

C01 Ship ownership, management and operation

Many shipmasters rarely, and in some cases never, visit the owner's/manager's office. However tenuous their physical link with the shore office, however, the law views the shipmaster as the company's agent and representative. It may therefore benefit masters and other officers to know a little about the contractual relationships and legal obligations of their employers. A few relevant aspects of shipowning, managing and operation are described in this section.

C01a CONTRACTUAL RELATIONSHIPS IN SHIPPING

- * **Separate contracts** exist between the **shipowner** and:
 - the **ship manager** (see C01c);
 - the **master** (see E04b);
 - the **crew** (see E05b);
 - the **classification society** (see D02c);
 - port **agents** (see I01h);
 - **suppliers, repairers, etc.** (see I03c);
 - **insurers**, including:
 - hull and machinery underwriters (see G04a);
 - his P&I club (see G04b);
 - insurers of risks not covered elsewhere (e.g. war and strikes risks) (see G01a).
- * For notes on **contractual relationships related to the ship's employment**, see F02.

C01b SHIPPING COMPANY FUNCTIONS

C01b.1 Basic shipowning company functions

- include:
 - ship management or “husbandry” functions (see C01b.2);
 - ship operating functions (see C01b.3); and
 - various other functions (see C01b.4).

C01b.2 Ship management or “husbandry” functions

- include:
 - manning, including recruitment, training, travel and welfare;
 - fleet maintenance and repair, including routine drydocking and surveys;
 - documenting and implementing the Company's Safety Management System in conformity with ISM Code or, if applicable, DSM Code, including provision of Designated Person (DP or DPA);
 - ship supplies (sometimes called “purchasing”);
 - ship insurance, including Hull & Machinery insurance and P&I cover.
- * These functions comprise the major cost element in the formula $\text{PROFIT} = \text{REVENUE} - \text{COSTS}$.

C01b.3 Ship operating functions

- include:
 - obtaining employment for the company's ships (i.e. fixing vessels on charters);
 - scheduling the fleet;
 - ordering (“stemming”) bunker fuel; and
 - arranging loading and discharge of cargoes and associated port activities.
- are concerned chiefly with maximising revenue.
- are designed to maximise the economic employment of the ship.

C01b.4 Other shipping company functions

- usually include:
 - finance, including budgeting, arranging loans and mortgages, sale and purchase of new vessels;
 - accounting, including producing financial figures for tax purposes, improving efficiency for clients;
 - administration, i.e. running company internal affairs, maintaining its buildings and equipment, security, etc.;
 - marketing/sales, including obtaining more business, advertising, etc.;
 - (sometimes) legal affairs;
 - (sometimes) research and development (R&D); and
 - (sometimes) quality assurance, including QA certification for ISO 9002, ISM Code certification, etc.

C01b.5 Operations Department functions

- * The **Operations Department** -
 - should act as a **link** between:
 - the ship and its owner;
 - the owner and any charterer;
 - the owner and other cargo interests.
 - should ensure that the master knows and understands his **voyage instructions**.
 - should **monitor each voyage** with the aim of minimising expense and maximising profit.
 - should watch for and pre-empt **potential problems**.
 - should act as a **clearing house for information** sent to and from the ship.
 - will need to know, after the ship has been fixed on charter, the following **information**:
 - cargo type and quantity;
 - load and discharge ports and restrictions thereat;
 - notices of readiness required to be given by the master to charterers, shippers, agents or consignees;
 - any special instructions or advice in connection with the cargo.
 - should obtain a copy of the **charter party** from the broker and **discuss this** with the master. If the ship is time chartered, the master will need **information regarding delivery and redelivery** of the ship, etc.
 - should **contact agents** at the loading port(s). Agents should give the operations department:
 - a detailed pro-forma disbursements account;
 - confirmation of any restrictions at the port;
 - advice as to berthing and loading prospects;
 - any other relevant information.
 - should ensure that the following are **arranged** for the ship’s voyage:
 - crew changes;
 - crew mailing arrangements;
 - engine and deck spares;
 - stores, lubricants, bunkers and water;
 - master’s cash or other special requirements;
 - any surveys required.
 - should maintain close **contact with port agents** once the ship has arrived at the load port, to ensure:
 - that notice of readiness is tendered and accepted without problem;
 - that loading or discharge operations are progressing satisfactorily;
 - that agents are complying with instructions concerning bills of lading, freight collection, etc;
 - that the master’s requirements are being met; and
 - that sufficient funds are sent to the agent for disbursements and master’s cash requirements.

C01c TOTAL SHIP MANAGEMENT AND ITS FUNCTIONS

- * Many shipowners entrust all or part of the management of their vessels to one or more ship managers.
- * The **management agreement** (e.g. BIMCO’s “SHIPMAN”) may provide that the ship manager will be responsible for all or part of the management of the entire fleet, or part of the fleet, or a particular vessel.
- * **Total ship management** includes the **functions** and **duties** shown in the following table. Different functions may be entrusted under separate contracts to different ship management companies. Technical management may, for

example, be provided by ship management company “A”, crew management by ship manager “B”, and commercial management (embracing chartering, operations and other functions) by ship manager “C”.

Functions	Ship manager’s duty
Technical management	<div><div>1.</div><div>2.</div><div>3.</div><div>4.</div></div> Provision of competent personnel to supervise the maintenance and general efficiency of the vessel. Arrangement and supervision of drydockings, repairs, alterations and the upkeep of the vessel to the standards required by the owner. Arrangement of the supply of necessary stores, spares and lubricating oil. Appointment of surveyors and technical consultants when considered necessary.

C02 Ships’ costs and budgets

C02a SHIPS’ COST CLASSIFICATION

- * The three **basic ship cost categories** are:
 - **capital costs**;
 - **voyage costs**;
 - **operating or running costs**.
- * **Capital costs** -
 - are **fixed costs** associated with the ship’s purchase.
 - include **pre-delivery costs, loan repayments, interest, leasing charges, initial registration fees, taxes** (sometimes), and any **bareboat charterhire** payable.
 - are the **owner’s responsibility**.
- * **Voyage costs** -
 - are **variable costs** associated with the commercial employment of the ship.
 - include costs of **bunkers, port and canal dues, pilotage, tug hire, agency fees** and **loading/discharge costs**.
 - are the responsibility of the ship’s commercial operator. If the ship is let on a time charter, the charterer is liable for the voyage costs.
- * **Operating or running costs** -
 - are **semi-variable costs** which fall between capital and voyage costs.
 - include costs of **crewing, storing, ship maintenance, insurance** and **administration**.
 - are the responsibility of the **ship owner or manager**.

C02b SHIPS’ BUDGETS

The following notes may be useful to officers handling their ships’ budgets.

- * A ship manager is usually required under the management contract to present to the owner an annual 12-month budget. If the budget is agreed to, the managers will also produce a monthly comparison between the ship’s budgeted and actual income and expenditure.
- * The cost categories most likely to be used in pro-forma budget estimates and monthly reports are the **operating costs**, i.e. **crewing, storing, maintenance, insurance and administration**, as shown in the following table.

Operating cost	Items included in cost
Crewing	Officers’ earnings and leave pay; ratings’ earnings and leave pay; ratings’ overtime; pension and insurance contributions; crew establishment costs (recruitment, training, cadets, etc.); crew travel expenses; and sundry/unrecoverable medical costs
Storing	Provisions; deck stores - general; engine stores - general; paint; cordage; lubricants; cabin stores/laundry; and fresh water.
Maintenance	Deck repairs and spares; engine repairs and spares; electronics and nav aids; and surveys.
Insurance	Hull and machinery insurance; P&I calls; war risks insurance; loss of earnings insurance; and deductible allowance.
Administration	Communication expenses; owner’s port costs; sundries; and management fee.

- * The total of the above costs, added to the annual **drydocking allowance**, will give the grand total. (Some owners prefer to account for the drydocking allowance monthly.) The grand total divided by 365 gives the **vessel’s daily rate**.
- * A **Budget Analysis Statement**, which is generally prepared monthly or quarterly, will give the variance of “**Budget**” against “**Actual**” figures, with percentage variances.

C03 Shipowner’s obligations and liabilities

C03a STATUTORY OBLIGATION OF OWNER AS TO SEAWORTHINESS IN CREW CONTRACTS

- * **Section 42(1) of MSA 1995** provides that **in every contract of employment** between the owner of a UK ship and its **master or any seaman** employed in it, there will be implied an **obligation on the owner** -
 - that the owner, the master and every agent charged with loading the ship, preparing the ship for sea or sending the ship to sea **must use all reasonable means to ensure the seaworthiness of the ship** for the voyage at the time when the voyage commences; and
 - that **the ship will be kept in a seaworthy condition** for the voyage during the voyage.
- * The obligation under section 42 applies notwithstanding any agreement to the contrary (i.e. it cannot be contracted out of) (section 42(2)).
- * No liability on the owner arises under this obligation in respect of the ship being sent to sea in an unseaworthy state where, owing to **special circumstances**, the sending of the ship to sea in such a state was **reasonable and justifiable** (section 42(3)).

C03b OWNER’S LIABILITY FOR UNSAFE OPERATION OF SHIP

- * **Section 100(1) of MSA 1995** provides that it will be the duty of the owner of a UK ship, and the owner of any other ship within UK waters while proceeding to or from a port in the UK, to take all reasonable steps to secure that the ship is operated in a safe manner, unless the ship would not proceeding to or from the port but for weather conditions or any other unavoidable circumstances.
- * Where the ship is chartered by demise (i.e. bareboat chartered), or is managed (either wholly or in part) by a person other than the owner under the terms of a management agreement, reference to the owner should be construed as including a reference to the charterer or manager, or both, as the case may be (section 100(4)).

C03c OTHER LEGAL OBLIGATIONS AND LIABILITIES OF SHIPOWNERS

C03c.1 Owner's duty of care

- * Shipowners have a **legal duty of care** -
 - to their **employees**;
 - to **shippers and owners of cargo**;
 - to **passengers**; and
 - to **other “neighbours”**, e.g. the owners of harbour property and other vessels (see B03e).
- * Breach of this duty may result in either **criminal liability**, **civil liability**, or **both** (see B03b.6).

C03c.2 Criminal liabilities of owners

- * Since most pieces of UK merchant shipping legislation that specify offences make the owner liable in addition to the master, the remarks in E04i.1 on the criminal liabilities of shipmasters apply equally to shipowners, and there can be few, if any, UK businesses more heavily burdened with potential criminal liabilities than shipowners.
- * Numerous pieces of UK Merchant Shipping legislation apply to non-UK vessels while they are in UK ports and waters. In a similar way, a UK vessel will be subject to various pieces of foreign legislation when in the waters of any foreign State, especially those States with well-developed merchant shipping legislation. As with UK Merchant Shipping legislation, breaches of the foreign legislation will in most cases make the owner and/or the master liable. The USA's Oil Pollution Act 1990 is perhaps the most prominent example of a piece of foreign legislation affecting owners, but should not be thought of as the only US legislation the owner has to comply with. P&I Clubs, their correspondents and their club bulletins are probably the best source of information on foreign legislation.
- * For notes on **offences by and criminal liability of a body corporate or Scottish partnership** see B03b.1e.
- * For notes on the **criminal liabilities of shipmasters**, see E04i.1. Where a shipmaster is liable to a criminal penalty, the shipowner is, in most cases, also usually liable. Many Merchant Shipping regulations and much other legislation contains obligations a breach of which attracts a penalty on the **owner**.

C03c.3 Civil liabilities of owners

- * Shipowners and operators may have **civil liabilities** to many parties including:
 - **shippers** (for breach of the contract of carriage);
 - **passengers** (for breach of the contract of passage);
 - **crew members** (for personal injuries, breaches of the crew agreement, etc.);
 - **relatives of crew members** killed during their employment and of persons killed by the owner's vessel;
 - **persons** (e.g. port authorities and other shipowners) **who suffer loss or damage to property** as a result of collision, etc.;
 - **customs and immigration authorities** (for fines on the vessel);
 - **harbour and coastal authorities** (for pollution);
 - **salvors** (for salvage rewards);
 - **co-adventurers** in the “common maritime adventure” (for general average contributions).

C03c.4 Employers' Liability (Compulsory Insurance) Act 1969

- requires every employer, unless exempt, to **insure against liability for bodily injury or disease sustained by his employees** in the course of their employment, and to maintain this insurance, and display a **Certificate of Insurance** at each place of business (e.g. on board a ship).
- applies to **owners of vessels in Great Britain** and in the areas within the baselines from which territorial waters are measured, i.e. inside all harbours and bays (up to a line not exceeding 24 miles long drawn across the bay), subject to certain exceptions.
- also applies to **employers of persons working on offshore installations** on the UK Continental Shelf and on vessels attendant on the installations, or any floating structure used in connection with it (e.g. a “floatel”).
- does not apply to Northern Ireland, the Isle of Man or the Channel Islands, or outside Great Britain, except to employment on offshore installations and related structures.

- * **Regulation 9 of The Employer's Liability (Compulsory Insurance) Regulations 1998** (SI 1998/2573) exempts any employer who is a member of a mutual insurance association of shipowners or of shipowners and others (e.g. a P&I club), in respect of any liability to an employee of the kind mentioned in section 1(1) of the Employers' Liability (Compulsory Insurance) Act 1969 against which the employer is insured for the time being with that association for an amount not less than that required by the 1969 Act and regulations under it, being an employer who holds a certificate issued by that association to the effect that he is so insured in relation to that employee.
- * **M.757** explains that an exception to the general requirement of the Act that applies specifically to seafarers, concerns employers who are insured with a P&I club. This is an alternative to insurance under the Act. An employer must have one kind of insurance or the other, or he would be in breach of the Act.
- * **Where the employer has insurance with a P&I club** there is no requirement to display a Certificate.

C03c.5 Statistical Returns (Carriage of Goods and Passengers by Sea) Regulations 1997

- implement EC Council Directive 95/64/EC.
- provide that the DfT may require any person carrying on business or trade in the maritime transport sector (i.e. shipping companies or their agents) or any harbour authority to **furnish data** including:
 - cargo, passenger and vessel movement information;
 - information about container and ro-ro unit numbers transported;
 - particulars of vessels and their operator and/or agent.

C03c.6 Oil pollution liability

- * For notes on **compulsory oil pollution insurance requirements** in the UK, see G04d.1.
- * For notes on the **Oil Pollution (Compulsory Insurance) Regulations**, see G04d.1b.
- * For notes on **oil pollution liability schemes**, see G04d.2.
- * For notes on **P&I pollution cover**, see G04d.3.

C03c.7 Carrier's liability for illegal immigration

- * The **Immigration and Asylum Act 1999** contains a provision to extend the power to require information from carriers about their passengers and a new power to require advance notification by carriers of the arrival of passengers who are not nationals of the European Economic Area¹.
- * The Act also strengthens previous **carriers' liability legislation** to facilitate the collection of any charges incurred by carriers by bringing inadequately documented passengers to the United Kingdom.
- * The Act contains provisions for a new power to impose a **civil penalty** on persons responsible for the **transport of clandestine entrants to the UK**. The new civil penalty is additional to and separate from carriers' liability legislation, which the Act strengthens and replaces. The civil penalty applies to all vehicles, **ships**, or aircraft bringing clandestine entrants to the UK. The Act provides the power to detain vehicles, ships or aircraft as security until all charges for the carriage of illegal entrants have been paid.
- * Information about **carrier's liability** can be found on the Immigration and Nationality Directorate **website** at: www.ind.homeoffice.gov.uk/default.asp?PageId=1275
- * **Other States** may have similar, and perhaps more stringent, regulations. For a note on **carrier's liability in the USA** (affecting the master) see I01g.5.

C03c.8 Company obligations relating to ship security

- * SOLAS chapter XI-2 relates to **Special Measures to Enhance Maritime Security**. In that chapter, **regulations 4 and 5** make requirements applicable to the **Company**. ("Company" means the owner, organization or person who is responsible for the operation of the ship.)

¹ The EEA is a free-trade area encompassing the member States of the European Union and the member States (excluding Switzerland) of the European Free Trade Association (EFTA), i.e. Norway, Iceland, and (from 1 May 1995) Liechtenstein.

- * SOLAS regulation XI-2/4 (Requirements for Companies and ships) provides that **Companies** must comply with the relevant requirements of **SOLAS chapter XI-2** and of **part A of the ISPS Code**, taking into account the guidance in part B of the ISPS Code (regulation XI-2/4.1).
- * SOLAS regulation XI-2/5 (Specific Responsibility of Companies) provides that the **Company** must ensure that the master has available on board, at all times, **information** through which officers duly authorized by a Contracting Government can establish:
 1. Who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship;
 2. Who is responsible for deciding the employment of the ship; and
 3. In cases where the ship is employed under the terms of charter, who are the parties to the charter.
- * ISPS Code, part A, section 6 provides that -
 - the Ship Security Plan must contain a **clear statement emphasizing the master's authority**. The **Company** must establish in the Ship Security Plan that the master has the overriding authority and responsibility to make decisions with respect to the security of the ship and to request the **assistance of the Company** or of any SOLAS Contracting Government as may be necessary (section 6.1); and
 - the **Company** must ensure that the **company security officer (CSO)**, the **master** and the **ship security officer (SSO)** are given the **necessary support to fulfil their duties and responsibilities** in accordance with SOLAS chapter XI-2 and part A of the ISPS Code (section 6.2).
- * ISPS Code, part A, section 13 provides that the **company security officer and appropriate shore-based personnel** must have **knowledge** and have received **training**, taking into account the guidance given in part B of the ISPS Code (section 13.1). For other notes on **training requirements**, see E02d.9.
- * Under SOLAS regulation XI-2/9.2.1, for the purpose of chapter XI-2, a SOLAS Contracting Government may require that **ships intending to enter its ports provide specified security-related information** (listed in D05b.9) to officers duly authorized by that Government to ensure compliance with chapter XI-2 **prior to entry into port** with the aim of avoiding the need to impose control measures or steps. If requested by the SOLAS Contracting Government, the ship or the **Company must provide confirmation**, acceptable to that Government, of the information.
- * For notes on other **ship security requirements of SOLAS and the ISPS Code**, see D03a.6.

C03c.8a Company security officer

- * ISPS Code, part A, section 11 provides that the Company must designate a **company security officer (CSO)**. A person designated as the company security officer may act as the company security officer **for one or more ships**, depending on the number or types of ships the Company operates provided it is clearly identified for which ships this person is responsible. A Company may, depending on the number or types of ships they operate designate **several persons** as company security officers provided it is clearly identified for which ships each person is responsible (section 11.1).
- * In addition to those specified elsewhere in part A of the ISPS Code, the duties and responsibilities of the company security officer include, but are not limited to:
 - **advising the level of threats** likely to be encountered by the ship, using appropriate security assessments and other relevant information;
 - ensuring that **ship security assessments** are carried out;
 - ensuring the development, the submission for approval, and thereafter the implementation and maintenance of the **ship security plan**;
 - ensuring that the **ship security plan** is modified, as appropriate, to correct deficiencies and satisfy the security requirements of the individual ship;
 - arranging for **internal audits and reviews** of security activities;
 - arranging for the **initial and subsequent verifications of the ship** by the flag State Administration or the Recognized Security Organisation (RSO);
 - ensuring that **deficiencies and non-conformities** identified during internal audits, periodic reviews, security inspections and verifications of compliance are promptly addressed and dealt with;
 - enhancing **security awareness and vigilance**;
 - ensuring adequate **training** for personnel responsible for the security of the ship;
 - ensuring **effective communication and co-operation** between the ship security officer and the relevant port facility security officers;
 - ensuring **consistency** between **security** requirements and **safety** requirements;
 - ensuring that, if **sister-ship or Fleet Security Plans** are used, the plan for each ship reflects the ship-specific information accurately; and

- ensuring that any **alternative or equivalent arrangements** approved for a particular ship or group of ships are implemented and maintained.
- * ISPS Code, part B, section 4 provides that the **company security officer** or the ship security officer should **liaise** at the earliest opportunity with the **port facility security officer** (PFSO) of the port facility the ship is intended to visit **to establish the security level** applying for that ship at the port facility (section 4.11). For notes on the PFSO, see I01k.1.

C03c.8b Ship security assessments

- * **ISPS Code, part A, section 8** contains requirements for **ship security assessments**.
- * The ship security assessment is an essential and integral part of the process of developing and updating the Ship Security Plan (section 8.1).
- * The **company security officer** must ensure that the ship security assessment is carried out by persons with appropriate skills to evaluate the security of a ship, in accordance with section 8, taking into account the guidance given in part B of the ISPS Code (section 8.2).
- * Subject to the provisions of section 9.2.1, a Recognized Security Organisation (RSO) may carry out the ship security assessment of a specific ship (section 8.3).
- * The ship security assessment must include an **on-scene security survey** and, at least, the following elements:
 - identification of existing security measures, procedures and operations;
 - identification and evaluation of key ship board operations that it is important to protect;
 - identification of possible threats to the key ship board operations and the likelihood of their occurrence, in order to establish and prioritise security measures; and
 - identification of weaknesses, including human factors in the infrastructure, policies and procedures (section 8.4).
- * The ship security assessment must be **documented, reviewed, accepted and retained** by the Company (section 8.5).

C03d LIMITATION OF LIABILITY FOR MARITIME CLAIMS

- * A shipowner who has unlimited liability might be faced with a claim of such magnitude (e.g. in cases involving great loss of life and/or property) that it would bankrupt him and discourage him (and other owners) from further participation in international trade. In respect of various types of maritime claim brought against shipowners, therefore, the shipowner, if found liable, is entitled in many countries to **limit his liability** to the claimant. This right has been enshrined in **international conventions**.
- * The **Convention on the Limitation of Liability of Owners of Sea-going Ships 1957** was based on earlier conventions and was given effect in the UK and several other countries, some of which still give force to it.
- * The **Convention on Limitation of Liability for Maritime Claims 1976** (sometimes called the “**London Convention**”) made some radical changes from the 1957 convention. It was given effect in the UK by section 17 of the Merchant Shipping Act 1979, which was repealed and replaced by section 185 of the Merchant Shipping Act 1995. The text of most (but not all) of the 1976 Convention forms Part I of Schedule 7 to the Act, while Part II contains “Provisions having effect in connection with the Convention”.
- * Persons entitled to limit their liability under the 1976 Convention include shipowners and salvors, “shipowner” meaning the owner, charterer, manager or operator of a seagoing ship (Article 1).
- * **Claims subject to limitation** are set out in Article 2 of the 1976 Convention and include:
 - claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
 - claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
 - claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
 - claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
 - claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
 - claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with the Convention, and further loss caused by such measures.
- * **Claims not subject to limitation** are set out in Article 3 and include:
 - claims for salvage or for contribution in general average;

- claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage 1969 or of any amendment or Protocol thereto which is in force;
 - claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
 - claims against the shipowner of a nuclear ship for nuclear damage;
 - claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.
- * Article 4 provides that a **person will not be entitled to limit his liability** if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.
- * Article 6 sets out the **limits of liability** for claims other than those mentioned in Article 7 (passenger claims). The amounts are specified in “Units of Account” for ships in various tonnage bands, “tonnage” meaning gross tonnage in accordance with the International Tonnage Convention 1969 and, in the UK, the MS (Liability of Shipowners and Others) (Calculation of Tonnage) Order 1986 (SI 1986/1040). The “Unit of Account” is defined in Article 8 as meaning the Special Drawing Right (SDR) as defined by the International Monetary Fund. (The current value of one SDR is given on the front page of Lloyd’s List.)
- * Article 7 provides that, in respect of claims arising on any distinct occasion for loss of life or personal injury to **passengers** of a ship, the limit of the shipowner’s liability will be 46,666 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the “ship’s certificate”, but not exceeding 25 million Units of Account. The “ship’s certificate” means the Passenger Ship Safety Certificate or Passenger Certificate, depending on which is in force. “Passengers” include those under a contract of passenger carriage as well as persons accompanying a vehicle or live animals which are covered by a contract of carriage of goods. The Convention relating to the Carriage of Passengers and their Luggage by Sea 1976 (the Athens Convention) (see F08a.2) sets limits of liability for claims made by passengers in respect of death, personal injury or loss of or damage to luggage. Where both the 1976 London Convention and the Athens Convention apply, the shipowner may limit his liability to the London Convention figure if lower.
- * Article VIII of the Hague Rules (see F07c.4), Article VIII of the Hague-Visby Rules (see F07c.2), and Article 25(1) of the Hamburg Rules (see F07c.5) all contain provisions relating to **limitation of liability for cargo claims**. A UK shipowner may be able to further limit his liability for such claims where the limit under the 1976 Convention is lower than that set by the relevant rules.
- * In claims where a UK shipowner has **liability for damage caused by oil pollution** under the Civil Liability Convention 1969 or the 1992 Liability Convention, the shipowner’s right to limit his liability is governed by the relevant convention.
- * **Section 186 of the Merchant Shipping Act 1995** excludes the owner of a UK ship from **liability for loss or damage by fire** of property on board, and from liability for loss of or damage to any gold, silver, watches, jewels or precious stones on board the ship by theft, robbery or other dishonest conduct if their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master in the bill of lading or otherwise in writing.

C04 Safety management codes applicable to UK shipowners, operators and managers

C04a SAFETY MANAGEMENT CODES IN FORCE IN THE UK

- * Two **safety management codes**, applicable to owners, operators and managers of UK ships and other ships operating to and from UK ports, are in force in the UK. The codes are:
- the **International Management Code for the Safe Operation of Ships and for Pollution Prevention** (the **ISM Code**), which is mandatory under SOLAS chapter IX (see C04b.1) for certain ships on international voyages; and
 - the **Safety Management Code for Domestic Passenger Ships** (the **DSM Code**), which is not mandatory under any international instrument but is required to be complied with under UK national regulations on certain ships on domestic voyages.

- Regulations enforcing these codes in the UK, ship types to which the regulations apply, and relevant M Notices, are shown in the following table.

Code	UK regulations applying the Code	Ship types to which the Regulations apply	Relevant M Notice	SBC ref.
International Safety Management Code (ISM Code)	MS (International Safety Management (ISM) Code) Regulations 1998 (SI 1998/1561)	(1) Passenger ships of Classes I, II and II(A) (of any tonnage) (other than ro-ro passenger ferries on regular services to or from or within the UK); (2) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high-speed craft, of 500gt or more and which engage in international voyages; (3) other cargo ships and mobile offshore drilling units (MODUs) of 500gt or more which engage in international voyages.	MGN 40	C04b D03a.1
	MS (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997 (SI 1997/3022)	Ro-ro passenger ferries on regular services to or from or within the UK (i.e. ships to which Council Regulation (EC) No. 3051/95 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries) applies).	MGN 40	D03b.1a
Safety Management Code for Domestic Passenger Ships (DSM Code)	MS (Domestic Passenger Ships) (Safety Management Code) Regulations 2001 (SI 2001/3209)	Passenger ships of Classes III to VI(A) - other than ships to which Council Regulation (EC) No. 3051/95 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries) applies, i.e. ro-ro passenger ferries on regular services to or from or within the UK.	MSN 1754 MGN 158	C04c D03b.1b

C04b SOLAS CHAPTER IX AND THE ISM CODE

C04b.1 SOLAS Chapter IX

- * SOLAS Chapter IX (Management for the safe operation of ships) -
 - was adopted** by the 1994 SOLAS Conference and entered into force on 1 July 1998. The text was amended by resolution MSC.99(73), and the amended text entered into force on 1 July 2002.
 - applies** to all ships, regardless of the date of construction (regulation 2.1).
 - requires the company and the ship** to comply with the requirements of the ISM Code, which is mandatory (regulation 3.1).
 - requires the ship** to be operated by a company holding a Document of Compliance (regulation 3.2).
 - provides for the issue of a Document of Compliance (DOC)** to every company complying with the requirements of the ISM Code (regulation 4.1). The DOC may be issued by the flag State Administration, an organisation recognised by the Administration, or another SOLAS Contracting Government (regulation 4.1).
 - provides that a copy of the DOC** must be kept on board so that the master can produce it for verification (regulation 4.2).
 - provides for the issue of a Safety Management Certificate (SMC)** to every ship by the flag State Administration or an organisation recognised by the Administration following verification that the company and its shipboard management operate in accordance with the approved safety management system (regulation 4.3).
 - requires the safety management system** to be maintained in accordance with the provisions of the ISM Code (regulation 5).
 - requires the flag State Administration**, or another SOLAS Contracting Government at its request, or an organisation recognised by the flag State Administration, to **periodically verify the proper functioning of the ship’s safety management system** (regulation 6.1).
 - requires a ship required to hold a Safety Management Certificate to be subject to **control in accordance with the provisions of SOLAS regulation XI/4**, and provides that for this purpose the SMC will be treated as a certificate issued under SOLAS regulation I/12 or I/13 (i.e. as a SOLAS passenger ship or cargo ship “safety certificate”) (regulation 6.2). (SOLAS regulation XI/4 provides that a ship in a port of another SOLAS Contracting Government will be subject to port State control measures when there are clear grounds for believing that the master or crew are not familiar with essential shipboard safety procedures.)

C04b.2 Status of ISM Code

- * The **International Management Code for the Safe Operation of Ships and for Pollution Prevention** (the **ISM Code**) -
 - **was adopted** by IMO Assembly Resolution A.741(18) in November 1993.
 - is **mandatory** under SOLAS regulation IX/3.1.
 - came into force on **1 July 1998** for:
 - **passenger ships** of any tonnage, including high-speed passenger ships, on international voyages;
 - **gas carriers** of 500gt or over on international voyages;
 - **oil tankers** of 500gt or over on international voyages;
 - **chemical tankers** of 500gt or over on international voyages;
 - **bulk carriers** of 500gt or over on international voyages; and
 - **high-speed cargo ships** of 500gt or over on international voyages.
 - came into force on **1 July 2002** for:
 - **other cargo ships** of 500gt or over on international voyages; and
 - **mobile offshore drilling units (MODUs)** of 500gt or over on international voyages.
 - **was amended** in December 2000 by resolution MSC.104(73) and **came into force in its revised form** on 1 July 2002.
- * National regulations gave **earlier effect** in some countries to the ISM Code’s requirements².
 - **Hull and machinery insurances** to which the International Hull Clauses (01/11/02) apply are conditional on a valid **ISM Document of Compliance** and **Safety Management Certificate** being held by the Owners or party assuming responsibility for operation of the vessel (see G04a.2i).

C04b.3 Contents of revised ISM Code

- * The **revised ISM Code** (effective from 1 July 2002) contains a Preamble followed by 16 paragraphs arranged in two parts, A and B. The following table abbreviates the contents of each paragraph.
- * In the table, **Co** = “the Company”; **IMO** = “the Organization”; **FSA** (“flag State Administration”) = “the Administration”; **RO** (“recognised organisation”) = “an organization recognized by the Administration”; **CG** = “Contracting Government”; **SMS** = Safety Management System; **DPA** = “designated person or persons ashore”; **DOC** = Document of Compliance; **IDOC** = Interim Document of Compliance; **SMC** = Safety Management Certificate; **ISMC** = Interim Safety Management Certificate.

Part or para.	Heading	Notes
-	Preamble	Sets out ethos of Code . Declares purpose of Code as being to provide an international standard for the safe management and operation of ships and for pollution prevention. Because no two shipping companies or owners are the same, and because ships operate under a wide range of different conditions, Code is based on general principles and objectives . Code is expressed in broad terms so it can have a widespread application. Cornerstone of good safety management declared to be commitment from the top . In matters of safety and pollution prevention it is commitment, competence, attitudes and motivation of individuals at all levels that determines the end result.
PART A	IMPLEMENTATION	
1	General	
1.1	Definitions (applicable to Parts A and B)	International Safety Management (ISM) Code: International Management Code for the Safe Operation of Ships and for Pollution Prevention, as adopted by IMO Assembly, as may be amended. Company: The owner of the ship or any other organisation or person such as a manager or bareboat charterer, who has assumed responsibility for operation of ship from the owner and who, on assuming that responsibility, has agreed to take over all duties and responsibility imposed by the Code. Administration: Government of the State whose flag the ship is entitled to fly. Safety Management System: a structured and documented system enabling Co personnel to implement effectively the Co safety and environmental protection policy. Document of Compliance: Document issued to a Company complying with Code’s requirements. Safety Management Certificate: Document issued to a ship signifying that Co and its shipboard management operate in accordance with the approved SMS. Objective evidence: quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of an safety management system element, which is based on observation, measurement or test and which can be verified. Observation: A statement of fact made during a safety management audit and substantiated by objective evidence.

² The provisions of the ISM Code were given early effect in the UK (on 20 January 1998) in relation to ro-ro passenger ferries by the MS (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997 (SI 1997/3022) (see D03b.1a).

		<p>Non-conformity: An observed situation where objective evidence indicates the non-fulfilment of a specified requirement.</p> <p>Major non-conformity: An identifiable deviation that poses a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement of this Code.</p> <p>Anniversary date: The day and month of each year corresponding to expiry date of relevant document or certificate.</p> <p>Convention: SOLAS 74, as amended.</p>
1.2	Objectives	<p>Declares objectives of Code as being to ensure safety at sea, prevention of human injury or loss of life, and avoidance of damage to the environment, in particular, to the marine environment, and to property (1.2.1).</p> <p>Safety management objectives of Co should, <i>inter alia</i>:</p> <ol style="list-style-type: none">1. provide for safe practices in ship operation and a safe working environment;2. establish safeguards against all identified risks; and3. continuously improve safety management skills of personnel ashore and aboard ships, including preparing for emergencies related both to safety and environmental protection (1.2.2). <p>SMS should ensure:</p> <ul style="list-style-type: none">• compliance with mandatory rules and regulations; and• that applicable codes, guidelines and standards recommended by IMO, Administrations, classification societies and maritime industry organisations are taken into account (1.2.3).
1.3	Application	Requirements of ISM Code <i>may be applied to all ships</i> .
1.4	Functional requirements for a safety management system	<p>Every Co should develop, implement and maintain an SMS which includes following functional requirements:</p> <ol style="list-style-type: none">1. a safety and environmental protection policy;2. instructions and procedures to ensure safe operation of ships and protection of the environment in compliance with relevant international and flag State legislation;3. defined levels of authority and lines of communication between, and amongst, shore and shipboard personnel;4. procedures for reporting accidents and non-conformities with the provisions of this Code;5. procedures to prepare for and respond to emergency situations; and6. procedures for internal audits and management reviews.
2	Safety and environmental-protection policy	<p>Co should establish a safety and environmental protection policy which describes how the objectives, given in paragraph 1.2, will be achieved (2.1).</p> <p>Co should ensure that the policy is implemented and maintained at all levels of the organisation, both ship-based and shore-based (2.2).</p>
3	Company responsibilities and authority	<p>If entity responsible for operation of the ship is not the owner, owner must report full name and details of such entity to FSA (3.1).</p> <p>Co should define and document responsibility, authority and interrelation of all personnel who manage, perform and verify work relating to and affecting safety and pollution prevention (3.2).</p> <p>Co is responsible for ensuring adequate resources and shore based support are provided to enable DPA to carry out their functions (3.3).</p>
4	Designated person(s)	<p>To ensure safe operation of each ship and provide a link between Co and crew, every Co, as appropriate, should designate a person or persons ashore (DPA) with direct access to highest level of management. Responsibility and authority of DPA should include monitoring safety and pollution prevention aspects of operation of each ship and ensuring adequate resources and shore based support are applied, as required.</p>
5	Master's responsibility and authority	<p>Co should clearly define and document the master's responsibility with regard to:</p> <ol style="list-style-type: none">1. implementing the safety and environmental protection policy of the Co;2. motivating the crew in the observation of that policy;3. issuing appropriate orders and instructions in a clear and simple manner;4. verifying that specified requirements are observed; and5. reviewing the SMS and reporting its deficiencies to shore based management (5.1). <p>Co should ensure that SMS operating on ship contains a clear statement emphasising the master's authority. Co should establish in SMS that the master has overriding authority and responsibility to make decisions with respect to safety and pollution prevention and to request Co's assistance as may be necessary (5.2).</p>
6	Resources and personnel	<p>Co should ensure master is:</p> <ol style="list-style-type: none">1. properly qualified for command;2. fully conversant with Co's SMS; and3. given the necessary support for safe performance of master's duties (6.1). <p>Co should:</p> <ol style="list-style-type: none">1. ensure each ship is manned with qualified, certificated and medically fit seafarers in accordance with national and international requirements (6.2).2. establish procedures to ensure new personnel and personnel transferred to new assignments related to safety and environmental protection are given proper familiarisation with their duties. Essential pre-sailing instructions should be identified, documented and given (6.3).3. ensure all personnel involved in the Co's SMS have adequate understanding of relevant rules, regulations, codes and guidelines (6.4).4. establish and maintain procedures for identifying any training required in support of SMS and ensure such training is provided for personnel concerned (6.5).5. establish procedures by which the ship's personnel receive relevant information on the SMS in a working language or languages understood by them (6.6).6. ensure that the ship's personnel are able to communicate effectively in the execution of their duties related to the SMS (6.7).

7	Development of plans for shipboard operations	Co should establish procedures for preparation of plans and instructions, including checklists as appropriate, for key shipboard operations concerning the safety of the ship and pollution prevention. Tasks involved should be defined and assigned to qualified personnel.
8	Emergency preparedness	Co should establish procedures to identify, describe and respond to potential emergency shipboard situations (8.1). Co should establish programmes for drills and exercises to prepare for emergency actions (8.2). SMS should provide for measures ensuring that the Company’s organisation can respond at any time to hazards, accidents and emergency situations involving its ships (8.3).
9	Reports and analysis of non-conformities, accidents and hazardous occurrences	SMS should include procedures ensuring that non-conformities, accidents and hazardous situations are reported to Co, investigated and analysed with objective of improving safety and pollution prevention (9.1). Co should establish procedures for implementation of corrective action (9.2).
10	Maintenance of the ship and equipment	Co should establish procedures to ensure ship is maintained in conformity with provisions of relevant rules and regulations and any additional requirements established by Co (10.1). In meeting these requirements Co should ensure that: 1. inspections are held at appropriate intervals; 2. any non-conformity is reported with its possible cause, if known; 3. appropriate corrective action is taken; and 4. records of these activities are maintained (10.2). Co should establish procedures in SMS to identify equipment and technical systems sudden operational failure of which may result in hazardous situations. SMS should provide for specific measures aimed at promoting reliability of such equipment or systems. These measures should include regular testing of stand-by arrangements and equipment or technical systems not in continuous use (10.3). Inspections and measures in 10.2 and 10.3 should be integrated into ship’s operational maintenance routine (10.4).
11	Documentation	Co should establish and maintain procedures to control all documents and data relevant to SMS (11.1). Co should ensure that: 1. valid documents are available at all relevant locations; 2. changes to documents are reviewed and approved by authorised personnel; and 3. obsolete documents are promptly removed (11.2). Documents used to describe and implement SMS may be referred to as the “Safety Management Manual”. Documentation should be kept in a form that Co considers most effective. Each ship should carry on board all documentation relevant to that ship (11.3).
12	Company verification, review and evaluation	Co should carry out internal safety audits to verify whether safety and pollution prevention activities comply with SMS (12.1). Co should periodically evaluate the efficiency of SMS and, when needed, review SMS in accordance with Co’s established procedures (12.2). Audits and any corrective actions should be carried out in accordance with documented procedures (12.3). Personnel carrying out audits should be independent of the areas being audited unless this is impracticable due to the size and the nature of the Company (12.4). Results of audits and reviews should be brought to attention of all personnel with responsibility in areas involved (12.5). Management personnel responsible for area involved should take timely corrective action on deficiencies found (12.6).
PART B	CERTIFICATION AND VERIFICATION	
13	Certification and periodical verification	Ship should be operated by a Co issued with a DOC or IDOC in accordance with 14.1 (13.1). DOC should be issued by FSA, an RO or, at the request of FSA, by another CG, to any Co complying with Code’s requirements for a period specified by FSA but not exceeding 5 years. DOC or IDOC should be accepted as evidence that Co is capable of complying with the requirements of Code (13.2). DOC is valid only for ship types it lists. List should be based on ship types on which initial verification was based. Other ship types should only be added after verification of Co’s capability to comply with requirements applicable to them. In this context, ship types are those referred to in SOLAS regulation IX/1 (13.3). DOC’s validity should be subject to annual verification by FSA, an RO or, at the request of FSA, by another CG within 3 months before or after anniversary date (13.4). DOC should be withdrawn by FSA or, at its request, by CG which issued it, when annual verification required in 13.4 is not requested, or on evidence of major non-conformities (13.5). If DOC is withdrawn, all associated SMCs and/or ISMCs should also be withdrawn (13.5.1). Copy DOC should be placed on board so that master, if requested, can produce it for verification by the FSA or organisation recognised by FSA, or for purposes of port State control on operational procedures. Copy DOC is not required to be authenticated or certified (13.6). SMC should be issued to ship for not more than 5 years by FSA, an RO or, at the request of FSA, by another CG. SMC should be issued after verifying that Co and its shipboard management operate in accordance with the approved SMS. SMC should be accepted as evidence that ship is complying with the requirements of Code (13.7). Validity of SMC should be subject to at least one intermediate verification by FSA, an RO or, at the request of FSA, by another CG. If only one intermediate verification is to be carried out and the SMC’s period of validity is 5 years, it should take place between second and third anniversary date (13.8). In addition to requirements of 13.5.1, SMC should be withdrawn by FSA or, at the request of FSA, by the CG that issued it, when intermediate verification required in 13.8 is not requested or on

		<p>evidence of major non-conformity (13.9).</p> <p>Notwithstanding requirements of 13.2 and 13.7, when renewal verification is completed within 3 months before expiry date of existing DOC or SMC, new DOC or SMC should be valid from date of completion of renewal verification for not more than 5 years from date of expiry of existing DOC or SMC (13.10).</p> <p>When renewal verification is completed more than 3 months before expiry date of existing DOC or SMC, new DOC or SMC should be valid from date of completion of renewal verification for not more than 5 years from date of completion of renewal verification (13.11).</p>
14	Interim certification	<p>IDOC may be issued to facilitate initial implementation of Code when:</p> <ol style="list-style-type: none">1. a Co is newly established; or2. new ship types will be added to an existing DOC, <p>- following verification that Co has an SMS meeting Code's objectives, provided Co demonstrates plans to implement a SMS meeting full requirements of Code within IDOC's period of validity. IDOC should be issued for not more than 12 months by FSA, an RO or, at the request of FSA, by another CG. Copy IDOC should be placed on board so that master, if requested, can produce it for verification by the FSA or organisation recognised by FSA, or for purposes of port State control on operational procedures. Copy DOC is not required to be authenticated or certified (14.1).</p> <p>ISMC may be issued:</p> <ol style="list-style-type: none">1. to new ships on delivery;2. when a Company takes on responsibility for the operation of a ship which is new to the Company; or3. when a ship changes flag . <p>ISMC should be issued for not more than 6 months by FSA, an RO or, at the request of FSA, by another CG (14.2).</p> <p>ISMC's validity may be extended in special cases for not more than 6 months from expiry date by FSA or, at request of FSA, another CG (14.3).</p> <p>ISMC may be issued after verification that:</p> <ol style="list-style-type: none">1. DOC or IDOC is relevant to the ship;2. SMS provided by Co for the ship includes key elements of ISM Code and has been assessed during the audit for issuance of DOC or demonstrated for issuance of IDOC;3. Co has planned a ship audit within 3 months;4. master and officers are familiar with SMS and planned arrangements for its implementation;5. essential pre-sailing instructions are provided; and6. relevant information on SMS has been given in working language(s) understood by ship's personnel (14.4).
15	Verification	<p>All verifications should be carried out in accordance with procedures acceptable to FSA, taking into account the IMO Guidelines adopted by resolution A.788(19).</p>
16	Forms of certificates	<p>DOC, SMC, IDOC and ISMC should be drawn up in a form corresponding to models in Code's appendix. If language used neither English nor French, text should include translation one or other (16.1).</p> <p>In addition to requirements of 13.3, ship types listed on DOC and IDOC may be endorsed to reflect any limitations in operations of ships described in the SMS (16.2).</p>

C04c SAFETY MANAGEMENT CODE FOR DOMESTIC PASSENGER SHIPS (DSM CODE)

- * The **Safety Management Code for Domestic Passenger Ships (DSM Code)**-
 - **must be complied with**, under regulation 5 of the MS (Domestic Passenger Ships) (Safety Management Code) Regulations 2001 (SI 2001/3209), by any company operating a passenger ship of **Classes III to VI(A)**, as defined in D04c.2, and to any ship of those classes **owned** by it or for which it has **operational responsibility**.
 - **is mandatory** for the above vessels under regulation 3(1) of the above Regulations.
 - **does not apply** (under regulation 3(2)) to ships to which Council Regulation (EC) No. 3051/95 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries) applies, i.e. ships subject to the MS (ISM Code) (Ro-Ro Passenger Ferries) Regulations 1997.
- * **MSN 1754** sets out the instructions regarding safety management of domestic passenger ships of Classes III to VI(A). It describes the objectives of developing a Safety Management System and how to implement it effectively. The **DSM Code**, although not clearly identified as such, is set out in the paragraphs of MSN 1754, which include the following headings: Introduction (paragraphs 1 to 5); Objectives (paragraphs 6 to 9a); Health and safety protection policy (paragraph 10); Responsibilities (paragraphs 11 and 12); Personnel and training (paragraphs 13 and 14); On-board procedures (paragraph 15); Preparation for emergencies (paragraph 16); Reporting of accidents (paragraphs 17 and 18); Maintenance of the ship and equipment (paragraph 19); Certification (paragraphs 20 to 22); Fees (paragraphs 23 and 24); Exemptions (paragraph 25).
- * **Paragraph 8** of MSN 1754 provides that safety management must be applied to every passenger ship in domestic trade, and that the **objectives of safety management** are to ensure a simple and cost effective means of:
 - ensuring safety on board;
 - preventing human injury and loss of life;
 - complying with applicable regulations and rules.

- * **Paragraph 9** requires each operator to **develop and implement safe practices** which include:
 - a health and safety protection policy;
 - procedures to ensure safe operation of ships in compliance with relevant rules;
 - lines of communication between personnel, ashore and afloat;
 - procedures for reporting accidents; and
 - procedures for responding to emergency situations.
- * **Paragraph 9a** provides that the **health and safety protection policy** is required to include environmental protection issues only in so far as they relate to the safety of the ship and the health and safety of persons onboard, and to the safety of other ships and the health and safety of persons on those other ships. Paragraphs 6.2 and 6.3 of MGN 158 refer to legal requirements as respect to the management of garbage and the prevention of oil pollution, and makes recommendations as to the integration of the management of garbage and oil with the health and safety policy.
- * **Paragraph 10** provides that the **operator** must ensure that the **policy is implemented**, and that **responsibilities of all personnel are understood**. There must be a **designated link** between the ship and the shore base, to ensure that in the event of an emergency there is immediate communication with the emergency services.
- * **Paragraph 11** provides that the **master's responsibility must be laid down** so that there is no misunderstanding, and states that **he has the authority to make decisions regarding the safety of the ship and persons on board**. Assistance must be available ashore from the Company **at all times**.
- * The **Company** must, under paragraph 12, nominate an employee to be the **Designated Person**. The Designated Person must have **access to the highest level of management** of that company, and **may** fulfil the requirements of paragraph 7 of MGN 158³.
- * **Paragraph 13** provides that the **operator** must ensure that all persons employed in the operation of the ships have received **appropriate training** for the duties they are required to fulfil and that they have an **understanding** of the relevant regulations and rules. Masters and crew must hold the **appropriate qualifications**.
- * **Paragraph 14** provides that **proper instruction in their duties** must be received by personnel before the first occasion of sailing on the ship as a designated crew member, and **as necessary thereafter**. This instruction must be **recorded**.
- * **Paragraph 15** provides that there must be **procedures** in place for **key shipboard operations** with regard to **safety**, and that the tasks involved in these procedures must be assigned to **designated personnel**.
- * **Paragraph 16** provides that **potential emergency situations** must be **identified**, and **exercises** must be carried out to respond to these emergencies. The exercises must be recorded and where appropriate, must involve the personnel ashore.
- * **Paragraph 17** provides that all accidents and near-accidents must be **recorded and reported to the operator**, who must implement corrective action, with the aim of improving safety.
- * **Paragraph 18** provides that, in addition, the master must inform the Marine Accident Investigation Branch (**MAIB**) of all **accidents** in accordance with the MS (Accident Reporting and Investigation) Regulations 1999 (see E08k). The **MCA must also be informed** if the accident is such that the validity of the ship's Passenger Certificate (PC) or Domestic Ship Safety Management Certificate (DSSMC) might be affected.
- * **Paragraph 19** provides that the **operator must inspect each ship at frequent intervals** to ensure that it is properly maintained and operated in accordance with "the relevant rules". Deficiencies must be corrected, and **records** of inspections kept.
- * **Paragraph 20** provides that the **initial audit**, to assess compliance with the Code, must be carried out **at the same time as each ship is surveyed for issue of the Passenger Certificate (PC)**. On satisfactory completion of this audit, a **Domestic Ship Safety Management Certificate (DSSMC)** for each ship, will be issued. The period of validity of this certificate is subject to a **mid-term audit**.
- * **Paragraph 21** provides that a **mid- term audit**, when the ship is in service, will be carried out between 3 and 6 months after the issue of the PC, in order to assess whether the safety management system is functioning effectively. If successful, the **DSSMC will be endorsed** to this effect and its period of validity will become the **same as that of the PC**.
- * **Paragraph 22** provides that where the **in-service/mid-term audit** is unsuccessful, "normal enforcement procedures" will be followed to ensure that **deficiencies are rectified**.
- * **Paragraph 25** provides that **exemptions** from the Code's arrangements will be considered on a **case by case** basis. In accordance with Recommendation 27.40 of Lord Justice Clarke's Inquiry, exemptions from the provisions of the Code will be granted **only** on condition that an **equivalent level of safety** is achieved.
- * **MGN 158** provides guidance to owners and operators of "domestic passenger ships" on how to comply with the requirements of the DSM Code as set out in MSN 1754.

³ This states: "The MS and FV (Health and Safety at Work) Regulations specifically require the appointment of one or more competent persons to take responsibility for health and safety. That person/persons should be identified. It is the responsibility of the owner/operator to ensure that the policy is complied with, and that the responsibilities are understood".

C05 The shipowner and the ITF

C05a NATURE AND AIMS OF ITF

- * **The International Transport Workers Federation (ITF)** is a London-based democratic federation of worldwide transport workers' trade unions, and includes NUMAST and RMT amongst its members.
- * Since 1949 the ITF has been campaigning against **flag-of convenience** (FOC) shipping, the campaign's ultimate objective being the complete elimination of the FOC system from the world's shipping market. David Cockroft, the ITF General Secretary, has promised that no area of the world will be "ITF-safe" in future. The ITF also states that its campaign is designed to secure ITF acceptable agreements for seafarers serving on FOC ships.
- * For the purposes of the FOC campaign the ITF Fair Practices Committee lists flags regarded as FOCs (see B01b.2).
- * FOC shipowners may sign the **ITF Special Agreement**. This requires owners to employ seafarers on the terms and conditions of the ITF Standard Collective Agreement, and to enter into individual contracts of employment which incorporate the terms of that Agreement. Owners who have signed the ITF Special Agreement will be issued with a **"Blue Certificate"**.
- * As well as a monthly magazine, ITF News, and an annual *Seafarers' Bulletin*, ITF produces a pocket book entitled *Message to Seafarers*, regarded as essential for FOC seafarers.
- * **Address:** International Transport Workers Federation, 49/60 Borough Road, London SE1 1DS. Tel: 0171-403-2733. Fax: 0171-357-7871. e-mail: mail@itf.org
- * **Website:** www.itf.org.uk

C05b ITF ACTION AGAINST FOC SHIPS

- * The ITF employs **inspectors** to inspect FOC ships in ports. Typically, when an ITF inspector visits an FOC ship, he will ask to see crew wage accounts, interview crew members, and check living, working and leave arrangements. If these are not in accord with ITF or ILO minimum standards, **boycott action** by affiliated transport union labour in the port (dockers, lock keepers, tugmen, etc.) may be called and the ship may be prevented from proceeding with her operations. Risk of ITF action is highest in **ITF "strongholds"** such as Scandinavia, Australia and New Zealand, and some charter parties prohibit the charterer from ordering the ship to these countries.
- * Production of an **ITF "Blue Certificate"** (see C05a) to an ITF inspector should guarantee freedom from anti-FOC action by ITF-affiliated labour unions in ports.
- * For notes on **ITF involvement in crew industrial action**, see I06d.2.

C06 Shipowners' and ship managers' organisations

C06a CHAMBER OF SHIPPING

- is the **trade association and employers' association** for British shipowners and shipmanagers.
- **promotes** and protects its members' interests nationally and internationally.
- **represents** British Shipping to Government, Parliament, international organisations, unions and the general public.
- **covers** all issues which have a bearing on British Shipping, from fiscal policy and freedom to trade, to recruitment and training, maritime safety, the environment, navais and pilotage.
- **represents** 6 different commercial sectors: deep-sea bulk, short-sea bulk, deep-sea liner, ferry, cruise and offshore support.
- has 137 members and associate members, which own or manage 680 merchant ships of 17m dwt, including some managed for foreign owners.
- * **Address:** Carthusian Court, 12 Carthusian Street, London EC1M 6EB. Tel. 0171 417 8400. Fax 0171 626 8135. E-mail: postmaster@british-shipping.org
 - **Website:** www.british-shipping.org

C06b INTERNATIONAL CHAMBER OF SHIPPING (ICS)

- is an **international association of national trade associations representing shipowners and operators**.
 - has a **membership** comprising **shipowners' associations** in about 30 countries, together representing more than half the world's merchant tonnage.
 - **promotes** the interests of shipowners and operators in all matters of shipping policy and ship operations (excluding crew matters, which are the province of its sister organisation, the International Shipping Federation – see C06c.).
 - **encourages** high standards of operation and the provision of high quality and efficient shipping services.
 - **strives** for a regulatory environment which supports safe shipping operations, protection of the environment and adherence to internationally adopted standards and procedures.
 - **promotes** properly considered international regulation of shipping, but opposes unilateral and regional action by governments.
 - **presses for** recognition of the commercial realities of shipping and the need for quality to be rewarded by a proper commercial return.
 - **promotes** industry guidance on best operating practices (e.g. through publications such as Bridge Procedures Guide and Guide to Helicopter/Ship Operations).
- * **Address:** International Chamber of Shipping, Carthusian Court, 12 Carthusian Street, London EC1M 6EZ. Tel +44 20 7417 8844. Fax +44 20 7417 8877. E-mail ics@marisec.org
- **Website:** www.marisec.org

C06c INTERNATIONAL SHIPPING FEDERATION (ISF)

- is the **international employers' organisation** for shipowners.
 - is concerned with **labour affairs and manning and training issues** at international level.
 - has a membership comprising **national shipowners' associations** from 30 countries together representing more than half the world's merchant tonnage.
- * **Address:** International Shipping Federation, Carthusian Court, 12 Carthusian Street, London EC1M 6EZ. Tel +44 20 7417 8844. Fax +44 20 7417 8877. E-mail isf@marisec.org
- * **Website:** www.marisec.org

C06d INTERNATIONAL SHIP MANAGERS' ASSOCIATION (ISMA)

- is an association of ship and crew managers aspiring to a higher quality standard than that demanded by international regulation.
 - was formed in 1991 to provide a forum for ship managers as a homogeneous group, to improve standards, and achieve a safer, more environmentally conscious, more reliable and more controllable ship management industry.
 - represents ship managers from 16 countries controlling a fleet of more than 2,300 ships. Membership was extended in 1994 to crew managers.
 - accepts members who agree to be bound by the **ISMA Code of Shipmanagement Standards** (the “**ISMA Code**”) which is claimed to be the most comprehensive quality code for shipping in the world. The cornerstone of ISMA membership is a commitment to establish and maintain a quality assured (QA) management system which meets the requirements of the ISMA Code, and to submit these QA systems to audit by an independent body. The ISMA Code is claimed to exceed the requirements of the ISM Code and incorporates the requirements of ISO 9002 standards.
- * It is estimated that **ISMA's membership** represents in excess of 60% of the total world third party managed fleet.
- * **Address:** ISMA, Suite 202, Eastlands Court, St Peters Road, Rugby CB21 3QP, UK. E-mail: alan.ward@isma-london.org
- * **Website:** www.isma-london.org

C06e INTERNATIONAL ASSOCIATION OF DRY CARGO SHIPOWNERS (INTERCARGO)

- was established in 1980 to **promote and protect the interests of dry bulk shipowners** throughout the world.
- has over 185 members from 34 countries, who own around 1250 large dry bulk carriers totalling about 90m dwt.

- has consultative status with UNCTAD, and with IMO (where it has permanent representation).
- works closely with private sector bodies such as ICS, ISF, Intertanko and BIMCO.
- is the only international association devoted solely to the interests of the dry bulk sector and as such provides both a forum and a focus for that shipping sector.
- has as its current priority a reduction in the number of dry bulk carrier losses and casualties.
- is active in the promotion of free trade and fair competition; international as against unilateral regulation where regulation is necessary; scrapping and market balance; and high standards in business ethics.
- has taken action in support of its members' interests on issues including opposition to the proliferation of surveys by government agencies and others, and legislative proposals in the USA.
- * **Address:** International Association of Dry Cargo Shipowners, Second Floor, 4 London Wall Buildings, Blomfield Street, London EC2M 5NT. Tel. +44 (0)20 7638 3989. Fax: +44 (0)20 7638 3943. E-mail: intercargo@compuserve.com
- * **Website:** www.intercargo.org

C06f INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS (INTERTANKO)

- **promotes** the interests of owners and managing operators of more than 80% of **independent tanker tonnage** worldwide, i.e. tanker owners other than oil companies and governments.
- has some 300 members and 120 associate members, drawn from 33 nations and between them controlling some 1,900 tankers.
- represents its members at the highest level in governments, IMO and other for a where discussions on policy, technical, safety or environmental matters take place.
- gathers intelligence and gives advice on technical, legal and commercial matters to members.
- publishes **charter parties** and other documents.
- stands "for safe transport, cleaner seas and free competition".
- * **Address:** International Association of Independent Tanker Owners, Bogstadveien 27B, P.O. Box 5804 Majorstua, N-0308 Oslo, Norway. Tel: +47 22 12 26 40. Fax: +47 22 12 26 41. E-mail: postmaster@intertanko.com
- * **UK address:** International Association of Independent Tanker Owners, The Baltic Exchange, 38 St. Mary Axe, London EC3A 8BH, UK. Tel: +44 (0)207 623 4311. Fax: +44 (0)207 626 7078. E-mail: london@intertanko.com
- **Website:** www.intertanko.com

C06g BALTIC AND INTERNATIONAL MARITIME CONFERENCE (BIMCO)

- has an international membership of **shipowners, shipbrokers, agents and P&I clubs**.
- acts as a spokesman for the shipping industry.
- helps members **avoid costly business mistakes**.
- **interprets** contract terms; gives opinions on disputes; provides port cost estimates; maintains shipping databases.
- **publishes** approved commercial documents including charter parties (see examples in F04c.2 and F04c.3) and bills of lading, sometimes in conjunction with other bodies, e.g. FONASBA and the UK Chamber of Shipping.
- **publishes BIMCO Bulletin** (an information-packed journal which would be of interest to many shipmasters).
- runs **shipping business courses** and seminars.
- operates **BIMCOM**, an international computer network linking main shipping centres.
- * **Address:** BIMCO, 161 Bagsvaerdvej, 2880 Bagsvaerd, Denmark. Tel. +45 44 36 68 00. Fax: +45 44 36 68 68. E-mail: mailbox@bimco.dk
- * **Website:** www.bimco.dk

C06h INTERNATIONAL TANKER OWNERS POLLUTION FEDERATION (ITOPF)

- is a non-profit making organisation, funded by the vast majority of the world's shipowners.
- is involved in all aspects of **preparing for and responding to oil spills from tankers**.
- has a staff of 23, of whom 11 are available to respond to spills.

- was established after the *Torrey Canyon* incident to administer the voluntary compensation agreement, TOVALOP, which assured the adequate and timely payment of compensation to those affected by oil spills. TOVALOP came to an end on 20th February 1997. As a result the membership and funding arrangements of ITOPF have now changed.
- now devotes considerable effort to a wide range of **technical services**, of which the most important is responding to oil spills. ITOPF small response team of **technical advisers** have attended on-site at over 400 spills in more than 70 countries and is at constant readiness to assist at marine oil spills anywhere in the world. This service is normally undertaken **on behalf of tanker-owner members and their oil pollution insurers** (normally one of the P&I Clubs) or at the request of **governments or international agencies** such as the International Oil Pollution Compensation Fund.
- also provides **damage assessment services, contingency planning, training and information**.
- maintains an extensive **library** and a number of **databases**, and produces **technical publications and videos**.
- * **Address:** ITOPF Ltd, Staple Hall, Stonehouse Court, 87-90 Houndsditch, London EC3A 7AX. Tel: +44 (0)20 7621 1255. Emergency Tel: +44 (0)7626 914112 (24hr). Fax: +44 (0)20 7621 1783. Email: central@itopf.com
- * **Website:** www.itopf.com

C06i INTERNATIONAL SUPPORT VESSEL OWNERS ASSOCIATION (ISOA)

- was formed in 1985 to **promote and protect the interests of offshore support vessel operators** in respect of any issue affecting the industry.
- acts as a **representative international entity** co-ordinating and representing the opinions of its members.
- is principally focused on **bringing offshore supply vessel (OSV) operators together** to discuss their mutual problems.
- has the following objects:
 - to communicate to its members on a regular basis matters of importance affecting the OSV industry;
 - to monitor the treatment of the OSV industry by international organisations, governments, authorities or other bodies and assist members in investigating prejudicial treatments and where appropriate take action against such prejudicial treatment;
 - to provide a forum for the discussion of the prevailing standards and market conditions in the offshore industry;
 - to communicate, as appropriate, the views of members to international organisations, governments, the press and other relevant bodies.
- * **Address:** International Support Vessel Owners Association, Carthusian Court, 12 Carthusian Street, London EC1M 6EZ. Tel + 44 20 7417 8844. Fax + 44 20 7417 8877. E-mail isoa@marisec.org
- * **Website:** www.marisec.org/isoa