



Australian Government
Australian Maritime Safety Authority

AMSA MO 2011/4

Marine Orders Part 58 Amendment 2011 (No. 1) (International Safety Management Code)

I, Graham Peachey, Chief Executive Officer of the Australian Maritime Safety Authority, make this Order under subsection 425 (1AA) of the *Navigation Act 1912*.

Graham Peachey
Chief Executive Officer

20 June 2011

1 Name of Order

This Order is *Marine Orders Part 58 Amendment 2011 (No. 1)*.

2 Commencement

This Order commences as follows:

- (a) on 1 July 2011 — sections 1 to 3 and Schedule 1;
- (b) immediately after Schedule 1 — Schedule 2.

3 Amendment of *Marine Orders Part 58, issue 2*

Schedules 1 and 2 amend *Marine Orders Part 58, issue 2*.

Schedule 1 Amendment

(section 3)

[1] Before provision 1

insert

1A Name of Order

This Order is *Marine Orders Part 58, issue 2*.

[2] Provision 2, before definition of AMSA

insert

In this Part:

[3] Provision 2, after definition of *General Manager*

insert

Guidelines means the Guidelines on the Implementation of the International Safety Management (ISM) Code by Administrations, set out in IMO Resolution A.1022(26) and reproduced in Schedule 2.

[4] Provision 2, definition of *ISM Code*

substitute

ISM Code means the International Safety Management (ISM) Code as defined in SOLAS, Chapter IX, regulation 1.

Note A copy of the text of the ISM Code, as in force on 1 July 2011, is set out in Schedule 1.

[5] Provision 2, definition of *penal provision*, including footnote 1

substitute

penal provision means a penal provision for regulation 4 of the *Navigation (Orders) Regulations 1980*.

Note 1 *Navigation (Orders) Regulations 1980*, r 4, states:

- (1) A person commits an offence if the person does not comply with a provision of an order that is made under subsection 425 (1AA) of the Act and that is expressed to be a penal provision.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

Note For ***strict liability***, see section 6.1 of the Criminal Code.

Note 2 For the value of a penalty unit, see *Crimes Act 1914*, s 4AA.

[6] Provision 2, definition of *the Guidelines*

omit

[7] Provision 3.3

omit

[8] Provision 5, footnote 2

omit both occurrences of

Chief Marine Surveyor

insert

Manager

[9] Provision 9.4.1

omit

months of the

insert

months before or after each

[10] Provision 9.5.2, footnote 5

omit

endorsement.

insert

verification.

[11] Provision 10.5.2, footnote 8

omit

13.10 or 13.11

insert

13.10, 13.11 or 13.12

[12] Provision 10.5.2, footnote 8

omit

endorsement.

insert

verification.

[13] Appendices 1 and 2

substitute

Schedule 1 International Safety Management Code

(as in force at 1 July 2011)

(section 2)

INTERNATIONAL SAFETY MANAGEMENT CODE

PREAMBLE

- 1 The purpose of this Code is to provide an international standard for the safe management and operation of ships and for pollution prevention.

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- 2 The Assembly adopted resolution A.443(XI) by which it invited all Governments to take the necessary steps to safeguard the shipmaster in the proper discharge of his responsibilities with regard to maritime safety and the protection of the marine environment.
 - 3 The Assembly also adopted resolution A.680(17) by which it further recognized the need for appropriate organization of management to enable it to respond to the need of those on board ships to achieve and maintain high standards of safety and environmental protection.
 - 4 Recognizing that no two shipping companies or shipowners are the same, and that ships operate under a wide range of different conditions, the Code is based on general principles and objectives.
 - 5 The Code is expressed in broad terms so that it can have a widespread application. Clearly, different levels of management, whether shore-based or at sea, will require varying levels of knowledge and awareness of the items outlined.
 - 6 The cornerstone of good safety management is commitment from the top. In matters of safety and pollution prevention it is the commitment, competence, attitudes and motivation of individuals at all levels that determines the end result.

PART A — IMPLEMENTATION

1 GENERAL

1 Definitions

The following definitions apply to parts A and B of this Code.

- 1.1.1 International Safety Management (ISM) Code means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the Assembly, as may be amended by the Organization.
- 1.1.2 Company means the Owner of the 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 Shipowner and who on assuming such responsibility has agreed to take over all the duties and responsibility imposed by the Code.
- 1.1.3 Administration means the Government of the State whose flag the ship is entitled to fly.
- 1.1.4 Safety Management System means a structured and documented system enabling Company personnel to implement effectively the Company safety and environmental protection policy.
- 1.1.5 Document of Compliance means a document issued to a Company which complies with the requirements of this Code.
- 1.1.6 Safety Management Certificate means a document issued to a ship which signifies that the Company and its shipboard management operate in accordance with the approved safety management system.

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- 1.1.7 Objective evidence means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of an safety management system element, which is based on observation, measurement or test and which can be verified.
 - 1.1.8 Observation means a statement of fact made during a safety management audit and substantiated by objective evidence.
 - 1.1.9 Non-conformity means an observed situation where objective evidence indicates the non-fulfillment of a specified requirement.
 - 1.1.10 Major non-conformity means an identifiable deviation that poses a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action or the lack of effective and systematic implementation of a requirement of this Code.
 - 1.1.11 Anniversary date means the day and month of each year that corresponds to the date of expiry of the relevant document or certificate.
 - 1.1.12 Convention means the International Convention for the Safety of Life at Sea, 1974 as amended.

1.2 Objectives

- 1.2.1 The objectives of the Code are to ensure safety at sea, prevention of human injury or loss of life, and avoidance of damage to the environment, in particular, to the marine environment, and to property.
- 1.2.2 Safety management objectives of the Company should, inter alia:
 - .1 provide for safe practices in ship operation and a safe working environment;
 - .2 assess all identified risks to its ships, personnel and the environment and establish appropriate safeguards; and
 - .3 continuously improve safety management skills of personnel ashore and aboard ships, including preparing for emergencies related both to safety and environmental protection.
- 1.2.3 The safety and management system should ensure:
 - .1 compliance with mandatory rules and regulations; and
 - .2 that applicable codes, guidelines and standards recommended by the Organization, Administrations, classification societies and maritime industry organizations are taken into account.

1.3 Application

The requirements of this Code may be applied to all ships.

1.4 Functional requirements for a Safety Management System (SMS)

Every Company should develop, implement and maintain a Safety Management System (SMS) which includes the following functional requirements:

- .1 a safety and environmental protection policy;

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- .2 instructions and procedures to ensure safe operation of ships and protection of the environment in compliance with relevant international and flag State legislation;
 - .3 defined levels of authority and lines of communication between, and amongst, shore and shipboard personnel;
 - .4 procedures for reporting accidents and non-conformities with the provisions of this Code;
 - .5 procedures to prepare for and respond to emergency situations; and
 - .6 procedures for internal audits and management reviews.

2 SAFETY AND ENVIRONMENTAL PROTECTION POLICY

- 2.1 The Company should establish a safety and environmental protection policy which describes how the objectives, given in paragraph 1.2, will be achieved.
- 2.2 The Company should ensure that the policy is implemented and maintained at all levels of the organization both ship based as well as shore based.

3 COMPANY RESPONSIBILITIES AND AUTHORITY

- 3.1 If the entity who is responsible for the operation of the ship is other than the owner, the owner must report the full name and details of such entity to the Administration.
- 3.2 The Company should define and document the responsibility, authority and interrelation of all personnel who manage, perform and verify work relating to and affecting safety and pollution prevention.
- 3.3 The Company is responsible for ensuring that adequate resources and shore based support are provided to enable the designated person or persons to carry out their functions.

4 DESIGNATED PERSON(S)

To ensure the safe operation of each ship and to provide a link between the company and those on board, every company, as appropriate, should designate a person or persons ashore having direct access to the highest level of management. The responsibility and authority of the designated person or persons should include monitoring the safety and pollution prevention aspects of the operation of each ship and to ensure that adequate resources and shore-based support are applied, as required.

5 MASTER'S RESPONSIBILITY AND AUTHORITY

- 5.1 The Company should clearly define and document the master's responsibility with regard to:
 - .1 implementing the safety and environmental protection policy of the Company;
 - .2 motivating the crew in the observation of that policy;
 - .3 issuing appropriate orders and instructions in a clear and simple manner;

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- .4 verifying that specified requirements are observed; and
 - .5 periodically reviewing the SMS and reporting its deficiencies to the shore based management.
- 5.2 The Company should ensure that the SMS operating on board the ship contains a clear statement emphasizing the Master's authority. The Company should establish in the SMS that the master has the overriding authority and the responsibility to make decisions with respect to safety and pollution prevention and to request the Company's assistance as may be necessary.

6 RESOURCES AND PERSONNEL

- 6.1 The Company should ensure that the master is:
- .1 properly qualified for command;
 - .2 fully conversant with the Company's SMS; and
 - .3 given the necessary support so that the Master's duties can be safely performed.
- 6.2 The Company should ensure that each ship is manned with qualified, certificated and medically fit seafarers in accordance with national and international requirements.
- 6.3 The Company should establish procedures to ensure that new personnel and personnel transferred to new assignments related to safety and protection of the environment are given proper familiarization with their duties. Instructions which are essential to be provided prior to sailing should be identified, documented and given.
- 6.4 The Company should ensure that all personnel involved in the Company's SMS have an adequate understanding of relevant rules, regulations, codes and guidelines.
- 6.5 The Company should establish and maintain procedures for identifying any training which may be required in support of the SMS and ensure that such training is provided for all personnel concerned.
- 6.6 The Company should establish procedures by which the ship's personnel receive relevant information on the SMS in a working language or languages understood by them.
- 6.7 The Company should ensure that the ship's personnel are able to communicate effectively in the execution of their duties related to the SMS.

7 SHIPBOARD OPERATIONS

The Company should establish procedures, plans and instructions, including checklists as appropriate, for key shipboard operations concerning the safety of the personnel, ship and protection of the environment. The various tasks should be defined and assigned to qualified personnel.

8 EMERGENCY PREPAREDNESS

- 8.1 The Company should identify potential emergency shipboard situations, and establish procedures to respond to them.
- 8.2 The Company should establish programmes for drills and exercises to prepare for emergency actions.
- 8.3 The SMS should provide for measures ensuring that the Company's organization can respond at any time to hazards, accidents and emergency situations involving its ships.

9 REPORTS AND ANALYSIS OF NON-CONFORMITIES, ACCIDENTS AND HAZARDOUS OCCURRENCES

- 9.1 The SMS should include procedures ensuring that non-conformities, accidents and hazardous situations are reported to the Company, investigated and analyzed with the objective of improving safety and pollution prevention.
- 9.2 The Company should establish procedures for the implementation of corrective action, including measures intended to prevent recurrence.

10 MAINTENANCE OF THE SHIP AND EQUIPMENT

- 10.1 The Company should establish procedures to ensure that the ship is maintained in conformity with the provisions of the relevant rules and regulations and with any additional requirements which may be established by the Company.
- 10.2 In meeting these requirements the Company should ensure that:
 - .1 inspections are held at appropriate intervals;
 - .2 any non-conformity is reported with its possible cause, if known;
 - .3 appropriate corrective action is taken; and
 - .4 records of these activities are maintained.
- 10.3 The Company should identify equipment and technical systems the sudden operational failure of which may result in hazardous situations. The SMS should provide for specific measures aimed at promoting the reliability of such equipment or systems. These measures should include the regular testing of stand-by arrangements and equipment or technical systems that are not in continuous use.
- 10.4 The inspections mentioned in 10.2 as well as the measures referred to 10.3 should be integrated in the ship's operational maintenance routine.

11 DOCUMENTATION

- 11.1 The Company should establish and maintain procedures to control all documents and data which are relevant to the SMS.
- 11.2 The Company should ensure that:
 - .1 valid documents are available at all relevant locations;
 - .2 changes to documents are reviewed and approved by authorized personnel; and

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- .3 obsolete documents are promptly removed.
- 11.3 The documents used to describe and implement the SMS may be referred to as the “Safety Management Manual”. Documentation should be kept in a form that the Company considers most effective. Each ship should carry on board all documentation relevant to that ship.

12 COMPANY VERIFICATION, REVIEW AND EVALUATION

- 12.1 The Company should carry out internal safety audits on board and ashore at intervals not exceeding twelve months to verify whether safety and pollution-prevention activities comply with the safety management system. In exceptional circumstances, this interval may be exceeded by not more than three months.
- 12.2 The Company should periodically evaluate the effectiveness of the SMS in accordance with procedures established by the Company.
- 12.3 The audits and possible corrective actions should be carried out in accordance with documented procedures.
- 12.4 Personnel carrying out audits should be independent of the areas being audited unless this is impracticable due to the size and the nature of the Company.
- 12.5 The results of the audits and reviews should be brought to the attention of all personnel having responsibility in the area involved.
- 12.6 The management personnel responsible for the area involved should take timely corrective action on deficiencies found.

PART B - CERTIFICATION AND VERIFICATION

13 CERTIFICATION AND PERIODICAL VERIFICATION

- 13.1 The ship should be operated by a Company which has been issued with a Document of Compliance or with an Interim Document of Compliance in accordance with paragraph 14.1, relevant to that ship.
- 13.2 The Document of Compliance should be issued by the Administration, by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government to the Convention to any Company complying with the requirements of this Code for a period specified by the Administration which should not exceed five years. Such a document should be accepted as evidence that the Company is capable of complying with the requirements of this Code.
- 13.3 The Document of Compliance is only valid for the ship types explicitly indicated in the document. Such indication should be based on the types of ships on which the initial verification was based. Other ship types should only be added after verification of the Company’s capability to comply with the requirements of this Code applicable to such ship types. In this context, ship types are those referred to in regulation IX/1 of the Convention.
- 13.4 The validity of a Document of Compliance should be subject to annual verification by the Administration or by an organization recognized by the Administration or, at the request of the Administration by another Contracting Government within three months before or after the anniversary date.

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- 13.5 The Document of Compliance should be withdrawn by the Administration or, at its request, by the Contracting Government which issued the document, when the annual verification required in paragraph 13.4 is not requested or if there is evidence of major non-conformities with this Code.
- 13.5.1 All associated Safety Management Certificates and/or Interim Safety Management Certificates should also be withdrawn if the Document of Compliance is withdrawn.
- 13.6 A copy of the Document of Compliance should be placed on board in order that the master of the ship, if so requested, may produce it for verification by the Administration or by an organization recognized by the Administration or for the purposes of the control referred to in regulation IX/6.2 of the Convention. The copy of the document is not required to be authenticated or certified.
- 13.7 The Safety Management Certificate should be issued to a ship for a period which should not exceed five years by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. The Safety Management Certificate should be issued after verifying that the Company and its shipboard management operate in accordance with the approved safety management system. Such a certificate should be accepted as evidence that the ship is complying with the requirements of this Code.
- 13.8 The validity of the Safety Management Certificate should be subject to at least one intermediate verification by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. If only one intermediate verification is to be carried out and the period of validity of the Safety Management Certificate is five years, it should take place between the second and third anniversary date of the Safety Management Certificate.
- 13.9 In addition to the requirements of paragraph 13.5.1, the Safety Management Certificate should be withdrawn by the Administration or, at the request of the Administration, by the Contracting Government which has issued it when the intermediate verification required in paragraph 13.8 is not requested or if there is evidence of major non-conformity with this Code.
- 13.10 Notwithstanding the requirements of paragraphs 13.2 and 13.7, when the renewal verification is completed within three months before the expiry date of the existing Document of Compliance or Safety Management Certificate, the new Document of Compliance or the new Safety Management Certificate should be valid from the date of completion of the renewal verification for a period not exceeding five years from the date of expiry of the existing Document of Compliance or Safety Management Certificate.
- 13.11 When the renewal verification is completed more than three months before the expiry date of the existing Document of Compliance or Safety Management Certificate, the new Document of Compliance or the new Safety Management Certificate should be valid from the date of completion of the renewal verification for a period not exceeding five years from the date of completion of the renewal verification.

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- 13.12 When the renewal verification is completed after the expiry date of the existing Safety Management Certificate, the new Safety Management Certificate should be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of expiry of the existing Safety Management Certificate.
- 13.13 If a renewal verification has been completed and a new Safety Management Certificate cannot be issued or placed on board the ship before the expiry date of the existing certificate, the Administration or organization recognized by the Administration may endorse the existing certificate and such a certificate should be accepted as valid for a further period which should not exceed five months from the expiry date.
- 13.14 If a ship at the time when a Safety Management Certificate expires is not in a port in which it is to be verified, the Administration may extend the period of validity of the Safety Management Certificate but this extension should be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be verified, and then only in cases where it appears proper and reasonable to do so. No Safety Management Certificate should be extended for a period of longer than three months, and the ship to which an extension is granted should not, on its arrival in the port in which it is to be verified, be entitled by virtue of such extension to leave that port without having a new Safety Management Certificate. When the renewal verification is completed, the new Safety Management Certificate should be valid to a date not exceeding five years from the expiry date of the existing Safety Management Certificate before the extension was granted.

14 INTERIM CERTIFICATION

- 14.1 An Interim Document of Compliance may be issued to facilitate initial implementation of this Code when:
- .1 a Company is newly established; or
 - .2 new ship types are to be added to an existing Document of Compliance,
- following verification that the Company has a safety management system that meets the objectives of paragraph 1.2.3 of this Code, provided the Company demonstrates plans to implement a safety management system meeting the full requirements of this Code within the period of validity of the Interim Document of Compliance. Such an Interim Document of Compliance should be issued for a period not exceeding 12 months by the Administration or by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. A copy of the Interim Document of Compliance should be placed on board in order that the master of the ship, if so requested, may produce it for verification by the Administration or by an organization recognized by the Administration or for the purposes of the control referred to in regulation IX/6.2 of the Convention. The copy of the document is not required to be authenticated or certified.
- 14.2 An Interim Safety Management Certificate may be issued:
- .1 to new ships on delivery;

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- .2 when a Company takes on responsibility for the operation of a ship which is new to the Company; or
 - .3 when a ship changes flag.

Such an Interim Safety Management Certificate should be issued for a period not exceeding 6 months by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government.

- 14.3 An Administration or, at the request of the Administration, another Contracting Government may, in special cases, extend the validity of an Interim Safety Management Certificate for a further period which should not exceed 6 months from the date of expiry.
- 14.4 An Interim Safety Management Certificate may be issued following verification that:
 - .1 the Document of Compliance, or the Interim Document of Compliance, is relevant to the ship concerned;
 - .2 the safety management system provided by the Company for the ship concerned includes key elements of this Code and has been assessed during the audit for issuance of the Document of Compliance or demonstrated for issuance of the Interim Document of Compliance;
 - .3 the Company has planned the internal audit of the ship within three months;
 - .4 the master and officers are familiar with the safety management system and the planned arrangements for its implementation;
 - .5 instructions, which have been identified as being essential, are provided prior to sailing; and
 - .6 relevant information on the safety management system has been given in a working language or languages understood by the ship's personnel.

15 VERIFICATION

- 15.1 All verifications required by the provisions of this Code should be carried out in accordance with procedures acceptable to the Administration, taking into account the guidelines developed by the Organization*.

* Refer to the Guidelines on implementation of the International Safety Management (ISM) Code by Administrations adopted by the Organization by resolution A.1022(26).

16 FORMS OF CERTIFICATES

- 16.1 The Document of Compliance, the Safety Management Certificate, the Interim Document of Compliance and the Interim Safety Management Certificate should be drawn up in a form corresponding to the models given in the appendix to this Code. If the language used is neither English nor French, the text should include a translation into one of these languages.
- 16.2 In addition to the requirements of paragraph 13.3 the ship types indicated on the Document of Compliance and the Interim Document of Compliance may be endorsed to reflect any limitations in the operations of the ships described in the safety management system.

Schedule 2 Guidelines on the Implementation of the International Safety Management (ISM) Code by Administrations

(as in force at 1 July 2011)

(section 3)

GUIDELINES ON IMPLEMENTATION OF THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE BY ADMINISTRATIONS

ANNEX to Resolution A.1022(26)

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INTRODUCTION

The ISM Code

The International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code) was adopted by the Organization by resolution A.741(18) and became mandatory by virtue of the entry into force on 1 July 1998 of SOLAS chapter IX on Management for the Safe Operation of Ships. The ISM Code provides an international standard for the safe management and operation of ships and for pollution prevention.

The Maritime Safety Committee, at its eighty-fifth session, adopted amendments to sections 1, 5, 7, 8, 9, 10, 12, 13, 14 and the Appendix of the ISM Code by resolution MSC.273(85). As a result it is necessary to revise the Guidelines

contained in Assembly resolution A.913(22), which is being superseded by the present Guidelines.

The ISM Code requires that Companies establish safety objectives as described in section 1.2 of the ISM Code, and in addition that the Companies develop, implement and maintain a safety management system which includes functional requirements as listed in section 1.4 of the ISM Code.

The application of the ISM Code should *support and encourage* the development of a safety culture in shipping. Success factors for the development of a safety culture are, *inter alia*, commitment, values and beliefs.

Mandatory application of the ISM Code

Appropriate organization of management, ashore and on board, is needed to ensure adequate standards of safety and pollution prevention. A systematic approach to management by those responsible for management of ships is therefore required. The objectives of the mandatory application of the ISM Code are to ensure:

- .1 compliance with mandatory rules and regulations related to the safe operation of ships and protection of the environment; and
- .2 the effective implementation and enforcement thereof by Administrations.

Effective enforcement by Administrations must include verification that the safety management system complies with the requirements as stipulated in the ISM Code, as well as verification of compliance with mandatory rules and regulations.

The mandatory application of the ISM Code should ensure, support and encourage the taking into account of applicable codes, guidelines and standards recommended by the Organization, Administrations, classification societies and maritime industry organizations.

Verification and certification responsibilities

The Administration is responsible for verifying compliance with the requirements of the ISM Code and for issuing Documents of Compliance to Companies and Safety Management Certificates to ships.

Resolutions A.739(18) – Guidelines for the authorization of organizations acting on behalf of the Administration and A.789(19) – Specifications on the survey and certification functions of recognized organizations acting on behalf of the Administration, which have been made mandatory by virtue of SOLAS regulation XI/1, and resolution A.847(20) – Guidelines to assist flag States in the implementation of IMO instruments, are applicable when Administrations authorize organizations to issue Documents of Compliance and Safety Management Certificates on their behalf.

1 SCOPE AND APPLICATION

1.1 Definitions

The terms used in these Guidelines have the same meaning as those given in the ISM Code.

1.2 Scope and application

1.2.1 These Guidelines establish basic principles:

- .1 for verifying that the safety management system of a Company responsible for the operation of ships, or the safety management system for the ship or ships controlled by the Company, complies with the ISM Code; and
- .2 for the issue and annual verification of the Document of Compliance and for the issue and intermediate verification of the Safety Management Certificate.

2 VERIFYING COMPLIANCE WITH THE ISM CODE

2.1 General

2.1.1 To comply with the requirements of the ISM Code, Companies should develop, implement and maintain a safety management system to ensure that the safety and environmental protection policy of the Company is implemented. The Company policy should include the objectives defined by the ISM Code.*

* The ICS/ISF Guidelines on the application of the International Safety Management Code provide useful guidance on important individual elements of a safety management system and its development by Companies.

2.1.2 Administrations should verify compliance with the requirements of the ISM Code by determining:

- .1 the conformity of the Company's safety management system with the requirements of the ISM Code; and
- .2 that the safety management system ensures that the objectives defined in paragraph 1.2.3 of the ISM Code are met.

2.1.3 Determining the conformity or non-conformity of safety management system elements with the requirements specified by the ISM Code may demand that criteria for assessment be developed. Administrations are recommended to limit the development of criteria in the form of prescriptive management system solutions. Criteria for assessment in the form of prescriptive requirements may have the effect that safety management in shipping results in Companies implementing solutions prepared by others, and it may then be difficult for a Company to develop the solutions which best suit that particular Company, operation or ship.

2.1.4 Therefore, Administrations are recommended to ensure that these assessments are based on determining the effectiveness of the safety management system in meeting specified objectives, rather than conformity with detailed requirements in addition to those contained in the ISM Code, so as to reduce the need for

developing criteria to facilitate assessment of the Companies' compliance with the Code.

2.2 The ability of the safety management system to meet general safety management objectives

2.2.1 The ISM Code identifies general safety management objectives. These objectives are:

- .1 to provide for safe practices in ship operation and a safe working environment;
- .2 to assess all identified risks to its ships, personnel and the environment and establish appropriate safeguards; and
- .3 to improve continuously the safety-management skills of personnel ashore and aboard, including preparing for emergencies related both to safety and to environmental protection.

The verification should support and encourage Companies in achieving these objectives.

2.2.2 These objectives provide clear guidance to Companies for the development of safety management system elements in compliance with the ISM Code. Since, however, the ability of the safety management system to achieve these objectives cannot be determined beyond whether the safety management system complies with the requirements of the ISM Code, they should not form the basis for establishing detailed interpretations to be used for determining conformity or non-conformity with the requirements of the ISM Code.

2.3 The ability of the safety management system to meet specific requirements of safety and pollution prevention

2.3.1 The main criterion which should govern the development of interpretations needed for assessing compliance with the requirements of the ISM Code should be the ability of the safety management system to meet the specific requirements defined by the ISM Code in terms of specific standards of safety and pollution prevention.

The specific standards of safety and protection of the environment specified by the ISM Code are:

- .1 compliance with mandatory rules and regulations; and
- .2 that applicable codes, guidelines and standards recommended by the Organization, Administrations, classification societies and other maritime industry organizations are taken into account.

2.3.2 All records having the potential to facilitate verification of compliance with the ISM Code should be open to scrutiny during an examination. For this purpose the Administration should ensure that the Company provides auditors with statutory and classification records relevant to the actions taken by the Company to ensure that compliance with mandatory rules and regulations is maintained. In this regard the records may be examined to substantiate their authenticity and veracity.

2.3.3 Some mandatory requirements may not be subject to statutory or classification surveys, such as:

- .1 maintaining the condition of ship and equipment between surveys; and
- .2 certain operational requirements.

Specific arrangements may be required to ensure compliance and to provide for the objective evidence needed for verification in these cases, such as:

- .1 documented procedures and instructions; and
- .2 documentation of the verification carried out by senior officers of day-to-day operation when relevant to ensure compliance.

2.3.4 The verification of compliance with mandatory rules and regulations, which is part of the ISM Code certification, neither duplicates nor substitutes surveys for other maritime certificates. The verification of compliance with the ISM Code does not relieve the Company, the master or any other entity or person involved in the management or operation of the ship of their responsibilities.

2.3.5 Administrations should ensure that the Company has:

- .1 taken into account the recommendations, as referred to in 1.2.3.2 of the ISM Code, when establishing the safety management system; and
- .2 developed procedures to ensure that these recommendations are implemented on shore and on board.

2.3.6 Within a safety management system, implementation of codes, guidelines and standards recommended by the Organization, Administrations, classification societies and other maritime industry organizations does not make these recommendations mandatory under the ISM Code. Nevertheless auditors should encourage Companies to adopt these recommendations whenever applicable to the Company.

3 THE CERTIFICATION PROCESS

3.1 Certification activities

3.1.1 The certification process relevant to a Document of Compliance for a Company and a Safety Management Certificate to a ship will normally involve the following steps:

- .1 initial verification;
- .2 annual or intermediate verification;
- .3 renewal verification; and
- .4 additional verification.

These verifications are carried out at the request of the Company to the Administration, or to the organization recognized by the Administration to perform certification functions under the ISM Code, or at the request of the Administration by another Contracting Government to the Convention.

The verifications will include an audit of the safety management system.

3.2 Initial verification

- 3.2.1 The Company should apply for ISM Code certification to the Administration.
- 3.2.2 An assessment of the shoreside management system undertaken by the Administration would necessitate assessment of the offices where such management is carried out and possibly of other locations, depending on the Company's organization and the functions of the various locations.
- 3.2.3 On satisfactory completion of the assessment of the shoreside safety management system, arrangements/planning may commence for the assessment of the Company's ships.
- 3.2.4 On satisfactory completion of the assessment, a Document of Compliance will be issued to the Company, copies of which should be forwarded to each shoreside premises and each ship in the Company's fleet. As each ship is assessed and issued with a Safety Management Certificate, a copy of it should also be forwarded to the Company's head office.
- 3.2.5 In cases where certificates are issued by a recognized organization, copies of all certificates should also be sent to the Administration.
- 3.2.6 The safety management audit for the Company and for a ship will involve the same basic steps. The purpose is to verify that a Company or a ship complies with the requirements of the ISM Code. The audits include:
- .1 the conformity of the Company's safety management system with the requirements of the ISM Code, including objective evidence demonstrating that the Company's safety management system has been in operation for at least three months and that a safety management system has been in operation on board at least one ship of each type operated by the Company for at least three months; and
 - .2 that the safety management system ensures that the objectives defined in paragraph 1.2.3 of the ISM Code are met. This includes verification that the Document of Compliance for the Company responsible for the operation of the ship is applicable to that particular type of ship, and assessment of the shipboard safety management system to verify that it complies with the requirements of the ISM Code, and that it is implemented. Objective evidence demonstrating that the Company's safety management system has been functioning effectively for at least three months on board the ship and ashore should be available, including, inter alia, records from the internal audit performed by the Company.

3.3 Annual verification of Document of Compliance

- 3.3.1 Annual safety management audits are to be carried out to maintain the validity of the Document of Compliance, and should include examining and verifying the correctness of the statutory and classification records presented for at least one ship of each type to which the Document of Compliance applies. The purpose of these audits is to verify the effective functioning of the safety management system, and that any modifications made to the Safety Management System comply with the requirements of the ISM Code.

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- 3.3.2 Annual verification is to be carried out within three months before and after each anniversary date of the Document of Compliance. A schedule not exceeding three months is to be agreed for completion of the necessary corrective actions.
- 3.3.3 Where the Company has more than one shoreside premises, each of which may not have been visited at the initial assessment, the annual assessments should endeavour to ensure that all sites are visited during the period of validity of the Document of Compliance.

3.4 Intermediate verification of Safety Management Certificates

- 3.4.1 Intermediate safety management audits should be carried out to maintain the validity of the Safety Management Certificate. The purpose of these audits is to verify the effective functioning of the safety management system and that any modifications made to the safety management system comply with the requirements of the ISM Code. In certain cases, particularly during the initial period of operation under the safety management system, the Administration may find it necessary to increase the frequency of the intermediate verification. Additionally, the nature of non-conformities may also provide a basis for increasing the frequency of intermediate verifications.
- 3.4.2 If only one intermediate verification is to be carried out, it should take place between the second and third anniversary date of the issue of the Safety Management Certificate.

3.5 Renewal verification

Renewal verifications are to be performed before the validity of the Document of Compliance or the Safety Management Certificate expires. The renewal verification will address all the elements of the safety management system and the activities to which the requirements of the ISM Code apply. Renewal verification may be carried out from three months before the date of expiry of the Document of Compliance or the Safety Management Certificate, and should be completed before their date of expiry.

3.6 Safety management audits

The procedure for safety management audits outlined in the following paragraphs includes all steps relevant for initial verification. Safety management audits for annual verification and renewal verification should be based on the same principles even if their scope may be different.

3.7 Application for audit

- 3.7.1 The Company should submit a request for audit to the Administration or to the organization recognized by the Administration for issuing a Document of Compliance or a Safety Management Certificate on behalf of the Administration.
- 3.7.2 The Administration or the recognized organization should then nominate the lead auditor and, if relevant, the audit team.

3.8 Preliminary review (Document review)

As a basis for planning the audit, the auditor should review the safety management manual to determine the adequacy of the safety management system in meeting the requirements of the ISM Code. If this review reveals that the system is not adequate, the audit will have to be delayed until the Company undertakes corrective action.

3.9 Preparing the audit

- 3.9.1 The nominated lead auditor should liaise with the Company and produce an audit plan.
- 3.9.2 The auditor should provide the working documents which are to govern the execution of the audit to facilitate the assessments, investigations and examinations in accordance with the standard procedures, instructions and forms which have been established to ensure consistent auditing practices.
- 3.9.3 The audit team should be able to communicate effectively with auditees.

3.10 Executing the audit

- 3.10.1 The audit should start with an opening meeting in order to introduce the audit team to the Company's senior management, summarize the methods for conducting the audit, confirm that all agreed facilities are available, confirm time and date for a closing meeting and clarify possible unclear details relevant to the audit.
- 3.10.2 The audit team should assess the safety management system on the basis of the documentation presented by the Company and objective evidence as to its effective implementation.
- 3.10.3 Evidence should be collected through interviews and examination of documents. Observation of activities and conditions may also be included when necessary to determine the effectiveness of the safety management system in meeting the specific standards of safety and protection of the environment required by the ISM Code.
- 3.10.4 Audit observations should be documented. After activities have been audited, the audit team should review their observations to determine which are to be reported as non-conformities. Non-conformities should be reported in terms of the general and specific provisions of the ISM Code.
- 3.10.5 At the end of the audit, prior to preparing the audit report, the audit team should hold a meeting with the senior management of the Company and those responsible for the functions concerned. The purpose is to present the observations in such a way as to ensure that the results of the audit are clearly understood.

3.11 Audit report

- 3.11.1 The audit report should be prepared under the direction of the lead auditor, who is responsible for its accuracy and completeness.
- 3.11.2 The audit report should include the audit plan, identification of audit team members, dates and identification of the Company, observations on any non-

conformities and observations on the effectiveness of the safety management system in meeting the specified objectives.

- 3.11.3 The Company should receive a copy of the audit report. The Company should be advised to provide a copy of the shipboard audit reports to the ship.

3.12 Corrective action follow-up

- 3.12.1 The Company is responsible for determining and initiating the corrective action needed to correct a non-conformity or to correct the cause of the non-conformity. Failure to correct non-conformities with specific requirements of the ISM Code may affect the validity of the Document of Compliance and related Safety Management Certificates.
- 3.12.2 Corrective actions and possible subsequent follow-up audits should be completed within the time period agreed. The Company should apply for the follow-up audits.

3.13 Company responsibilities pertaining to safety management audits

- 3.13.1 The verification of compliance with the requirements of the ISM Code does not relieve the Company, management, officers or seafarers of their obligations as to compliance with national and international legislation related to safety and protection of the environment.
- 3.13.2 The Company is responsible for:
- .1 informing relevant employees about the objectives and scope of the ISM Code certification;
 - .2 appointing responsible members of staff to accompany members of the team performing the certification;
 - .3 providing the resources needed by those performing the certification to ensure an effective and efficient verification process;
 - .4 providing access and evidential material as requested by those performing the certification; and
 - .5 cooperating with the verification team to permit the certification objectives to be achieved.
- 3.13.3 Where major non-conformities are identified, Administrations and recognized organizations (ROs) should comply with the procedures stated in MSC/Circ.1059-MEPC/Circ.401.

3.14 Responsibilities of the organization performing the ISM Code certification

The organization performing the ISM Code certification is responsible for ensuring that the certification process is performed according to the ISM Code and these Guidelines. This includes management control of all aspects of the certification according to the appendix to these Guidelines.

3.15 Responsibilities of the verification team

- 3.15.1 Whether the verifications involved with certification are performed by a team or not, one person should be in charge of the verification. The leader should be given the authority to make final decisions regarding the conduct of the verification and any observations. His responsibilities should include:
- .1 preparation of a plan for the verification; and
 - .2 submission of the report of the verification.
- 3.15.2 Personnel participating in the verification are responsible for complying with the requirements governing the verification, ensuring confidentiality of documents pertaining to the certification and treating privileged information with discretion.

APPENDIX

STANDARDS ON ISM CODE CERTIFICATION ARRANGEMENTS

1 INTRODUCTION

The audit team involved with ISM Code certification, and the organization under which it may be managed, should comply with the specific requirements stated in this annex.

2 STANDARD OF MANAGEMENT

- 2.1 Organizations managing verification of compliance with the ISM Code should have, in their own organization, competence in relation to:
- .1 ensuring compliance with the rules and regulations, including certification of seafarers, for the ships operated by the Company;
 - .2 approval, survey and certification activities;
 - .3 the terms of reference that must be taken into account under the safety management system as required by the ISM Code; and
 - .4 practical experience of ship operation.
- 2.2 The Convention requires that organizations recognized by Administrations for issuing a Document of Compliance and a Safety Management Certificate at their request should comply with resolutions A.739(18) – Guidelines for the authorization of organizations acting on behalf of the Administration and A.789(19) – Specifications on the survey and certification functions of recognized organizations acting on behalf of the Administration.
- 2.3 Any organization performing verification of compliance with the provisions of the ISM Code should ensure that there exists independence between the personnel providing consultancy services and those involved in the certification procedure

3 STANDARDS OF COMPETENCE

3.1 ISM Code certification scheme management

Management of ISM Code certification schemes should be carried out by those who have practical knowledge of ISM Code certification procedures and practices.

3.2 Basic competence for performing verification

3.2.1 Personnel who are to participate in the verification of compliance with the requirements of the ISM Code should have a minimum of formal education comprising the following:

- .1 qualifications from a tertiary institution recognized by the Administration or by the recognized organization within a relevant field of engineering or physical science (minimum two-year programme); or
- .2 qualifications from a marine or nautical institution and relevant seagoing experience as a certified ship officer.

3.2.2 They should have undergone training to ensure adequate competence and skills for performing verification of compliance with the requirements of the ISM Code, particularly with regard to:

- .1 knowledge and understanding of the ISM Code;
- .2 mandatory rules and regulations;
- .3 the terms of reference which the ISM Code requires that Companies should take into account;
- .4 assessment techniques of examining, questioning, evaluating and reporting;
- .5 technical or operational aspects of safety management;
- .6 basic knowledge of shipping and shipboard operations; and
- .7 participation in at least one marine-related management system audit.

3.2.3 Such competence should be demonstrated through written or oral examinations, or other acceptable means.

3.3 Competence for initial verification and renewal verification

3.3.1 In order to assess fully whether the Company or the ship complies with the requirements of the ISM Code, in addition to the basic competence stated under 3.2 above, personnel who are to perform initial verifications or renewal verifications for a Document of Compliance or a Safety Management Certificate must possess the competence to:

- .1 determine whether the safety management system elements conform or do not conform with the requirements of the ISM Code;
- .2 determine the effectiveness of the Company's safety management system, or that of the ship, to ensure compliance with rules and regulations as evidenced by the statutory and classification survey records;

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- .3 assess the effectiveness of the safety management system in ensuring compliance with other rules and regulations which are not covered by statutory and classification surveys and enabling verification of compliance with these rules and regulations; and
 - .4 assess whether the safe practices recommended by the Organization, Administrations, classification societies and maritime industry organizations have been taken into account.
- 3.3.2 This competence can be accomplished by teams which together possess the total competence required.
- 3.3.3 Personnel who are to be in charge of initial verification or renewal verification of compliance with the requirements of the ISM Code should have at least five years' experience in areas relevant to the technical or operational aspects of safety management, and should have participated in at least three initial verifications or renewal verifications. Participation in verification of compliance with other management standards may be considered as equivalent to participation in verification of compliance with the ISM Code.

3.4 Competence for annual, intermediate and interim verification

Personnel who are to perform annual, intermediate and interim verifications should satisfy basic requirements for personnel participating in verifications and should have participated in a minimum of two annual, renewal or initial verifications. They should have received special instructions needed to ensure that they possess the competence required to determine the effectiveness of the Company's safety management system.

4 QUALIFICATION ARRANGEMENTS

Organizations performing ISM Code certification should have implemented a documented system for qualification and continuous updating of the knowledge and competence of personnel who are to perform verification of compliance with the ISM Code. This system should comprise theoretical training courses covering all the competence requirements and the appropriate procedures connected to the certification process, as well as practical tutored training, and it should provide documented evidence of satisfactory completion of the training.

5 CERTIFICATION PROCEDURES AND INSTRUCTIONS

Organizations performing ISM Code certification should have implemented a documented system to ensure that the certification process is performed in accordance with this standard. This system should, *inter alia*, include procedures and instructions for the following:

- .1 contractual agreements with Companies;
- .2 planning, scheduling and performing verification;
- .3 reporting results from verification;
- .4 issue of Documents of Compliance, Safety Management Certificates and Interim Documents of Compliance and Safety Management Certificates; and

.5 corrective action and follow-up of verifications, including actions to be taken in cases of major non-conformity.

[14] Appendix 3, Form 1

after

Name and address of the Company

insert

Company identification number

[15] Appendix 3, Form 2

omit each mention of

authorized

insert

authorised

[16] Appendix 3, Form 2

after

Name and address of the Company

insert

Company identification number

[17] Appendix 3, Form 2, note at foot of form

omit

Revised

[18] Appendix 3, Form 2, note at foot of form

omit

A.913(22)

insert

A.1022(26).

[19] Appendix 3, Form 2, at the end, after the note

insert

ENDORSEMENT WHERE THE RENEWAL VERIFICATION HAS BEEN COMPLETED AND PART B 13.13 OF THE ISM CODE APPLIES

Certificate No.

The ship complies with the relevant provisions of part B of the ISM Code, and the Certificate should, in accordance with part B 13.13 of the ISM Code, be accepted as valid until

Signed

(Signature of authorised official)

Place

Date

(Seal or stamp of the authority, as appropriate)

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF VERIFICATION WHERE PART B 13.12 OF THE ISM CODE APPLIES OR FOR A PERIOD OF GRACE WHERE PART B 13.14 OF THE ISM CODE APPLIES

This Certificate should, in accordance with part B 13.12 or part B 13.14 of the ISM Code, be accepted as valid until

Signed

(Signature of authorised official)

Place

Date

(Seal or stamp of the authority, as appropriate).

[20] Appendix 3, Forms 3 and 4

after

Name and address of the Company

insert

Company identification number

[21] Further amendments — references to Appendix 3

The following provisions are amended by omitting ‘Appendix 3’ and inserting ‘Schedule 3’:

- footnote 3
- footnote 6
- footnote 9
- footnote 10
- Appendix 3, heading

[22] Further amendments — definitions

Each definition in provision 2, other than the definitions inserted by items [3] to [5], is amended by:

- (a) omitting the concluding semi-colon and substituting a full stop; and
- (b) formatting each defined term in bold italic.

Schedule 2 Amendment commencing immediately after Schedule 1

(section 3)

[1] Further amendments — footnotes

Footnote	Instruction
2	Re-locate as a note at foot of provision 5
3	Re-locate as a note at foot of provision 9.2
4	Re-locate as a note at foot of provision 9.4
5	Re-locate as a note at foot of provision 9.5
6	Re-locate as a note at foot of provision 10.2
7	Re-locate as a note at foot of provision 10.4.1
8	Re-locate as a note at foot of provision 10.5.2
9	Re-locate as a note at foot of provision 11.1.1
10	Re-locate as a note at foot of provision 11.2.1

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.