

Terminology Explained Concerning the BSS Examiner Conditions of Registration 2017

This guide provides an explanation, or elaboration of key terms and words used in the BSS Examiner Conditions of Registration (CoR) clauses.

Where no explanation or elaboration is provided, the clause text is deemed to be self-explanatory.

| Conditions of Registration Clause | Clause terminology explained |
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| BOAT SAFETY SCHEME EXAMINER CONDITIONS OF REGISTRATION [Version April 2017] | |
| 1.0 Introduction, scope and binding nature of the BSS Examiner Conditions of Registration | |
| 1.1 The BSS Examiner Conditions of Registration (the “Conditions”) regulate the activities and responsibilities of BSS Examiners. | <i>‘The activities and responsibilities’</i> are those for which the BSS and the participating Navigation Authorities have a specific interest. As independent practitioners, BSS Examiners will have wider duties in law. Participating Navigation Authorities here, means those that operate the BSS on their waters. |
| 1.2 Examiners are independent practitioners authorised by the BSS to examine vessels for the purpose of determining compliance with prescribed BSS technical requirements and, where appropriate, issue BSS Certifications (BSSCs). | |
| 1.3 For the purposes of these Conditions the term BSS Examiner means any person authorised by the BSS to issue BSSCs. (the “Examiner(s)”) | |
| 1.4 For the purposes of these Conditions the term BSS Examination (the “Examination”) includes any and all contractual activities undertaken by Examiners specifically concerning the BSS, its requirements and the issue of BSSCs. | The clause refers to <i>‘all contractual activities’</i> which means that the CoR applies to verbal advice as well as performing Examinations and written reports. |
| 1.5 As a condition of their agreement to participate in the BSS, Examiners are bound by these Conditions. | Examiners are <i>‘bound by these conditions’</i> . When submitting an online initial or renewal application for BSS Examiner registration, examiners are expressly agreeing to abide by the CoR. |
| 2.0 Examiners Duty to the Boat Safety Scheme | |
| 2.1 Examiners have a duty to the BSS and to the participating Navigation Authorities to carry out BSS Examinations in a competent manner using reasonable care and skill. | As independent practitioners, BSS Examiners may also have wider legal duties in this respect to others who may be affected by their acts or omissions. |
| 2.2 Examiners must follow all the procedures, instructions and guidance as published on the BSS Examiner support website. | |

| 3.0 Ensuring integrity | |
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| <p>3.1 Examiners must act fairly and honestly in their activities connected with the BSS.</p> | <p>Examiners are expected to act within the civil/criminal law whilst engaged in activities connected with the BSS; to ensure the integrity of the BSS and the participating Navigation Authorities.</p> <p>This clause takes account of proven Examiner acts deemed unfair or dishonest, as determined by a criminal or civil court, and a criminal conviction or successful civil court action would likely be necessary to invoke it.</p> |
| <p>3.2 Examiners must not make any statement and/or perform any act which may harm, bring into disrepute, lessen or otherwise reflect adversely upon the integrity, reputation or goodwill of the BSS or participating Navigation Authority.</p> | <p>Examiners are expected to support the Scheme and not to damage it.</p> <p>Any concerns an Examiner may have regarding the delivery of the Scheme should be conveyed to the BSS Manager or the relevant Examiner Body who can raise the matter at the BSS Advisory Committee.</p> <p>The following are examples of what may constitute <i>'harm, bring into disrepute, lessen or otherwise reflect adversely upon the integrity, reputation or goodwill of the BSS or participating Navigation Authority'</i>.</p> <ol style="list-style-type: none"> a) Examiners must not use the BSS logo or authentication stamp outside the scope of the Scheme. b) Examiners must not use the name or logo of the participating Navigation Authorities in circumstances which misrepresent any policy of the authority or may cause customer confusion. c) Examiners must inform the BSS of any improvement action, enforcement action or prosecution by the HSE, Trading Standards or other equivalent body, relating to their BSS examining or equivalent activities. Equivalent activities include boat fitting, marine engineering, boat surveying and drafting Recreational Craft Directive documentation. d) Examiners must not behave in a way that leads to the BSS becoming aware through prosecution (pending or otherwise) and/or conviction, that an Examiner has been assessed by the Police, Probation Officer or Navigation Authority officer, as representing a danger to the public for matters other than BSS examining. e) Examiners must not use an unauthorised person to carry out a BSS Examination on their behalf and Examiners must not sign off a BSS Examination, not conducted by them, as their own. f) Examiners must co-operate fully with any investigation by a relevant enforcement body such as the Police, Health & Safety Executive, Trading Standards, Local Environmental Health departments and Gas Safe Register, relating to their BSS examining activities. |

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| <p>3.3 Examiners must uphold and must not knowingly or negligently misrepresent the BSS technical and other requirements of the BSS and the registration and/or licensing policies of the participating Navigation Authorities.</p> | <p><i>‘Examiners must uphold’</i> means that Examiners must not say to their customers, or publish in the press, anything that undermines the BSS or its requirements, or navigation authority licensing policies.</p> <p><i>‘Examiners must not knowingly or negligently misrepresent’</i> means that Examiners must not make-up or guess at the BSS requirements or navigation authorities licensing policies, whether by mistake, or by way of a throw-away comment, or deliberately or maliciously.</p> <p>If Examiners are unsure about the true nature of a BSS requirement or navigation authority licensing policy, they should not pass comment, and should find out first or pass the enquirer on to someone who knows.</p> |
| <p>3.4 Examiners in their activities connected with the BSS must treat all persons with respect, and must ensure that they exercise care and sensitivity in dealings with their customers.</p> | <p>Examiners should ensure exemplary customer service at all times and must not physically or verbally abuse, threaten, intimidate their customers.</p> <p>Examiners must not commit any crime against them.</p> |
| <p>3.5 Examiners must not undertake any part of a BSS Examination which they are not competent and eligible to perform.</p> | <p>Examiners should only agree to undertake BSS Examinations they are confident they can, or are allowed to carry out.</p> <p>It is open for Examiners to decline commissions on the basis that they are unfamiliar with the type of boat or they are ineligible, as described below.</p> <p>Examiners must only examine hire boats or other non-private classes of boats if they have been assessed as competent to do so.</p> <p>Examiners must only conduct manometer gas tightness testing on boats in scope of the Gas Safety (Installation & Use) Regulations if they are Gas Safe Registered.</p> |
| <p>4.0 Ensuring objectivity and avoiding conflicts of interest</p> | |
| <p>4.1 A conflict of interest will be presumed to exist where any circumstance arises which may impinge, or might reasonably be seen to impinge, on an Examiner’s judgement. An Examiner must not issue a BSSC in respect of a vessel where such circumstances exist. These circumstances include, but are not limited to, those listed in 4.2 and Examiner’s must observe the requirements of Condition 4.3.</p> | <p>It is essential that Examiners are seen to be impartial and conflicts of interest avoided.</p> <p>A <i>‘conflict of interest’</i> is where an Examiner has a competing personal interest that has, or may be seen to have, the potential to influence and undermine the impartial judgement of the Examiner.</p> <p>Whether a conflict exists or potentially exists largely depends upon the perceptions of those parties who may have a direct interest, for example the boat owner, navigation authorities or competing Examiners, boatyards etc.</p> |
| <p>4.2 In particular, a conflict of interest exists in respect of any vessel in which the Examiner:</p> <p>4.2.1 owns, owns in part; or</p> <p>4.2.2 is contracted to sell; or</p> <p>4.2.3 has any management or control over the vessel.</p> | <p><i>‘Management control’</i> means circumstances in which the Examiner has the power to decide, whether or not the boat is sold, or perhaps let out for hire.</p> <p>Where a conflict of interest is proven to have existed at the time a current BSSC was issued; the certification will likely be cancelled by the BSS Manager. The BSS Manager’s actions will depend upon circumstances, including the length of time the Certification has been issued.</p> |

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| <p>4.3 Examiners must declare and seek the guidance of the BSS Manager in any circumstance which has the potential for a conflict of interest. The BSS Manager will advise the Examiner on the appropriate course of action which must be followed.</p> | |
| <p>4.4 If an Examiner carries out works to bring a vessel to BSS compliance or offers advice on non-BSS matters, any compliance works carried out, and any non-BSS advice issued, must be the subject of a separate contract to the arrangements under which the Examiner conducts any BSS Examination of the vessel.</p> | <p><i>'Separate contracts'</i> are essential if Examiners are to be seen as impartial. The contract can be verbal or written. Written terms are promoted as the best form of protection for Examiners.</p> |
| <p>5.0 Ensuring personal safety</p> | |
| <p>5.1 Examiners are: 5.1.1 Responsible for their own personal health and safety; 5.1.2 Responsible for the health and safety of any persons working with them; 5.1.3 Responsible for the control of any health and safety risks arising from their work activities when conducting BSS Examinations or other BSS activities.</p> | <p>Examiners are expected to act in a way that prevents harm to themselves or others. As independent practitioners, Examiners have the same legal health and safety duties and responsibilities as any other worker. Examiners must refuse to commence or abandon an Examination if it becomes unsafe to continue. The BSS has advice for Examiners concerning their safety responsibilities in the wider context of health and safety legislation. It is strongly recommended that Examiners take account of this advice, or seek out and act upon their own advice.</p> |
| <p>6.0 Maintaining Professional Indemnity and Public Liability insurance cover</p> | |
| <p>6.1 Examiners must maintain, at their own expense and at all times, valid Professional Indemnity and Public Liability insurances specifically covering their activities connected with the BSS.</p> | <p><i>'Professional Indemnity'</i> insurance provides Examiners with protection against potential claims of breach of professional duty. For example, where BSS documentation indicates that a boat is compliant with BSS requirements but that subsequently this was found not to be the case and some loss or injury was attributed to the breach. <i>'Public Liability'</i> insurance provides Examiners with protection against awards of damages given to a member of the public because of a personal injury or damage to property caused by the actions or inactions of Examiners. For example, where the evidence is that an Examiner stood on and fractured a fuel hose, or failed to properly tighten an LPG test-point nipple, and this action led to an incident.</p> |
| <p>6.2 The terms and level of cover of any individual Professional Indemnity and Public Liability insurance policy held by Examiners must be not less than the terms and level of cover specified by the BSS.</p> | <p>The level of cover must not be less than £5m Professional Indemnity <u>and</u> Public Liability insurances</p> |
| <p>6.3 Examiners must not undertake any BSS Examinations nor issue any BSSCs, nor conduct any other BSS activities if, at the time of the examination or Certification issue, they are not covered by the prescribed minimum Professional Indemnity and Public Liability insurances.</p> | |

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| 7.0 Conducting BSS Examinations | |
| 7.1 When carrying out BSS Examinations, Examiners must carry out the prescribed BSS checks as published in the current and relevant edition of the BSS Examination Checking Procedures and follow the instructions and guidance as published on the BSS Examiner support website. | |
| 7.2 Examiners must issue published safety related guidance to vessel owners as specified in the BSS Examination Checking Procedures or as covered in instructions and guidance published on the BSS Examiner support website. | |
| 8.0 Recording & reporting BSS Examinations | |
| 8.1 Examiners must complete the recording and reporting of BSS Examinations using the web-based facility in accordance with the instructions on the BSS Examiner support website. | |
| 8.2 Examiners must keep records of BSS Examinations in accordance with the instructions and guidance as published on the BSS Examiner support website. Such records must be made available by the Examiner to the BSS Manager upon request. | |
| 9.0 Assuring continued competence | |
| 9.1 Examiners are required to undergo periodic competence assessments, as arranged by the BSS. | |
| 9.2 Examiners are required to attend such continuation or refresher training and assessment courses as may be arranged from time to time by the BSS to update/maintain skills and knowledge. Adequate notice will be given of such training and costs involved will be minimised. Where deemed appropriate by the BSS, such training and assessment must be undertaken online. | |
| 10.0 Looking after and returning BSS property and equipment | |
| 10.1 BSS Examination Checking Procedures, Authentication Stamps, Examiner Identification Cards and any loaned equipment, remain at all times the property of the Navigation Authorities participating in the BSS. | |
| 10.2 Examiners are responsible for the safe custody of the items referred to under Condition 10.1 and any loss must immediately be reported to the BSS Manager. Any loss of Authentication Stamps or Examiner Identification Cards must be reported to the appropriate police force. | |

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| <p>10.3 Examiners must return all BSS items as listed at Condition 10.1 within fourteen (14) days of ceasing to participate in the BSS. The amount of any paid deposit associated with the issue of the Authentication Stamp will be refunded to the Examiner unless the Examiner owes money to the BSS, when the amount to be refunded will be offset against the amount owing to the BSS.</p> | |
| <p>11.0 Fees and charges payable to the BSS</p> | |
| <p>11.1 Examiners must pay the fees and charges for registration, BSSCs and any other BSS fees and charges, within thirty (30) days of invitation or demand.</p> | |
| <p>11.2 Examiners must not conduct BSS Examinations or issue BSSCs unless all overdue fees and charges outstanding to the BSS have been paid in full.</p> | |
| <p>12.0 Co-operating with BSS investigations into alleged breaches</p> | |
| <p>12.1 In the event of any allegation of a breach of these Conditions being made against an Examiner, such allegations will be handled in accordance with BSSQA006, "Procedure for the Investigation of Alleged Breaches of the BSS Examiner Conditions of Registration"</p> | |
| <p>12.2 Examiners must co-operate as fully as the circumstances will allow with any BSS investigation including the full and prompt provision of information and responses.</p> | <p>Examiners are expected to co-operate with BSS investigations.</p> <p>Any circumstances that may delay the prompt provision of information and responses must be agreed in advance with the BSS Manager.</p> <p>It is recognised that if the Examiner is suffering a serious medical incapacity or is away on holiday, or has pressing personal issues to deal with, the provision of information and responses could be delayed.</p> |
| <p>13.0 Changes to these Conditions</p> | |
| <p>13.1 These Conditions are subject to periodic review and confirmation by the BSS Management Committee. The need and timing of any review and confirmation will be determined by the BSS Management Committee.</p> | |
| <p>13.2 All Examiners will be provided with the opportunity to comment on any proposed changes to these Conditions.</p> | |