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MINISTRY OF TRANSPORT AND COMMUNICATIONS
DEPARTMENT OF MARINE ADMINISTRATION

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Directive (4/2018)

Application of Extension, Dispensation, Equivalence or Exemption

Applicable to: All Ship-Owners, Ship Operators, Flag State Surveyors, Recognized Organizations, Masters and Officers of Myanmar Flagged Ships.

Reference :

- (a) SOLAS 74 as amended, Chapter I/4, I/5, III/2, IV/3, V/3
- (b) STCW 78 as amended, Article VIII, IX, Chapter II
- (c) STCW Code as amended, Section A-VI/1
- (d) COLREG 72 as amended
- (e) International Grain code, Part A-Section 5
- (f) IMSBC Code, Section 1.5
- (g) IMO SLS.14/Circ.115

1. The Department of Marine Administration circulates this directive in the exercise of the power of Section 245 E and 294 (B), paragraph (b) of Myanmar Merchant Shipping Act 1923, as amended.
2. This directive applies to Myanmar flagged ships on international voyages of:
 - Cargo ships of 500GT and upwards
 - All passenger ships
3. In case where the Shipping Companies/Owners, Operators or Ship Masters request any Services of Extension, Dispensation, Equivalence or Exemption with legitimate grounds for above-mentioned International Instruments, their application shall be submitted in advance by using the form prescribed in the Guidance for Extension, Dispensation, Equivalence or Exemption which is set out by Department of Marine Administration.
4. An Exemption or Equivalence will only be granted where compliance with the regulations is shown to be unreasonable and the Department of Marine Administration is satisfied that alternative steps are taken to achieve an equivalent level of safety. When an Exemption Certificate is issued,

port state authorities should interpret this as meaning that the ship complies with the provisions of the Convention.

5. Extensions or Dispensations will be issued with time specific corrective action requirements compliance with which are reportable to the Department of Marine Administration by the expiry date. Prompt notification is critical to ensure the deficiency is properly addressed and to mitigate possible Administrative or PSC action against the vessel and Owner/Operator.



Maung Maung Oo
Director General
Department of Marine Administration

Introduction

1. This Guidance applies to shipping companies and their employed on Myanmar flagged ships.
2. The primary purpose of this Guidance is to allow a ship to sail without being in full compliance with the relevant Convention requirement to mitigate circumstances preventing the immediate rectification of the subject deficiency or consider existent specific circumstances as sanctioned by the provisions of that Convention.
3. The Administration directs that measures are established by shipping companies and ship masters in accordance with the relevant International Conventions and Codes.
4. This Guidance for the Extension, Dispensation, Equivalence or Exemption is set out on 19th January 2018 according to the directive 4/2018 in the exercise of the power of Section 294 (B), paragraph (b) of Myanmar Merchant Shipping Act 1923, as amended.

Guidance for Extension, Dispensation, Equivalence or Exemption

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Guidance for Extension, Dispensation, Equivalence or Exemption

1. Policy

To ensure consistent response and handling of request not effecting Safety of the Ship.

2. Purpose

To allow a ship to sail without being in full compliance with the relevant Convention requirement to mitigate circumstances preventing the immediate rectification of the subject deficiency or consider existent specific circumstances as sanctioned by the provisions of that Convention.

3. Application

This Guidance applies to Shipping Companies and Myanmar flagged ships on international voyages of:

- Cargo ships of 500 GT and upwards
- All passenger ships

4. Request for Application from Shipping Companies/Owners, Operators or Ship Masters

In case where the Shipping Companies/Owners, Operators or Ship Masters request any Services of Extension, Dispensation, Equivalence or Exemption with legitimate grounds for relevant International Instruments, their application shall be submitted in advance by using the form prescribed in this Guidance.

5. Extension

5.1 Extension of certificate

5.1.1 An Extension is a postponement of the term of validity of a Statutory Certificate or servicing interval in accordance with the provisions of the relevant Convention, due to extenuating circumstances encountered that prevent the crediting of a requisite task prior to the nominal due date. Extensions of servicing intervals in particular are referred to as “Service Extensions.” Extensions are also issued with time specific corrective action requirements compliance with which is reportable to the Director (Nautical Division) by the expiry date.

5.1.2 The Department of Marine Administration (DMA) recognizes that on occasion due to exceptional circumstances, difficulty can be encountered when

scheduling docking or repair facilities for Statutory survey requirements, necessitating an extension of the Renewal Surveys.

5.1.3 As per MSC-MEPC.5/Circ.1, it is noted that in SOLAS and other mandatory IMO instruments the following provisions apply:

“If a ship at the time when a Certificate expires is not in a port in which it is to be surveyed, the Administration may extend the period of validity of a certificate, but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed, and then only in cases **where it appears reasonable to do so**. No certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival in the port in which it is to be surveyed, be titled by virtue of such extension to leave that port without having a new certificate.”

5.1.4 In such instances where an extension of the Renewal Surveys is sought, the DMA will instruct its Recognized Organizations (ROs) involved in the statutory survey and certification of flagged vessels to be guided as follows:

- .1 All Statutory Renewal Surveys shall be progressed and carried out to the maximum extent possible by their nominal due dates, equivalent in scope to at least an annual survey required by the relevant certificate, with the exception of the Docking Survey items.
- .2 For those Renewal Surveys which are not completed, either the original harmonized certificate can be extended by endorsing Regulation I/14 (e) or short term Statutory certificates can be issued for the same period of validity as the extension period, subject to authorization by the DMA based on the recommendation by the RO.

5.1.5 Conditions for Extension

- .1 The ship should only be allowed to sail directly to a named final agreed cargo discharge port and then directly to a named agreed port to complete the survey, which shall be clearly described in the ship operator's request for extension. If the final cargo discharge port is not known at the time of the extension request, a tentative port or range of ports may be accepted in special cases.
- .2 The extension period should only be for the minimum amount of time

needed for the ship to complete its agreed voyage and to complete the survey under the relevant certificate(s).

- .3 The condition of the ship found by the surveys indicated above should be considered by the attending Surveyor in determining the duration, distance and operational restrictions, if any, of the voyage needed to complete the survey.
- .4 The extension period of the relevant Statutory certificate(s) should not exceed the period of validity of the certificate which may be issued to document compliance with the structural, mechanical and electrical requirements of the R O s.
- .5 For consideration of Renewal Survey extension, proper and reasonable circumstances should be considered as follows:
 - (a) The unavailability of repair facilities or unavailability of essential material, equipment or spare parts;
 - (b) Delays incurred by action to avoid severe weather conditions;
 - (c) Unanticipated delays at loading/discharge facilities.
- .6 Extensions for Renewal Surveys shall not be granted for commercial reasons.

5.1.6 Documentation

A request for an extension of Renewal Survey shall be made by the ship operator to the vessel's RO, who in turn shall submit a documented proposal to the DMA with appropriate recommendations.

5.1.7 Service Extension

5.1.7.1 The DMA recognizes that on occasion due to exceptional circumstances, difficulty can be encountered when scheduling the servicing of certain equipment or life-savings appliances, as required by various Convention regulations, at approved servicing facilities. Requests to extend the servicing intervals in accordance with the provisions of SOLAS are only considered by the DMA when exceptional circumstances exist. Requests should be fully justified by substantiation of circumstances and plans to service at first opportunity. Service Extensions are generally limited to the minimum period of time necessary for the ship to reach a port where rectification of the task can be accomplished.

5.1.7.2 When applying for or submitting a proposal for issuance of a Service Extension, the DMA will require for consideration specific information regarding the details and circumstances concerning the issue, as well as the corrective action plan to rectify the issue in timely fashion.

6. Dispensation

6.1 A Dispensation is a temporary allowance granted in writing (Dispensation Letter) by the Director (Nautical Division) to permit a ship to proceed without being in full compliance with a specific Convention requirement due to mitigating circumstances preventing the immediate rectification of the subject deficiency. Dispensations are issued with time specific corrective action requirements compliance with which is reportable to the Director (Nautical Division) by the expiry date.

6.2 Dispensation Letters are issued with a specific term limit of validity—either for a single voyage, or for a set period of time, and are generally limited to the minimum period of time necessary for the ship to reach a port where rectification of the deficiency can be accomplished. In some cases where warranted, the RO may also be contacted to provide a recommendation for issuance of the Dispensation Letter, to follow-up with verification of the corrected item and/or issuance of a short term Statutory certificate. In all cases, some measure of equivalency should be identified to be put in place and adhered to for the duration of the Dispensation Letter.

6.3 While it would not be practical to list every situation in which a Dispensation Letter would be required, the same basic principle should be followed when considering what situations would necessitate notification. For example, damage to or failure of any life saving or survival equipment required under SOLAS Chapter III (such as Life boat damage, Life boat engine failure, Inflatable Life raft lost, etc.) or failure of any navigational equipment installation required under SOLAS Chapter V (such as Radar, VDR, Speed Log, etc.) would fall into this category.

6.4 Ultimately, it shall be understood that the failure of or damage to any piece of equipment, installation or appurtenance mandated by any Statutory Convention requirement shall be immediately reported to the DMA with a completed Dispensation Application form along with all relevant supporting documentation demonstrating the nature of the difficulty encountered, temporary measure of

equivalency in place and proposed corrective action plan to rectify the deficiency as expeditiously as possible. Prompt notification is critical to ensure the deficiency is properly addressed and to mitigate possible Administrative or PSC action against the vessel and Owner/Operator.

6.5 When applying for or submitting a proposal for issuance of a Dispensation Letter, the Administration will require for consideration specific information regarding the details and circumstances concerning the issue, as well as the corrective action plan to rectify the issue in timely fashion.

7. Equivalence

Equivalence is an arrangement which provides the same general level of safety or intent of a Convention requirement without meeting all criteria for full compliance. Such arrangements can be accomplished, either independently or in combination with, alternative equipment, additional procedures/precautions, operational restrictions, etc. Equivalences, when granted, are required to be communicated to the IMO.

7.1 DMA may approve use of an equivalent only if satisfied that:

- (a) use of the equivalent would be at least as effective as compliance with the requirement to which the equivalent is an alternative; and
- (b) approving use of the equivalent would not contravene relevant mandatory International instrument.

8 Exemption

8.1 An Exemption is a permanent release from compliance with a Statutory Convention requirement due to the existence of specific circumstances as sanctioned by the provisions of that Convention. The 'Exemption Certificate' is linked to, and retained with, its associated statutory certificate, and is issued by the RO issuing that certificate under authorization from the Administration. Authorization for issuance of an Exemption Certificate is considered on a case by case basis formed on the existence of some measure of equivalence to meet the intent of the requirement being

exempted and a recommendation from the RO. Certain Exemptions, when granted, are required to be communicated to the International Maritime Organization (IMO).

8.2 Having considered the matter, DMA will issue an Exemption Certificate when:

- .1 the conditions under which an exemption (relaxation, etc.) can be granted are of a general nature and open to interpretations;
- .2 there are no clear alternative conditions under which an exemption (relaxation etc.) can be granted;
- .3 the information concerning the exemption is not contained in other available documents such as special trade passenger ship certificates, stability information, document of authorization for the carriage of grain, etc.;
- .4 the information concerning an exemption is necessary for the application of the Convention by the DMA or the port State authorities when the ship is in service.

8.3 Annexed to this procedure is a list of the regulations contained in the 1974 SOLAS Convention and its Amendments, where an Exemption Certificate should be issued when the DMA grants dispensations, relaxations, waivers or exemptions.

8.4 Exemption certificates should indicate the conditions on which exemption is granted.

8.5 It should be noted that particulars on exemptions granted under SOLAS 74, as amended, regulation I/4(b) and IV/3 (1988 GMDSS amendments) should be communicated to the IMO by the DMA. In other cases, particulars on exemptions granted are not required to be communicated to the IMO.

8.6 For STCW 78 as amended, the DMA, if it considers that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of regulation II/3 and section A-II/3 of the STCW Code unreasonable or impracticable, may to that extent exempt the master and the officer in charge of a navigational watch on such a ship or class of ships from some of the requirements, bearing in mind the safety of all ships which may be operating in the same waters.

8.7 DMA may grant an exemption only if satisfied that:

- (a) compliance with the requirement would be unnecessary or unreasonable

- having regard to the vessel, its equipment and its intended voyage; and
- (b) giving the exemption would not contravene mandatory International Instrument
- (c) for an exemption permitted by the International Grain Code

Note **Part A 5** of the International Grain Code provides that if the Administration considers that the sheltered nature and conditions of a vessel's voyage means that the application of any requirements of the Code are unreasonable or unnecessary, the vessel may be exempt from those requirements for the voyage.

9. Application Process

9.1 All required application under this Guidance shall:

- (i) be in writing;
- (ii) be in the approved form which attached to the procedure;
- (iii) include application fee subjected to DMA, if any;
- (iv) include a supporting statement setting out the grounds for the application;
- (v) include any other information or document that an Approval requires be included; and
- (vi) may include any other information or document the applicant considers relevant to the application.

9.2 Period for consideration of application

An application shall be considered after DMA receives respective request as follows:

- (a) within 14 days for Extension of certificate or service;
- (b) within 14 days or urgent basis for Dispensation
- (c) within 90 days for Equivalence
- (d) within 90 days for Exemption

9.3 Decision on application and notification of decision

9.3.1 DMA shall, within the period mentioned in section 9.2:

- (a) decide the application; and
- (b) respond the applicant, in writing:
 - (i) the decision on the application and any conditions imposed; and

- (ii) the reasons for the decision if the decision is not to approve the application; or it is an application for an exemption and the decision is not to grant the exemption.

10. Form for the Exemption

10.1 Form of the Exemption shall be drawn up under this Guidance.



EXEMPTION CERTIFICATE

Certificate No: YGN/EEP/xxx-yy

Issued under the provisions of the
INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974,
as amended,

under the authority of the Government of
THE REPUBLIC OF THE UNION OF MYANMAR
By **DEPARTMENT OF MARINE ADMINISTRATION**

Particulars of ship¹

Name of ship _____
Distinctive number or letters _____
Port of registry _____
Gross tonnage _____
IMO Number² _____

THIS IS TO CERTIFY:

That the ship is, under the authority conferred by regulation _____ of the Convention,
exempted from the requirements of _____ of the
Convention.

Conditions, if any, on which the Exemption Certificate is granted _____

Voyages, if any, for which the Exemption Certificate is granted _____ **follow;**

- (i) _____
- (ii) _____
- (iii) _____

This certificate is valid until _____
subject to the _____ Certificate, to which this certificate is attached, remaining valid.

Issued at Yangon on _____

Director General
Department of Marine Administration

(seal or stamp of the issuing authority, as appropriate)

¹ Alternatively, the particulars of the ship may be placed horizontally in boxes.

² In accordance with the IMO ship identification number scheme (resolution A.1078(28)).