



The Merchant Shipping (International Safety Management (ISM) Code) Directive

Directive 03-2002

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The Director of the Department of Marine Services and Merchant Shipping, in exercise of the powers conferred by Section 7, subsection (5) of the Merchant Shipping Act, 1998, and of all other powers enabling him in that behalf, hereby makes the following directive:

1 Citation and commencement

- (1) This directive may be cited as the Merchant Shipping (International Safety Management (ISM) Code) Directive and shall come into force on 1st July 1998.

2 Interpretation

- (1) In this directive: "Antigua and Barbuda ship" means a ship which is registered or licensed under the Antigua and Barbuda Merchant Shipping Act, 1998.

"IMO" means the International Maritime Organization;

"ISM Code" means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by IMO by Resolution A.741 (18);

"audit" means a systematic and independent examination to determine whether the safety management system is suitable to meet the objectives set out in section 1 of the code, and, so far as the system has been operated, that the system has been implemented effectively. Such audits shall take into account the Guidelines on the Implementation of the ISM Code by Administrations, adopted by IMO pursuant to Assembly Resolution A. 788 (19);

"Safety Management System" means a structured and documented system enabling company personnel to effectively implement the company safety and environmental protection policy;

"SOLAS" means the International Convention for the Safety of Life at Sea, 1974, as amended;

"ITC 1969" means the International Convention on Tonnage Measurement of Ships, 1969

"Document of Compliance" means the Document of Compliance referred to in Regulation 4 of Chapter IX of SOLAS;

"Safety Management Certificate" means the Safety Management Certificate referred to in Regulation 4 of Chapter IX of SOLAS;

"records" means all documents, internal and external audit reports and checklists connected with the Document of Compliance and Safety Management Certificates;

"recognized organization means an organization authorized by the Director of Marine Services to carry out statutory certification services, inspections and audits for the purpose of this directive and includes any surveyor of ships appointed under sections 150 and 151 of the Merchant Shipping Act;

"bulk carrier", "chemical tanker", "gas carrier", "high speed craft", "mobile offshore drilling unit", "cargo ship" and "oil tanker" have the meanings given by Regulation 1 of Chapter IX of SOLAS;

"company" means the owner of a ship to which this directive applies or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner;

"circular letter" means a circular letter or similar document issued to ship owners, ship operators or ship managers or published on the Antigua and Barbuda website;

"master" includes every person having command or charge of any ship other than a pilot;

(2) Any reference in this directive to SOLAS or the ISM Code shall include a reference to any document amending it and specified in a circular letter.

(3) In interpreting the ISM Code –

(a) the requirements of the ISM Code having been made mandatory under section 4, the language thereof shall be construed accordingly; and

(b) references to the Administration shall, in relation to Antigua and Barbuda ships, shall be references to the Department of Marine Services and Merchant Shipping:

3 Application,

(1) Subject to paragraphs (2) and (4) below, this directive applies to –

(a) Antigua and Barbuda ships wherever they may be; and

(b) other ships while they are within Antigua and Barbuda waters.

(2) This directive applies to –

(a) all ships of 500 GT (in accordance with IMO Res. A. 494 (XII) and ITC 1969 Art. 3(2)(d)) or more engaged on international voyages.

(b) all ships includes bulk carrier, oil tanker, chemical tanker, gas carrier, mobile offshore drilling units, Ro-Ro freight ships and other cargo ships,

(c) all yachts of 500 GT or more engaged in trade on international voyages.

(3) This directive applies to every company operating a ship to which this directive applies.

4 Duty to comply with the ISM Code.

(1) Every company shall comply with the requirements of the ISM Code as it applies to that company and to any ship owned by it or for which it has responsibility.

5 Duty to hold certificates.

(1) No company shall operate a ship unless that company holds a valid Document of Compliance.

(2) No company shall operate a ship unless there is in force in respect of that ship a valid Safety Management Certificate.

(3) No Antigua and Barbuda ship shall be operated unless:

(a) the company holds a Document of Compliance issued by the Administration or a recognized organization acting on behalf of Antigua and Barbuda; and

(b) there is in force in relation to the ship a Safety Management Certificate issued by the Administration or a recognized organization acting on behalf of Antigua and Barbuda.

(4) For the purposes of this section, a Document of Compliance or Safety Management Certificate is not valid if it has not been endorsed, in the circumstances required by the ISM Code, showing, in the case of a Document of Compliance, satisfactory annual audits, or in the case of a Safety Management Certificate, a satisfactory intermediate audit.

6 Duty to carry certificates.

(1) It shall be the duty of every company to ensure that a valid Safety Management Certificate and a copy of the Document of Compliance is carried on board each ship to which this directive applies.

7 Duty of the master.

(1) The master of every ship shall operate his ship in accordance with the safety management system on the basis of which the Safety Management Certificate was issued.

8 Designated person.

(1) The company shall designate a person who shall be responsible for monitoring the safe and efficient operation of each ship with particular regard to the safety and pollution prevention aspects.

- (2) In particular, the designated person shall –
 - (a) take such steps as are necessary to ensure compliance with the company safety management system on the basis of which the Document of Compliance was issued; and
 - (b) ensure that proper provision is made for each ship to be so manned, equipped and maintained that it is fit to operate in accordance with the safety management system and with statutory requirements.
- (3) The company shall ensure that the designated person –
 - (a) is provided with sufficient authority and resources; and
 - (b) has appropriate knowledge and sufficient experience of the operation of ships at sea and in port, to enable him to comply with paragraphs (1) and (2) above.

9 Issue of Document of Compliance and Safety Management Certificate.

- (1) If the Administration or recognized organization acting on behalf of Antigua and Barbuda is satisfied that a company operating Antigua and Barbuda ships complies with the requirements of the ISM Code it may issue to it a Document of Compliance valid for a period not exceeding five years.
- (2) If the Administration or recognized organization acting on behalf of Antigua and Barbuda is satisfied that a ship is operated by a company to which a Document of Compliance has been issued and that the company and its shipboard management operate in accordance with the safety management system that has been approved, it may issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.
- (3) Where a company operating ships which are registered in more than one country, but at least one of which is registered in Antigua and Barbuda, complies with the requirements of the ISM Code, a Document of Compliance may be accepted issued by the government of one of those countries to which SOLAS applies, if prior to the issue of that document it has been agreed by the Administration to accept it. Conditions for acceptance may include completion of a satisfactory audit of the company by the Administration or a recognized organization.
- (4) Where a company newly registers a ship in Antigua and Barbuda, a Document of Compliance may be accepted by Antigua and Barbuda, issued by the government of a country to which SOLAS applies, in which ships operated by the company are registered. Conditions for acceptance may include completion of a satisfactory audit by the Administration or a recognized organization.
- (5) If it can be demonstrated that an Antigua and Barbuda ship is operated by a company which has a Document of Compliance acceptable under paragraph (3) or (4) above and that its shipboard management operates in accordance with a safety management system which complies with the ISM Code, the Administration or a recognized organization may issue in

respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

10 Interim certificates.

(1) Document of Compliance;

(a) Where a company is newly established, or the company assumes, for the first time, the responsibility for operating a ship type not covered by a Document of Compliance the company already holds, an interim Document of Compliance may be issued to facilitate implementation of the ISM Code.

(b) An interim Document of Compliance, valid for no more than twelve months, may be issued to a company following a demonstration that the company has a safety management system that meets the objectives of section 1.2.3 of the ISM Code. The company shall demonstrate plans to implement a safety management system meeting the full requirements of the ISM Code within the period of validity of the interim Document of Compliance.

(2) Safety Management Certificate.

(a) An interim Safety Management Certificate, valid for not more than six months, may be issued in respect of a new ship on delivery, when a company takes on the responsibility for the management of a ship which is new to the company or when a ship is transferred between flag states. In special cases the validity of the interim Safety Management Certificate may be extended for a further six months.

(b) An interim Safety Management Certificate shall only be issued when –

(i) the Document of Compliance, or the interim Document of Compliance, is valid and relevant to that ship type and,

(ii) the safety management system provided by the company for the ship includes all key elements of the ISM Code and has been assessed during the audit for issuance of the Document of Compliance or issuance of the interim Document of Compliance and,

(iii) the master and relevant senior officers are familiar with the safety management system and the planned arrangements for its implementation and,

(iv) instructions which have been identified as essential to be provided prior to sailing have been given and,

(v) plans for company audit of the ship within three month exists; and

(vi) the relevant information on the safety management system is given in a working language or languages understood by the ship's personnel.

- 11 Annual audit of Document of Compliance,
(1) The company shall ensure that an annual audit of the safety management system is carried out by the Administration or a recognized organization within three months of the anniversary date of the Document of Compliance.
- 12 Intermediate audit of Safety Management Certificate.
(1) The company shall ensure that an intermediate audit of each ship shall be carried out by the Administration or a recognized organization between the second and third anniversaries of the Safety Management Certificate and at other times, if required, to ensure that the conditions for the continued validity of the Safety Management Certificate are being met.
- 13 Renewal of certificates.
(1) Before the renewal of any certificate, a renewal audit shall be carried out by the Administration or recognized organization of the company or ship during the six month period preceding the expiry date of the Document of Compliance or Safety Management Certificate as the case may be, to ensure that compliance with the requirements of the ISM Code are being maintained.
- 14 Powers of audit, inspection, suspension of service and detention.
(1) Document of Compliance,
(a) The Administration or recognized organization may audit the safety management system of every company, to which this Directive applies.

(b) If the Administration receives evidence that a company, notwithstanding that it holds a Document of Compliance, is unable to operate ships without creating a risk of -

(i) serious danger to safety of life; or

(ii) serious damage to property; or

(iii) serious harm to the environment,

or that the company does not hold a Document of Compliance, it may suspend the operation of ships by that company until such time as any such risk is removed and a valid Document of Compliance is held.

(c) Where a service is to be suspended pursuant to sub-paragraph (b) above the Administration shall serve on the company a notice stating that the operation of the ship shall be suspended.

(2) Safety Management Certificates.

(a) The Administration or recognized organization may inspect any ship to which this directive applies. Any such inspection may include an audit of its safety management system:

(b) If the Administration, on inspecting a ship, finding that there is a failure to comply in relation to that ship with the requirements of section 4 or 5 it may withdraw the Safety Management Certificate of the ship and shall serve on the company a notice, stating that the operation of the ship shall be suspended.

(c) In any case where a ship is liable to be detained, section 190 of the Antigua and Barbuda Merchant Shipping Act shall have effect in relation to the ship subject to the modification that as if for the words "this Act" wherever they appear, there were substituted "the Merchant Shipping (International Safety Management (ISM) Code) Directive 2002."

(3) Where a ship is detained in relation to a failure to comply with a requirement of this Directive, sections 186 to 190 of the Antigua and Barbuda Merchant Shipping Act shall apply to the notice of detention.

15 Exemptions.

(1) Exemptions may be granted from all or any of the provisions of this Directive (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as may be specified, and may, subject to giving reasonable notice, alter or cancel any such exemption.

16 Suspension or cancellation of Documents of Compliance and Safety Management Certificates.

(1) Suspension or Cancellation.

(a) Any Document of Compliance or Safety Management Certificate may be cancelled or suspended by the Administration under this Directive where there is reason to believe that:

(i) the certificate was issued on false or erroneous information; or

(ii) since any audit required by this Directive, the management structure of either the company or ship has changed substantively, or where any audit of a company or ship has revealed a failure to comply with section 4.

(b) Any such notice shall contain the grounds for the suspension or cancellation of the certificate.

(c) A notice shall not be given unless the holder has been given the opportunity to make representations, except where it is considered that urgent safety or pollution prevention considerations require the notice to be given immediately.

- (2) Any Document of Compliance or Safety Management Certificate, issued under this Directive, which has expired or has been suspended or cancelled, shall be surrendered to the Administration or recognized organization.
- (3) No person shall:
- (a) intentionally alter a Document of Compliance or Safety Management Certificate without a written authorization of the Administration;
 - (b) in connection with any audit conducted pursuant to this Directive, knowingly or recklessly furnish false information;
 - (c) with intent to deceive, use, lend or allow to be used by another, a Document of Compliance or Safety Management Certificate;
 - (d) fail to surrender a Document of Compliance or Safety Management Certificate required to be surrendered under paragraph (2); or
 - (e) forge any Document of Compliance or Safety Management Certificate.

17 Records

ISM Records shall be kept for the following periods:

- (1) for Documents of Compliance and Safety Management Certificates for five years or the life of the Certificate,
- (2) reports of company and shipboard audits for ten years, as from the date of their issuance.

Signed by authority of the Director of the Department of Marine Services and Merchant Shipping.