



The Seychelles Maritime Safety Administration Procedure for the Issuance of Exemptions and Equivalents for Seychelles Registered Foreign Going Vessels

Merchant Shipping Notice No. 08/2018

Subject : Guidance and Instructions for Recognised Organisations, Ship Builders, Ship Owners, Managers and Masters serving on board Seychelles registered foreign going vessels

**References: (a) Merchant Shipping Act 1995 and amendments of 2014
(b) SMSA Quality Manual
(c) IMO mandatory Instruments Implementation Code**

1. Purpose

This Merchant Shipping Notice provides procedures for the issuance of exemptions and equivalent to be granted to Seychelles registered foreign going ships.

2. Scope

This Merchant Shipping Notice applies to all Seychelles registered vessels sailing in international waters.

3. Definition

- 1) Ship Specific Exemption: An exemption from compliance with a particular regulatory requirement granted in respect of a specific and named ship which may include restrictions and/or conditions so as to ensure that an equivalent level of safety is achieved.
- 2) Equivalent Level of Safety: An exemption should only be granted where compliance with the regulations is unreasonable (whether on grounds of practicability or for some other reason) and the signatory is satisfied that alternative steps are taken so as to achieve an equivalent level of safety. Where necessary, conditions and limitations will normally need to be laid down when granting an exemption, full details of which should be entered in the 'Conditions' fields on the appropriate certificate.



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- 3) Temporary Exemption: Temporary substitution of a particular fitting material, appliance or apparatus required by regulation where no specific exemption may be made where the condition of the ship and equipment continues to “correspond substantially” with the requirements of the associated statutory certificate.
- 4) Permanent Exemption: An exemption from one or more regulatory requirements granted in respect of a class/group of ships to which the particular regulation(s) is/are applicable, for which generic conditions or limitations may be applied.
- 5) Period of Validity: The period of time for which an exemption/equivalent remains in force without need for review. Exemptions must not be granted indefinitely. The expiry date will be the expiry date of the certificate to which the exemption is attached. If there is no associated certificate, another date may be entered depending on the need for the exemption for example, to cover a single voyage or short term need. The maximum period of validity is not to exceed 5 years.

2. Exemptions/Equivalence

- 1) Exemptions are issued where a vessel has arrangements or equipment that does not comply with a defined standard required by regulation.
- 2) Exemptions shall only be issued where the power of exemption is granted within the appropriate regulations.
- 3) It shall be noted that exemptions are not granted for purely commercial reasons.



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3. Procedures for Submission of Applications

1) Applications for :

- a) Exemptions and equivalents;
- b) Statutory provisions; and
- c) Extensions and postponements to surveys, servicing periods or any associated requests to survey dates

shall be submitted to SMSA through the respective Recognized Organizations delegated by the Administration for the issuance of such certificates.

- 2) Notwithstanding Para. 2.4 above, owners, managers or builders may directly contact SMSA on any proposed plans for applications for issuance of exemptions, equivalents, extensions, postponements before submitting a formal application for the same through the ROs.

- a. All applications for exemptions, equivalents, extensions or postponements etc shall be made in writing stating:

- i. Applicant's details;
- ii. Ship identification and relevant data (type, size etc.);
- iii. Statutory provisions from which exemption is requested;
- iv. Reasons and justifications why compliance with the regulations is impossible or impractical;
- v. Measures proposed which would provide an equivalent level of safety to the statutory requirement; and
- vi. Any relevant documents or information to support the application.



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- b. Any operational situation or equipment failure that affects the ship's compliance with statutory regulations shall be reported to the Recognised Organisation and SMSA at the earliest opportunity.
- c. Where the exemption request is for the use of innovative and alternative and/or equivalent design methods, the applicant should be referred to the additional guidance contained in *MSC.1/Circ.1455 – Guidelines for the Approval of Alternatives and Equivalents as provided for in Various IMO Instruments* which provides the methodology for the analysis and approval process.
- d. When considering an exemption the Recognised Organisation or surveyor shall:
 - i. Consider the need for internal/external consultation;
 - ii. Seek additional policy and/or technical advice, as necessary;
 - iii. Reason and justification for the submission of such an application and,
 - iv. Consider precedents, where applicable.
- e. Recognised Organisations shall submit to SMSA their support or reservation of an application for exemption or acceptance of an equivalent arrangement. In submitting their advice to SMSA, Recognised Organisations shall take in to consideration the requirement of the International Convention as well as the Seychelles national requirements.
- f. All exemptions must have an expiry date entered when issued. In all cases, this will be the expiry date of the certificate to which the exemption is attached. In cases where no associated certificate is being issued then 5 years is considered the maximum period of validity which can be allowed. The period of validity can be much less than this if deemed appropriate by the issuing surveyor.



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- g. The purpose of having a validity is to review exemptions on a regular basis so as to ensure that they reflect the requirements of current legislation and that the conditions under which they were issued remain valid.
- h. Where a vessel changes operation i.e. area or purpose, then exemptions must be reviewed to ensure they are still valid for the new area of operation and/or purpose.
- i. The Director of SMSA shall report to the IMO on the total number of exemptions issued by the Administration on the calendar year.

4. Permanent exemption

- 1) An application for the issuance of a permanent exemption from a requirement of an international convention or an acceptance of an equivalent arrangement to an international convention requirement shall be submitted to the Recognised Organisation that issued the relevant certificate.
- 2) Upon receipt of the applications referred to in no. 4(1). above, Recognised Organisations shall submit the outcome of their assessment on such an application to SMSA .
- 3) The procedure for submission of an application for a permanent exemption or an acceptance of an equivalent arrangement shall be in accordance with the provisions of paragraph 3 above .
- 4) SMSA may issue a permanent exemption letter upon an assessment of the application and recommendation from the Recognised Organisation.



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- 5) The permanent exemption letter issued by SMSA shall be duly signed by an authorised official .

5. Temporary Exemption

- 1) There are occasions on which requests are received by SMMSA for ship owners and managers for a ship to continue operation, despite the ship being temporarily unable to fully comply with the requirements of the regulations which cannot be rectified prior to departure (e.g. damaged equipment for which no spares are available at the current port).so long as the condition of the ship and its equipment is considered to “correspond substantially”¹ with the requirements of the associated statutory certificate. In such cases, the legal boundaries should not be altered by issue of an Exemption Certificate, but instead an acknowledgement made by SMSA as to the continued operation of the ship by issuance of a **Temporary Exemption Letter**.
- 2) An application for temporary exemption from a requirement of an international convention or temporary acceptance of an equivalent arrangement shall be addressed to Recognised Organisations acting on behalf of SMSA that issued the relevant certificate .
- 3) Upon receipt of the applications referred to in no. 5(1) above, Recognised Organisations shall submit the outcome of their assessment on such an application to SMSA .
- 4) The procedure for submission of an application for a temporary exemption or an acceptance of an equivalent arrangement shall be in accordance with the provisions of paragraph 3 above .

¹ It is at the discretion of the SMSA and on the basis of professional judgement as to what may be considered as “correspond substantially”.



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- 5) When it is acknowledged by SMSA that a ship can continue operation whilst temporarily not able to fully meet the requirements of the regulations, a Temporary Exemption Letter is to be issued by the SMSA Office letter upon an assessment of the application and recommendation from the Recognised Organisation, as per Para.5 of IACS Recommendation No.98 (Rev.1 March 2012).
- 6) If SMSA do not acknowledge the continued operation of the ship, the shipowner could be liable to enforcement action by SMSA and/or at greater risk of action being taken by Port State Control authorities.
- 7) The temporary exemption letter issued by SMSA must be signed by an authorised official as if it were a certificate.
- 8) In order to ensure that an equivalent level of safety is maintained, conditions must be included on the Temporary Exemption Letters in much the same way as the type of conditions that would appear on an permanent Exemption Certificate.
- 9) A Temporary exemption letter will not normally be required where a defect is noted whilst at sea where it is intended that the defect will be rectified prior to departure from the next port or where a vessel is in a port where no repair facilities or spares are available. It is noted, however, that some owners/managers may request a Temporary exemption Letter in order to avoid any issues with Port State Control.
- 10) The possession of a Temporary Exemption Letter does not guarantee that action will not be taken at Port State Control as a result of the deficiency, as the Port State Control Officer is not bound to accept the flag State documentation. This should be clearly spelt out in the covering email



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sent to the Managers, *"The attached letter however does not guarantee that Port State Control in other States will permit the ship to continue to operate – this remains a matter for the judgement and discretion of Port State Control Officers"*.

6. Extensions and postponements

- 1) An application for extension of statutory survey period or validity of certificate under an international convention; or postponement of a survey, servicing period, or any other applicable international requirement shall be submitted to the Recognised Organisation that issued the relevant certificate.
- 2) In reviewing of applications for extensions or postponements, both the Recognised Organisation and SMSA shall follow the procedures provided in paragraphs 3, 4 and 5 of this Merchant Shipping Notice.

Issued on 26 February 2018



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MINISTRY OF FOREIGN AFFAIRS & TRANSPORT
DEPARTMENT OF TRANSPORT



Seychelles Maritime Safety Administration

New Port, P. O. Box 912, Republic of Seychelles

Tel: 4224866, Telefax: 4224829, E-mail: dg@msa.sc

Please address all correspondence to the Director General

EXEMPTION CERTIFICATE

Issued under the provisions of the

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA 1974,

As modified by the Protocol of 1988 relating thereto.

Under the authority of the Government of the Republic of Seychelles

by

The Seychelles Maritime Safety Administration

Particulars of the ship

Name of the ship	Distinctive No. or Letters	Port of Registry	GT	IMO No.

Particulars of Exemption

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THIS IS TO CERTIFY:

That the ship is, under the authority conferred by **Regulation xxxx** of **Chapter xxxx** of the convention, exempted from the requirements of **Regulation xxxx** of **Chapter xxxx** of the Convention.

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

Voyages, if any for which the Exemption Certificate is granted:



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This certificate is valid until **xxxx** or on the arrival of the vessel in **xxxx** whichever date is earlier and is subject to the **xxxx** to which this certificate remains valid.

Issued at Port Victoria

Date of Issue : **xxxxxx**

Signature of authorized official
Richard Ernesta

Director
For Director General