

Subject:	Knowledge of Portuguese maritime legislation related to the Recognition of Certificates of Competency
To:	Companies, Seafarers and Recognized Organizations

1. OBJECTIVE

The purpose of this circular is to inform on the procedure adopted by the Portuguese maritime administration, from now on the Administration, to implement the provisions requiring measures to ensure that seafarers applying for recognition of Certificates of Competency, at management level, have appropriate knowledge of the Portuguese maritime legislation.

2. INTRODUCTION

2.1 Overview and general maritime activities of the State

The maritime administration of Portugal is divided between six entities.

2.1.1 The Directorate-general for Natural Resources, Safety and Maritime Services (DGRM) is a government entity of the Ministry of the Sea, a central office of direct administration of State, with administrative autonomy with the mission, under the maritime administration functions, to implement and execute policies concerning the maritime safety and the prevention of pollution by ships as well as to ensure regulation, inspection, national coordination and control of activities developed under these policies.

The main attributions of DGRM, under the Maritime Administration, are as follows:

2.1.1.1 Flag State:

- i) Promote maritime safety;
- ii) Ensure the certification of ships;

- iii) Assessing and controlling the activity of the recognized organizations;
- iv) Ensuring the certification of national seafarers and the endorsement of seafarers' certificates on board ships flying the national flag;
- v) Developing the necessary measures for the follow-up of training in the maritime area;
- vi) Prepares the draft legislation for introducing the instruments adopted by the IMO into internal law and for the corresponding regulation as well;
- vii) Ensure, under the attributions of DGRM, the representation of the Portuguese State in the IMO;
- viii) Perform the enforcement powers provided in the national law and related to the IMO instruments.

2.1.1.2 Coastal State

- i. Operate the Vessel Traffic Mainland Control Centre and all structures;
- ii. Manage, develop and update the VTS System;
- iii. Activate and manage the National Plan on Places of Refuge for Ships in Need of Assistance (PNAND), and manage and operate the Integrated Decision System that supports this Plan (SIAD-PNAND);
- iv. Define, implement and operate the National System for SafeSeaNet.

2.1.1.3 Port State

- i. Coordinate and carry out inspections related with the control of foreign ships under the port State control;
- ii. Approve and control the carry out of waste reception and management plans.

2.1.2 The National Maritime Authority (AMN) is a government entity of the Ministry of Defence and has the competency to coordinate the activities to be carried out by Navy, the Maritime Authority General Directorate and the Maritime Police under the scope of the System of Maritime Authority at national level.

The main attributions of AMN are as follows:

- i. Promote the safety of navigation and protection of the marine environment and the enforcement of the maritime legislation;

- ii. Coordination of oil pollution response at sea and the coast line, under terms defined in contingency plan - Clean Sea Act;
- iii. Drawing up processes of administrative offences in matter of pollution of the marine environment;
- iv. Manage the coastal maritime aids to navigation network;
- v. Act as Lighthouse Authority;
- vi. Establishing the procedures and requirements of technical nature concerning aids to navigation;
- vii. Inspection of the technical compliance, the operation and the maintenance conditions of aids to navigation;
- viii. Cooperate with the search and rescue system with a network of lifesaving boats deployed along the coast line;
- ix. Enforce the compliance with traffic separation schemes;
- x. Ensuring, under the attributions of AMN, the national representation in the international organizations.

The National Maritime Authority (AMN) is a government entity of the Ministry of Defence, and as well as DGRM, carry out the functions dealing with maritime safety and security at the ports and beyond that, they are in charge of implementing the policies at the captaincies and law enforcement through the Maritime Police in its jurisdiction.

The Maritime Search and Rescue Service is under the Portuguese Navy and is responsible for actions of maritime search and rescue related to accidents occurred with ships or crafts in inland waters under the maritime jurisdiction and in the maritime spaces of national Search and Rescue Regions - SRR.

2.1.3 The Hydrographic Institute (IH) is a body of the Portuguese Navy and the main attributions of IH, are as follows:

- i. Hydrographic services;
- ii. Production and updating of Nautical Mapping;
- iii. Production and updating of Nautical Publications;
- iv. Coordination and promulgation of Warnings to Mariners;

- v. Coordination of broadcast of Warnings to Mariners.

2.1.4 The Maritime Accident Investigation and Aeronautical Meteorology Authority Office (GAMA) is a government entity of the Ministry of the Sea and the main attributions of GAMA are as follows:

- i. Develop technical investigation activities related to maritime accidents and incidents;
- ii. Ensure the prompt and thorough collaboration of reports of the investigations and to promote its disclosure, including their conclusions and possible recommendations in a 12 month deadline upon the date of the accident;
- iii. Disclose all causes of the maritime accident and incident;
- iv. Cooperate in the technical investigations carried out by the investigations bodies of other Member States;
- v. Carry out collection and analysis of data related to the maritime safety;
- vi. Participate in activities developed at the international or European organizations level under the investigation and prevention of the maritime accidents;
- vii. Organize and disclose information related to the investigation and prevention of maritime accidents and incidents;
- viii. Prepare, organize and disclose statistics of the maritime accidents and incidents.

2.2 General

The Convention STCW 78, as amended, in regulation I/10, paragraph 2, as well as, the Directive 2008/106/EC, as amended, in Annex II, paragraph 5, requires that Administrations establish measures “to ensure that seafarers who present, for recognition, certificates issued under the provisions of regulations II/2, III/2 or III/3, or issued under regulation VII/1 at management level, as defined in the STCW Code, have an appropriate knowledge of the maritime legislation of the Administration relevant to the functions they are permitted to perform”.

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The Portuguese maritime administration has adopted the procedure described below to give compliance to that requirement. The procedure features a two-tier aim establishing (1) measures to ensure that the seafarer has knowledge of the Portuguese maritime legislation at the time of the recognition of the certificates and (2) measures to ensure that the seafarer keeps this knowledge updated through the period of time that he performs the functions permitted by the recognized certificates of competence.

3. PROCEDURE

3.1 Administration

The Administration will make available to seafarers, when applying for recognition of Certificates of Competency at management level, copies of the documentation with relevant maritime national legislation.

The Administration will also take measures to make available the above mentioned documentation to companies operating ships flying the Portuguese flag.

The documentation will be sent in an electronic format and/or by means of providing the web address in **annex 1** of the relevant files for consultation and download legislation.

The Administration will update the documentation whenever substantial changes on the Portuguese legislation occur.

3.2 Seafarers

Seafarers applying for recognition of Certificates of Competency at management level are required to acquire knowledge of the contents of the Portuguese documentation file that will be made available to him on applying.

Seafarers are also required to follow the company's procedures to keep, update and demonstrate compliance with the requirements established in this document.

3.3 Requirements for Companies

Companies which operate vessels under the Portuguese flag are required:

- i. To include in the onboard ship's documentation copies of the Portuguese maritime legislation updated file, including circulars and other documents published by the Administration, relevant to the compliance of that legislation, in the locations where the seafarers at management level can have easy access when performing their functions;
- ii. To include the above documentation under the control and updating procedures applicable to other documentation under the company's safety management system;
- iii. To establish a procedure to ensure that seafarers at management level acquire knowledge of Portuguese maritime legislation when joining a ship and whenever there is a relevant update to the legislation documentation file. Records relevant to the implementation of this procedure shall be made and kept as any other similar records of the ship's safety management system.

3.4 Demonstration of compliance

In order that compliance with the requirement for ensuring knowledge of the national maritime legislation is demonstrated, the company should forward to the Administration a copy of the record produced following the implementation of the procedure mentioned in the paragraph iii) above.

The record should identify the seafarer and state the following:

- i. The seafarer has knowledge of the matters and of the details more relevant for performing his functions on board included in the updated version of the Portuguese maritime legislation documentation made available by the Administration;
- ii. The seafarer has knowledge of the matters and of the details more relevant for performing his functions on board included in circulars and other documents, as published by the Administration, which are relevant to the implementation of the Portuguese maritime legislation;

- iii. The seafarer has prompt access to the Portuguese maritime legislation and other relevant documentation referred above, on their updated versions, when carrying out his functions on board.

The record should be dated and signed by the seafarer and by the master, if the demonstration of compliance was carried out on board, or by a responsible person appointed by the company, such as the Designated Person or the Crew Manager, if it was carried out ashore.

The record must be sent to the Administration in due time during the period of the validity of the document issued by the Administration as proof of the application (SRA). This is a condition for the recognition of the seafarer's certificates of competency.

3.4 Verification of compliance

The Administration may verify the implementation on board of the procedure above during flag State inspections or, if there are evident grounds to believe that the procedure is not properly implemented, request the Recognized Organization (RO) to verify evidence of that implementation during an ISM audit carried out in the scope of that code relevant certification.

4. TRANSITIONAL PROVISIONS

Concerning applications for the recognition of certificates of competency made before the date of entry in force of this circular, whose seafarers have not yet provided evidence of compliance with the requirement of knowledge of Portuguese maritime legislation, they are given the choice of providing that evidence either in accordance with the procedure described in this circular or following the procedure formerly in force (exam).

In spite of the choice given above, the applicants are not entitled to the reimbursement of the cost of the book of the Portuguese legislation, which was in force with the former procedure.

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Done in Lisbon, 28-06-2016

The Director of the Maritime Administration Services Directorate

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