

	STCW Tribunal Directive 2013	Directive 004 - 2013
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The Director of the Department of Marine Services and Merchant Shipping, in exercise of the powers conferred by Section 7, sub-section (3) of the Merchant Shipping Act 2006, and of all other powers enabling him in that behalf, makes the following Directive.

1 Citation and commencement,

This Directive may be cited as the STCW Tribunal Directive 2013 and shall come into force on 1st August 2013 and on that date the Merchant Shipping Tribunal Directive 01-2002 shall be revoked and replaced by this Directive.

2 Definitions.

In this Directive:

“Act” means the Merchant Shipping Act 2006 as amended.

“Register of Seafarers” means the register, electronic or written, maintained in accordance with Regulation I/2.14 of the STCW Convention.

“Seafarer” means any person employed in or working on a ship.

“STCW Convention” means the Standards of Training, Certification and Watchkeeping for Seafarers Convention 1978 (as amended).

3 Purpose.

This directive is intended to give effect to the requirements in Regulation I/5 of the STCW Convention by creating and setting out the method of operation of the Tribunal described in Section 76 of the Merchant Shipping Act 2006.

4 Occasions when the Tribunal may be convened.

In accordance with Section 76(1) of the Act the Tribunal may be convened by the Director on any occasion when it is reported to him, or it appears to him, that a seafarer who holds certification under the STCW Convention;

(a). Is unfit to discharge his duties by reason of incompetence or misconduct;

(b). Has been seriously negligent in the discharge of his duties;

(c). Has failed to provide assistance to another ship or her crew or passengers in a case of collision as required by Section 122 of the Merchant Shipping Act, 2006; or

(a) Has obtained an endorsement by reason of false or erroneous information.

- 5 Members of the Tribunal and its powers.
- (a). The Tribunal shall constitute three members who shall be selected by the Director as follows;
- (i) one member shall be the Director or a Deputy Director who shall act as the Chairman of the Tribunal;
 - (ii) One member shall be the Chief Surveyor or, in his absence, another member of the Technical Division with knowledge of the STCW Convention; and
 - (iii) The third member who shall be either a Deputy Registrar or another member of the Technical Division and who has knowledge of the STCW Convention and its requirements.
- (b). The Tribunal shall have the powers assigned to it in Sections 76(2), and 78(1) of the Act.
- 6 Procedures for the operation of the Tribunal.
- (a). On receipt of any information which alleges that a seafarer has acted in a way described by section 4 and which may therefore allow for the convening of the Tribunal, the Director, or another officer authorised by the Director, shall;
- (i) Establish the facts of the allegations by whatever means available;
 - (ii) Within 30 days of the receipt of the initial information contact the seafarer concerned in writing and request an explanation of the alleged misconduct or other activity subject of the allegations as well as any supporting documentation;
 - (iii) On receipt of a reply from the seafarer, or if no response is received within 60 days of writing to the seafarer, evaluate the allegations, and any responses from the seafarer and if he considers that there is a case to be answered, advise the Director accordingly.
- (b). If it is considered that, after evaluation, the allegations are unfounded there shall be no further action and the seafarer shall be informed of the fact.
- (c). If the Director, or the person authorised by him considers that there is a case to answer after evaluating the evidence and any response from the seafarer he shall advise the Director accordingly and the Director shall select the members of the tribunal and set a date for the Tribunal to meet which shall be no later than one calendar month after he is advised that there is a case to answer.
- (d). The Tribunal shall consider the original allegations, the evidence collected and any responses made by the seafarer.
- (e). If a majority of the Tribunal is of the view that the allegations are considered to be proven the Tribunal shall decide the appropriate action to take in accordance with Section 76 (2) of the Act.

- (f). The decision of the Tribunal and the action to be taken shall be set out in writing with reasons and signed by the Chairman and by each of the members.
- 7 Action on a decision to suspend, withdraw or cancel a seafarer's endorsement.
- (a). If the Tribunal decides to suspend a seafarer's endorsement for a period decided by the Tribunal the decision shall be communicated to the seafarer who shall be asked to send his current endorsement to the Director for the period of suspension. During the period of suspension the fact shall be entered in the register of seafarers so that any port state control officer or other person querying the register of seafarers electronically can immediately see this status. The status shall be returned to normal in the register at the end of the period of suspension.
- (b). If the Tribunal decides to withdraw or cancel a seafarer's endorsement, that decision shall be communicated with the reasons, to the seafarer and the status of his endorsement in the register of seafarers shall be changed to withdrawn or cancelled as appropriate. The seafarer shall be asked to send his endorsement to the Director and the crewing agency through which the seafarer was employed shall be notified of the decision.
- (c). In any case where an endorsement is withdrawn or cancelled the Director shall notify the administration which issued the seafarer's certificate of competency of the decision and the reasons for it.
- 8 Records of the Tribunal.
- (a). In addition to the record of status on the register of seafarers, the Director shall ensure that a copy of the Tribunal report is filed in St. John's and that a copy of the Tribunal report is sent to each of the overseas ADOMS offices.

July 2013

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