

Circular - Series R

Circular Series R (Regulations) supersedes previous Series F. In the new Series R, relevant legal amendments and amendments to conventions are also published.

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The Circular should be entered into a special diagram or as appropriate in the latest editions of relevant NMA publications and kept until the next editions.

Amendments to the Regulations on qualifications and certificates for seafarers

Introduction

The Norwegian Maritime Authority (NMA) has laid down amendments to the Regulations of 22 December 2012 No. 1523 on qualifications and certificates for seafarers (henceforth "Regulations on qualifications"). The proposal was circulated for review from 15 February to 18 April of this year.

The amendments involve seagoing service being calculated on an hourly basis instead of the current day-to-day scheme. Changes have also been made to table A-III/2 in order to get a correct translation into Norwegian and a proper correlation with the rest of the Convention. Changes have also been made to the Norwegian version of tables A-III/6 and A-III/7 in order to make the terminology of the Regulations consistent. None of these amendments involves material changes.

The NMA received 16 consultative statements, whereof eight had no comments to the amendments to seagoing service in section 16. Eight bodies commented on the suggestions.

The Regulation concerning amendments to the Regulations on qualification and certificates for seafarers is attached.

Amendments to section 16 first paragraph on calculation of seagoing service

The background for the proposed amendment to calculation of seagoing service is that both sides of the industry (employers and employees) in collaboration took initiative, in a letter of 22 January 2012, to change the calculation method for the seagoing service. The grounds for the proposal was that the industry had a feeling that there was an imbalance in the earning of seagoing service. The industry pointed to that there can be large differences in earned seagoing service, pursuant to the Regulations, between two employees with the same number of working hours per year. The way the rule works today, with crediting day by day, one person may for instance be credited for a whole day's work for a four-hour trip with the vessel. Over time, this could lead to the time actually sailed being less than the registered seagoing service. With the introduction of hourly-based seagoing service, the registered seagoing service will correspond significantly better with the time actually sailed.

The change also means that seagoing service in most cases can be earned quicker, with the exception of those who today have shorter work shifts, for instance on ferries. For the individual employee, a faster earning of seagoing service will have economic advantages.

Seagoing service is in section 16 of the Regulations on qualifications defined as *"service on board a ship providing seafarers with knowledge, insight, and skills required for the issue of a certificate or maintenance of competence"*.

The current way of calculating seagoing service, which is on a day-to-day basis, will be changed to an hourly basis. This change means that the seagoing service will better reflect the actual time spent by seafarers, hour by hour, on board ships. The provision is amended from an *"day-to-day"* to *"hourly"* basis.

The seagoing service time is calculated by the following formula:

$$D = \frac{x}{1867} \cdot 365$$

D= days of seagoing service, x= number of hours worked, 1867= number of hours in a basic man-year based on an 8-hour working day.

Seagoing service must be documented in the same way as today, cf. section 16 second paragraph: *"The seagoing service shall be documented by records in the form of a sea service book attested by the master, or alternatively by a record of service confirmed by the company"*.

The hours worked are put into the formula, where a basic man-year of 1867 hours forms the basis for an 8-hour working day as a starting point. By using this formula, the number of hours will be converted to a number of days, on which the calculation of effective seagoing service is based.

The companies will be tasked with inserting the number of hours into the formula and calculating the correct number of days of seagoing service. The companies must thereafter report the number of days of seagoing services to the NMA via Altinn. This makes the companies responsible for the correctness of the number of registered days on each seafarer. The NMA will check the reported information. The NMA may require access to the calculations performed by the company, if necessary. Since the companies will report the number of days of seagoing service, there is no need to change the report form or information in Altinn.

The NMA will use the seagoing service calculated in accordance with the new rules as basis. This is regardless of when the seagoing service is earned, and will be beneficial for cadets.

Administrative and financial implications

The amendment to the calculation of seagoing service means that seafarers will earn their required seagoing service faster. At the same time as the amendment means a more precise calculation of seagoing service, it is also an advantage that seagoing service will now, in most cases, be earned faster. The only exception is seafarers who currently work short shifts, e.g. on board ferries. It is assumed that the change in calculation of seagoing service could give Norwegian actors a competitive edge.

The change is not presumed to affect safety in any way.

For the authorities, the change only involves minor costs, with a level of supervisory activity similar to today.

For the companies, this change will mean some more administrative tasks, since they are responsible for inserting the hours into the formula and calculating the correct number of days of

seagoing service. The number of days of seagoing service must be reported to the NMA via Altinn.

The changes will not affect the environment.

Consultative comments to the proposal

The Norwegian Maritime Officers' Association (NMOA) has the following comments:

"We refer to the NMA's consultation letter dated 15 February 2016 and the consultative statement from the joint secretariat of the seamen's organisations dated 18 March 2016. First and foremost, we want to make it clear that we support the main principles of the proposed amendments and the thoughts behind them. Similarly we are also behind the main point of the consultative statement: Long days with much activity should be more rewarding than short days with little activity. This addition to the consultative statement therefore regards only the proposed formula for calculation of seagoing service, as we feel that the formula should be set up differently.

Our objection to the proposal is that we think it goes too far, and that it opens the door to an unwarranted fast earning of seagoing service. Many people work 12 hours a day in the periods they are on board. With the proposed formula, one such day will translate into 2.35 days of seagoing service. For a cadet needing 360 days of seagoing service with systematic training in order to be issued a certificate, this means that he will need around 153 days with 12-hour shifts on board in order to achieve this. We feel that this is not sufficient for a safe and proper completion of the systematic training in the cadet scheme. It could be claimed that this is a minimum requirement, that it is possible to use more time, and that the competence shall be documented and assessed by an assessor. This is of course correct, but we cannot disregard the signal this sends to the industry; that 153 days is basically sufficient time. This will in turn result in a pressure for many cadets to complete the training in the minimum time. Particularly in the current times with lack of cadet position and strained finances in many companies, this could be a real issue. At the same time, it could also be perceived as a bit strange if it is sufficient to work 5 hours and 7 minutes a day to earn a whole day of seagoing service. This is namely what the proposed formula translates into.

Our opinion is that the requirement for earning of seagoing service should be based on the following principles:

- * One day of seagoing service is eight hours.*
- * One month of seagoing service is thirty days of seagoing service.*

This gives us the following simple formula for the calculation of seagoing service:

$$D = \frac{x}{8}$$

D= days of seagoing service and x= number of hours worked

With this formula, a 12-hour day will translate into 1.5 days of seagoing service, and a seafarer will have to complete at least 240 12-hour days on board. The NMOA feels that this is defensible from a training point of view."

The NMA refers to the mentioned example on earning of seagoing service for the initial issue of a certificate of competence, and can confirm that a cadet will be able to achieve the required seagoing service in 153 working days. However, as mentioned by the NMOA, this is a minimum time, and is not in itself decisive for when the cadet can be issued his or her first certificate.

The companies have a major responsibility for the training of the cadets. It is their responsibility to ensure that the person responsible for the training and the assessor evaluating the cadet's qualifications have the necessary competence, cf. the Regulations on qualifications section 13.

The industry is under pressure due to costs, and this could give rise to a pressure on cadets to complete their training as quickly as possible. We therefore underline that earned seagoing service is just one of several conditions for the initial issue of certificates. The cadet's qualifications and competence should be evaluated independently of the seagoing service earned on board. If the cadet does not have the qualifications and competence expected in order to be issued a certificate, he or she should not be approved by the assessor on board. In this regard, the industry itself has a general responsibility for being aware of the other conditions required in order to be issued a certificate. The industry must furthermore encourage attitudes that curb the pressure for earning the seagoing service as quickly as possible. Quick training is fine as long as the qualifications and competence correspond to the expected level. It is a joint task and in the interest of the entire industry that the cadets gain the best possible qualifications and the highest competence possible through their training. If any cadet needs more time to achieve this, he or she should be allowed this. The industry should accept and provide for this, regardless of economy and labour market.

In accordance with the NMA's formula, working for 5 hours and 7 minutes will be sufficient for earning a full day of seagoing service if you work 365 days a year. If you deduct vacations and holidays, a "normal employee" onshore works approx. 225 days out of 365 days a year. A full day of seagoing service then corresponds to 8 hours, which is in line with the principles presented by the NSOA and in accordance with the STCW Convention. The other consultative bodies had no objections, and the proposal is drawn up based on suggestions from the parties in the industry. We have therefore laid down the amendment as it was in the consultation.

Administration of the new scheme

The Coast Guard has the following comments:

"For the Coast Guard, it will also be an advantage to be able to register hour for hour, since we are exempt from the working hours provisions and thus can earn the required seagoing service faster than today. However, the amendment will require comprehensive registration and quality assurance of hours, and will therefore generate additional administrative work. Where we today can simply retrieve data on when the seafarers sign on and off the ship, we will in the future have to use time sheets.

Conclusion: In a time with more and more focus on efficiency improvement and workforce reductions in the administrative field, an hourly-based calculation of seagoing service will generate disproportionately large amounts of administration through both registration and quality assurance of time and activities."

The Norwegian Fishing Vessel Owners Association (Fiskebåt) has the following comments:

"Fiskebåt is positive to the proposal, and thinks it will lead to a principally more correct and fair earning of seagoing service. At the same time, Fiskebåt would like to underline that the amendments must be implemented in such a way that the administrative burden for the companies increases as little as possible. The consultation paper states that the registration of seagoing service should take place the same way as today, i.e. by registration in a sea service book attested by the master, or alternatively by a record of service confirmed by the company. As long as we only had to report the number of days, this was a relatively simple exercise, but if registration should now be performed on an hourly level, it could become more laborious for the company to verify the seagoing service. We refer to the fact that, in periods, the actual seagoing service time for each person can vary. In addition, there could be large differences between the various positions for which a certificate is required. It is important that the companies can rely on the time sheets recorded by the personnel in question, and that the company will not be liable if the odd mistake should occur."

The Norwegian Fishermen's Association has the following comments:

"The Norwegian Fishermen's Association is positive to the proposal, and thinks that the new model reflects the service time on board better than the current model.

The proposal furthermore sets up that seagoing service should be documented in the same way as previously. That is to say, by records in the form of a sea service book attested by the master, or alternatively by a record of service confirmed by the company. In this regard, it is important that the NMA prepare a simple guidance as to how the seagoing service should be recorded, so that the work is made easier for both company and crew."

The NMA presupposes that the seagoing service will be documented in the same way as today, cf. section 16 second paragraph: *"The seagoing service shall be documented by records in the form of a sea service book attested by the master, or alternatively by a record of service confirmed by the company"*. The NMA feels that there is no need to change the information given in Altinn and the report forms. The companies will be tasked with inserting the number of hours into the formula and calculating the correct number of days of seagoing service. The companies must thereafter report the number of days of seagoing services to the NMA. This makes the companies responsible for the correctness of the number of registered days on each seafarer. The NMA will check the reported information. The NMA may require access to the calculations performed by the company, if necessary. Since the companies will report the number of days of seagoing service, there is no need to change the Altinn form.

The Norwegian freight vessel companies' association, Fraktefartøyenes Rederiforening, has the following comments:

"Our association is very positive to the proposed amendment to the calculation of seagoing service. We feel that this will result in a more correct calculation of seagoing service, with an hourly basis instead of the current day-to-day basis. We assume that this will have a retroactive effect within the last five years, with regard to certificate renewal and issue of certificates."

The NMA will use the seagoing service calculated in accordance with the new rules as basis. This is regardless of when the seagoing service is earned, and will be beneficial for cadets.

The joint secretariat of the seamen's organisations has the following comments:

"The seamen's organisations in Norway have been involved in the process with the NMA and the companies regarding the amendment to the rules on seagoing service. We are therefore happy with the fact that the NMA now proposed to change the Regulations on qualifications to this effect. This will result in a faster earning of seagoing service, and will thus benefit seafarers. The scheme will be in line with the STCW Convention."

The Oslo Commercial Boat Owners Association (Oslo Yrkesbåtrederes Forening) has the following comments:

"The consultation letter states: "On an international level the change could give Norway a competitive edge", which seems to be in conflict with international commitments on which the STCW Convention is based. A calculation of seagoing service on a national level will in our opinion evidently be unfortunate, and should be avoided. We therefore ask that the proposed regulatory amendment be forwarded to IMO to ensure a possible renewed international calculation of seagoing service. Based on the foregoing, we ask that the current proposal be postponed until the matter has been clarified on an international level."

The NMA ascertains that the amendments are in accordance with the Convention and within our scope of action.

User-friendliness in Altinn

Fiskebåt has the following additional comments:

"Finally, Fiskebåt refers to the fact that the current system for registration of seagoing service in Altinn has a weakness in that the information is not updated and displayed until the certificate application has been processed. It could therefore take a long time, sometimes up to several

months, until the seagoing service is updated. In this period, the company and crew have few possibilities to check whether the NMA has received and started to process the report. Fiskebåt asks the NMA to facilitate that the submitted information on seagoing service become visible quicker for the company and applicant."

The Norwegian Fishermen's Association has similar comments:

"When seafarers and fishermen apply for a certificate through Altinn, the Norwegian Fishermen's Association has received feedback that the seagoing service registered is not visible for the applicant until the NMA has processed the certificate application. This makes the application process difficult to follow for the applicant. The Norwegian Fishermen's Association therefore asks the NMA to update the application page as soon as possible, so that the registered seagoing service is displayed immediately."

The NMA refers to the upcoming change in connection with the new "My page" functionality which is underway. The goal is that all submitted documentation will be available and visible, even before approval.

Seagoing service during stays in shipyards

The Norwegian Fishermen's Association has the following additional comments:

"The Norwegian Fishermen's Association has received several inquiries from members indicating that navigators should be able to earn seagoing service during stays in shipyards. The background for this is that tasks related to safety and certification are very relevant for an overall profound understanding of the navigators' tasks. The Norwegian Fishermen's Association asks the NMA to bring this matter up nationally and internationally (IMO)."

The NMA refers to the fact that if stays in yards form part of the ordinary operation of ships (including shorter stays in yards), this will be included in the seagoing service. More comprehensive stays in yards, e.g. in the event of larger conversions when the ship is in dock, do not satisfy the requirements of section 16 regarding what to include in a navigator's seagoing service. The guidelines to the Regulations provide more information about this.

Summary

The amendment to the calculation of seagoing service will provide a more correct calculation, and will at the same time result in quicker earning of seagoing service in most cases. For the individual employee, a faster earning of seagoing service will have economic advantages. For the companies, this change will mean some more administrative tasks, since they are responsible for inserting the working hours into the formula and finding the correct number of days of seagoing service. The correct number of days of seagoing service should thereafter be submitted to the NMA on the existing form in Altinn.

It is assumed that the change in calculation of seagoing service could give Norwegian actors a competitive edge.

Overall, the advantages seem to outweigh the disadvantages.

Olav Akselsen
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Attachment: Regulation concerning amendments to Regulations on qualifications and certificates for seafarers