(c) the manning of the ship is maintained at all times to at least the levels specified in the safe manning document.

(2) The master of a ship shall ensure that the ship does not proceed to sea unless there is on board a valid safe manning document issued in respect of the ship and the manning of the ship complies with that document.

(3) A company applying for a safe manning document in respect of any Nigerian ship shall—

(a) submit to Nigerian Maritime Administration and Safety Agency proposals as to the number and grade of personnel considered to be carried in order for the ship to be safely manned when it proceeds to sea on any intended voyage;

(b) in preparing a proposal under this paragraph take into account any guideline issued by Nigerian Maritime Administration and Safety Agency;

(c) after the issue of a safe manning document, inform the Nigerian Maritime Administration and Safety Agency as soon as any of the circumstances which are pertinent to that safe manning document changes, for the purpose of enabling the department to review the document's continuing validity or approve fresh proposals for the company.

Hours of
Work.

3. The regulations dealing with hours of work in regulations 4 and 7 of these Regulations apply only to Nigerian ships.

General
Duty of
Company
Employers
and Masters

4.— (1) Subject to regulation 7 of these Regulations, a company or an employer, shall ensure, so far as is reasonably practicable, that the master and seafarer do not work for more hours than is safe in relation to the safety of the ship and the master and the seafarer's performance of duties.

(2) Subject to regulation 7 of these Regulations, a master of a ship shall ensure, so far as is reasonably practicable, that a seafarer on board a ship does not work more hours than is safe in relation to the safety of the ship and performance of the seafarer's duties.

5. A master or seafarer shall, so far as is reasonably practicable, ensure that he is properly rested before commencing duty on a ship and that he obtains adequate rest during periods when he is off duty.

Duties of a Master and Seafarer.

6.—(1) A company shall produce a schedule of duties which shall comply with regulation 4 of these Regulations.

Schedules of Duties and the need to Record

(2) Where a company is not the employer of the master of a ship or the seafarer, the seafarer shall consult any other person who is an employer of the master or the seafarer before producing the Schedule.

(3) A company may arrange that an employer produces a schedule of duties complying with this regulation in which case the employer shall also be subject to the duties of the company under this regulation.

(4) Before producing a schedule, a company shall seek the views of the master, and the master shall seek, and convey to the company, the views of—

(a) the ship's safety committee; or

(b) the seafarer or their representatives; or

(c) a trade union with one or more members on board the ship.

(5) A schedule complies with this regulation if—

(a) it sets out the hours of work for—

(i) the master and seafarer whose work include regular watchkeeping duties or ship-handling; and

(ii) the ship's chief engineer officer and second engineer officer, so that they do not work more hours than is safe in relation to the safety of the ship and the master and seafarer's performance of duties;

(b) it specifies the maximum period of continuous watchkeeping, the minimum rest period between watches and the total daily, weekly and monthly hours of work; and

(c) it provides a minimum hours of rest in any 24-hour period, which may be divided into no more than two periods, one of which shall be at least six hours in length, so that the minimum period of ten hours may be reduced to not less than six consecutive hours on the condition that reduction does not extend beyond two days and not less than seventy hours of rest is provided for in each seven day period.

(6) A company shall give consideration to the category of shipping operation undertaken in arranging the hours of work.

(7) A schedule may be changed by a company, or by an employer who by virtue of paragraph (3) of this regulation is subjected to the duties of the company, on condition that—

(a) other employers or the company, as the case may be, have been consulted;

(b) the company or the employer has sought the views of the master on the proposed changes and the master has sought and conveyed to the company the views of the persons mentioned in paragraph (4) (a), (b) or (c) of this regulation; and

(c) the Schedule, as changed, complies with paragraph (5) of this regulation.

(8) A company shall ensure that the schedule is displayed prominently in the crew accommodation for the information of all the seafarers.

(9) The master of a ship shall as far as is reasonably practicable, ensure that the hours of work specified in the Schedule are not exceeded.

(10) A company and the master shall maintain a copy of the schedule on the ship and a record of all deviations from the requirements of the Schedule.

(11) A company shall ensure that a copy of the Schedule and the record of all deviations from its requirements are preserved for five years from the date the Schedule was introduced and that they are available for inspection by a Superintendent appointed by Nigerian Maritime Administration and Safety Agency.

(12) If during the five-year period there ceases to be a company in relation to the ship, the duty to preserve the copies of the schedule and of the record remains with the last company.

Exception
for
Emergencies

7.—(1) The requirements for rest periods specified in regulation 6 (5) (c) of these Regulations may not be maintained in case of an emergency or a drill or in other overriding operational conditions.

(2) Without prejudice to the generality of paragraph (1) of this regulation, a master of a ship or a seafarer may participate in a navigational, engine room or machinery watch notwithstanding the fact that he has not had the rest period provided by the Schedule produced in pursuance of regulation 6 of these Regulations.

(3) The master may exceed and a seafarer may be required to exceed, the schedule's work or duty periods, when in the opinion of the master it is necessary to meet one of the following situations-

(a) an emergency threatening the safety of the ship or the life of any person or damage to the environment;

(b) employment of the ship in the service of the Nigerian Navy at a time when the ship is operating in direct support of the armed forces, or in direct support of the forces of any foreign party to which Nigeria is bound by any treaty to provide operational support.

(4) When in pursuance of paragraph (1) of this regulation the master or a seafarer has worked within a rest period provided for by the schedule, his name shall be entered in the record required to be maintained by regulation 6 (10) of these Regulations and with the reason why he did such work.

8.—(1) The master of a ship shall ensure that the Watch-keeping arrangements for the ship are at all times adequate for maintaining safe navigational and engineering watches having regard to Chapter VIII of section A of the Code. Watch-keeping Arrangements

(2) Without prejudice to the duties of the master provided by paragraph (1) of this regulation, the master of a ship shall give directions to the deck Watch-keeping officers responsible for navigating the ship safely during their period of duty, in accordance with Part 3-2 of section A- VIII/2 of the Code and any requirements specified by the Minister.

(3) The chief engineer officer of a ship shall ensure that the engineering Watch-keeping arrangements for the ship are at all times adequate for maintaining a safe watch, in accordance with Part 3-2 of section A- VIII2 of the Code and when deciding the composition of the watch, the chief engineer officer shall observe the principles set out in Part 3-2 of that section and the requirements specified by the Minister.

9. The master of a ship which is safely moored or safely at anchor under norms circumstances in a port, shall arrange for an appropriate and effective watch to be maintained for the purposes of safety and the arrangements shall be in accordance with Part 4 of section A- VIII2 of the Code and any other operational guideline issued by the Minister. Watch-keeping Arrangements in Port

10.—(1) The master of a ship which is carrying cargo which is in a port, even when safely moored or safely at anchor, shall in addition to any watch-keeping arrangements in regulation 9 of these Regulations, in the case of- Watch-keeping Arrangements in Port for Ship Carrying Hazardous cargo.

(a) a ship carrying hazardous cargo in bulk, ensure that a safe deck watch and safe engineering watch are maintained by the ready availability on board of a duly qualified officer and where appropriate, ratings; and

(b) a ship carrying hazardous cargo other than in bulk, ensure that in organising safe watch-keeping arrangements he takes account of the nature, quantity, packing and storage of the hazardous cargo and of any special conditions on board, afloat and ashore.

(2) The watch-keeping arrangements under this regulation shall take full account of the principles and requirements specified by the Minister.

11. Without prejudice to regulation I of these Regulations, a company and the master of a ship shall ensure that there are carried at all times on board the ship all original certificates and other documents issued pursuant to the Documents Carried on Board.

Convention indicating the qualification of any member of the crew to perform functions which he is required to perform aboard a ship in the course of his designated duties.

Inspection of non-Nigerian Ships.

12. A person authorised may inspect a ship which is not a Nigerian ship for the purposes of verifying that all the seafarers serving on board the ship who are required to be certificated, hold valid appropriate certificates and shall notify the master of—

(a) a failure to comply with the safe manning document;

(b) a failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the competent authority of the country in which the ship is registered;

(c) an absence on a watch, of a person qualified to operate equipment essential for safe navigation, safety radio communications or the prevention of marine pollution;

(d) the inability of the master to provide adequately rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

Power to Detain.

13.—(1) In any case where it is found—

(a) in relation to a ship which is a Nigerian ship, that there is a contravention of any of the provisions of these Regulations; or

(b) in relation to a ship which is not a Nigerian ship, that there is—

(i) contravention of any of regulations 2, 8, 9 and 10 of these Regulations; or

(ii) a failure to correct a deficiency of a kind specified in regulation 12 of these Regulations after notification to the master pursuant to that regulation and there is in consequence a danger to persons, property or the environment,

the ship may be detained.

(2) The Merchant Shipping (Port State Control) Regulations shall apply in relation to a detention order under these Regulations as they apply to a detention order under those Regulations.

Penalties.

14.—(1) A company which contravenes the provisions of regulation 1 (6), 2 (1) or (3), 6 or 11 of these Regulations, commits an offence and is liable on summary conviction to a fine not less than ₦200,000 or (in the case of an individual) to imprisonment for a term not exceeding six months, or both.

(2) A master who contravenes regulations 1 (6), 2 (2), 4 (2), 8 (1) or (2), 9, 10 or 11 of these Regulations commits an offence and is liable on summary conviction to a fine not less than ₦100,000 or to imprisonment for a term not exceeding six months or both.

(3) Where an employer has, pursuant to regulation 6 (3) of these Regulations, become subject to the duties of the company under that regulation, any contravention of regulation 6 by the employer shall be an offence, punishable on summary conviction with a fine not less than ₦200,000 or in the case of an individual imprisonment for a term not exceeding six months, or both.

(4) A member of the crew who contravenes regulation 1 (6) of these Regulations commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand naira.

(5) A chief engineer who contravenes regulation 8 (3) of these Regulations commits an offence, and is liable on summary conviction to a fine not less than ₦50,000.

(6) A company which contravenes regulation 4 (1) of these Regulations commits an offence and is liable on summary conviction to a fine not less than ₦200,000.

(7) An employer who contravenes regulation 4 (1) of these Regulations commits an offence and is liable on summary conviction to a fine not less than two hundred thousand naira.

(8) A master who contravenes regulation 5 or 6 (9) and (10) of these Regulations commits an offence and is liable on summary conviction to a fine not less than ₦100,000

(9) A seafarer who contravenes regulation 5 of these Regulations commits an offence and is liable on summary conviction to a fine not less than ₦50,000.

(10) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to avoid the commission of the offence.

(11) In any proceedings for an offence under these Regulations relating to a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall rest on the accused person to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

15. The Minister may grant, on such terms, if any, as he may specify, exemptions from all or any of the provisions of these Regulations for classes of cases or individual cases. Exemption.

16. Only the provisions of regulations 1, 7 and 10 of these Regulations, shall apply to a sea-going ship which is- Application.

(a) a Nigerian ship wherever it is ; and

(b) a non Nigerian ship which is in Nigerian waters.

(2) These Regulations shall not apply to—

(a) fishing vessels; and

(b) pleasure craft which is less than 80 gross tonnes or under 24 metres in length.

Interpretation.

17.—(1) In these Regulations, unless the context otherwise requires—
"*appropriate certificate*" means in relation to Nigerian ships, an appropriate certificate as defined in the Training and Certification Regulations and in relation to other ships, an appropriate certificate as defined in the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers as amended in 1995;

"*authorised person*" means a person authorised by the Minister for the purposes of these Regulations ;

"*company*" includes an individual, and in relation to a ship, means the owner of the ship or any other organisation or person such as the manager, or the bare boat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by the Regulations annexed to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers as amended in 1995 ;

"*gross tonnes*" means the gross tonnage of a ship or the gross tonnage of a ship having alternative gross tonnage, shall be the larger of those tonnages;

"*hazardous cargo*" means cargo which is or may be explosive, flammable, toxic, health-threatening or environment-polluting;

"*length*" has the same meaning as in the Merchant Shipping (Tonnage) Regulations;

"*merchant shipping notice*" means a notice described as such and issued by the Minister;

"*safe manning document*" means a document, described as such, issued, in the case of a Nigerian ship by the Minister and in the case of any other ship by or on behalf of the government of the State whose flag the ship is entitled to fly ;

"*safety committee*" means a safety committee set up pursuant to the Merchant Shipping Act;

"*Code*" means the Sea-farers' Training Certification and Watch-keeping Code adopted by the 1995 Conference of Parties to the International

(Convention on the Standards of Training, Certification and Watch-keeping for Seafarers, 1978;

"International Convention on Standards of Training Certification and Watch-keeping Convention" means the International Convention on Standards of Training Certification and Watch-keeping for Seafarers, 1978, as amended on 7 July 1995 ;

"Training and Certification Regulations" means the Merchant Shipping (Training and Certification) Regulations.

(2) Any reference to the Code, the Convention or a particular Merchant Shipping Notice, includes any amendment to that Code, Convention or Notice which the Minister considers relevant from time to time, and is specified in a Merchant Shipping Notice.

18. These Regulations may be cited as the Merchant and Shipping (Safe Citation. Manning, Hours of Work and Watch-keeping) Regulations 2010.

MADE at Abuja this 9th day of March, 2010.

IBRAHIM ISA BIO
Minister of Transportation