

Transposition Note for Directive 2005/45/EC amending Directive 2001/25/EC on the minimum level of training for seafarers, transposed by the Merchant Shipping (Training and Certification)(Amendment) Regulations 2008

These regulations do what is necessary to implement the Directive, including making consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

Article	Objective	Implementation	Responsibility
1	Scope	No implementing legislation needed.	
2	Definitions	No implementing legislation needed.	
3(1)	Sets out the requirements for recognition of certificates.	Amendment to regulation 5(1) of the Merchant Shipping (Training and Certification) Regulations 1997 to require automatic recognition of appropriate certificates. (Medical Certificates already covered by the Merchant Shipping (Medical Examination) Regulations 2002.)	The Secretary of State by amendment to the Training and Certification Regulations 1997.
3(2)	Recognition of appropriate certificates to be limited to capacities, functions and levels of competency and accompanied by an endorsement to that end.	No implementing legislation required	
3(3)	Right of appeal if CEC refused or in absence.	Amendment to regulation 18 of the Merchant Shipping (Training and Certification) Regulations 1997 to disapply para (1), and to include deeming provision that if no response to application for CECs in respect of holders of COCs issued by Member States within 28 days the application is deemed refused and therefore can appeal.	The Secretary of State by amendment to the Training and Certification Regulations 1997.

Article	Objective	Implementation	Responsibility
3(4)	Member States can impose further limits on capacities, functions and levels of competence for near-coastal voyages	No implementing legislation required	
3(5)	Management level certificates only to be recognised where applicants have appropriate knowledge of maritime legislation relevant to the functions they are permitted to perform	Amendment to scope of regulation 5(2) of the Merchant Shipping (Training and Certification) Regulations 1997 so that it only applies only to those at management level. Amendment to regulation 5(3) to remove administrative procedures requirement in 5(3)(b) and to require only appropriate knowledge of maritime legislation as is relevant to management level functions.	The Secretary of State by amendment to the Training and Certification Regulations 1997.
4(1)	Amends definition of 'certificate' in Article 4 of Directive 2001/25/EC.	No change needed.	

Article	Objective	Implementation	Responsibility
4(2)	<p>Inserts Article 7a into Directive 2001/25/EC which requires that:</p> <p>appropriate measures shall be taken to prevent fraud;</p> <p>designate the national authorities competent to detect and combat fraud and inform the Commission; and</p> <p>written confirmation or denial shall be provided to Member States of the authenticity of certificates.</p>	<p>Section 47(5) of the Merchant Shipping Act 1995 and the Scottish common law offences of 'fraud' and 'uttering as genuine' already partly cover this. The general criminal law can be used for the rest of new article 7a paragraph 1.</p> <p>The insertion of regulation 5B which designates the MCA as competent authority.</p> <p>The insertion of regulation 5C. Implementation will be achieved through an existing administrative system.</p>	<p>The Secretary of State by amendment to the Training and Certification Regulations 1997</p> <p>The Secretary of State by amendment to the Training and Certification Regulations 1997</p> <p>The Secretary of State</p>
4(3)	<p>Deletes Articles 18(1) and (2) of Directive 2001/25/EC to remove the references to Directives 89/48/EEC and 92/51/EEC.</p>	<p>The deletion of regulation 21 of the Merchant Shipping (Training and Certification) Regulations 1997 to remove the link to Directives 89/48/EC and 92/51/EC. Replacement of "article 18" with "article 18(3)" in regulation 5A(2)(a) and (c).</p>	<p>The Secretary of State by amendment to the Training and Certification Regulations 1997.</p>

Article	Objective	Implementation	Responsibility
4(4)	<p>Inserts Articles 21a and 21b into Directive 2001/25/EC laying down the requirements that the Commission shall:</p> <p>verify at least every 5 years that Member States comply with the minimum requirements in the Directive; and</p> <p>submit an evaluation report to the European Parliament and the Council.</p>	<p>Implemented by administrative action.</p> <p>Implemented by administrative action.</p>	<p>European Commission.</p> <p>European Commission.</p>
4(5)	<p>Amends Annex I, Chapter I of Directive 2001/25/EC to place a requirement on Member States to ensure that seafarers possess adequate language proficiency.</p>	<p>Substitutes new regulation 5(3) for regulation 5(3)(a) of the Merchant Shipping (Training and Certification) Regulations 1997 to require the standard of language proficiency as set out in sections A-II/1, A-III/1, A-IV/2 or A-II/4 STCW Code.</p>	<p>The Secretary of State by amendment to the Training and Certification Regulations 1997.</p>