



BERMUDA

MERCHANT SHIPPING (MANNING OF SHIPS) REGULATIONS 2011

BR 52 / 2011

TABLE OF CONTENTS

1	Citation
2	Interpretation
3	Application
4	Shipowner's responsibilities
5	Safe Manning Document
6	Medical care on board
7	Exceptional circumstances
8	Penalties
9	Inspection
10	Revocations

The Minister responsible for Maritime Administration, in exercise of the power conferred by sections 3 and 93 of the Merchant Shipping Act 2002, makes the following Regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Manning of Ships) Regulations 2011.

Interpretation

2 In these Regulations—

“Act” means the Merchant Shipping Act 2002;

“chief mate” includes a person designated as staff captain where that term is customary;

MERCHANT SHIPPING (MANNING OF SHIPS) REGULATIONS 2011

“commercial activity” means any activity or employment of the vessel for which a contract or charter party is in force and includes the carriage of any cargo or persons for reward;

“IMO” means the International Maritime Organization;

“pleasure vessel” means—

- (a) a vessel which at the time it is being used is—
 - (i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or immediate family or friends of the owner; or in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the passengers are employees or officers of the body corporate, or their immediate family or friends; and
 - (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion, and no other payments are made by or on behalf of users of the vessel other than by the owner; or
- (b) any vessel wholly owned by or on behalf of a member’s club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family; and for the use of which any charges levied are paid into club funds and applied for the general use of the club; and no other payments are made by or on behalf of users of the vessel other than by the owner;
- (c) for the purposes of this definition, “immediate family” means in relation to an individual, the husband or wife of the individual and a relative of the individual or the individual’s spouse, and “relative” means brother, sister, ancestor or lineal descendant.

“Principles of Safe Manning” means the Principles of Safe Manning set out in Assembly Resolutions A.890(21) and A.955(23) of the IMO and includes any subsequent amendments to those Resolutions;

“seafarer” means any person who is employed, or engaged, or works in any capacity on board a ship and where there is doubt as to whether a person working or engaged on a ship is a seafarer, the Minister shall make a determination, and shall be guided by the advice and guidance of the International Labour Organization;

“second engineer” includes an officer designated as staff engineer where that term is customary;

“shipowner” means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner;

MERCHANT SHIPPING (MANNING OF SHIPS) REGULATIONS 2011

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for seafarers 1978, as amended from time to time by the International Maritime Organization.

Application

3 These Regulations apply to—

- (1) Bermuda ships wherever they may be other than—
 - (a) fishing vessels;
 - (b) pleasure vessels; and
 - (c) vessels owned and operated by a Government department or agency for non-commercial purposes; and
- (2) to the extent specified in regulation 9, these regulations apply to other ships that are not Bermuda ships when in a port in Bermuda other than—
 - (a) fishing vessels;
 - (b) pleasure vessels; and
 - (c) warships, naval auxiliaries and other ships owned or operated by a state and not engaged in commercial activity.

Shipowner’s responsibilities

4 (1) Every shipowner shall ensure that, insofar as the ships for which he is responsible are concerned—

- (a) every officer is qualified in accordance with the STCW Convention in respect of any function he is to perform on board that ship;
- (b) every other seafarer is trained in accordance with the requirements of the STCW Convention in respect of any function that he is to perform on board that ship;
- (c) documentation and data relevant to all the seafarers employed on his ships are maintained and readily available for inspection;
- (d) every master and officer is proficient in the English language;
- (e) when more than one language is spoken on board a ship, a common working language is established for safety procedures; and
- (f) every master, chief mate, chief engineer and second engineer is fully conversant with the Bermuda legal and administrative processes to the extent appropriate to their role on board.

MERCHANT SHIPPING (MANNING OF SHIPS) REGULATIONS 2011

Safe Manning Document

5 (1) The Minister shall, on receipt of an application from a shipowner which complies with the Principles of Safe Manning, issue a certificate known as a Safe Manning Document to that shipowner.

(2) Every shipowner shall ensure that, for every ship of over 500 GT for which he is responsible, that—

- (a) there is in force a Safe Manning Document issued by or on behalf of the Minister except that a Safe Manning Document need not be issued for a vessel of less than 500 GT or for a pleasure vessel but such a vessel may request such a document in accordance with paragraph (1) and may be issued with one on request;
- (b) the manning of the ship is maintained in accordance with the levels specified in the document; and
- (c) the manning levels on board the ship are regularly reviewed in accordance with the Principles of Safe Manning and that the Minister is informed of any changes in the construction, operation, employment or status of the ship that may lead to a change in the minimum safe manning, bearing in mind those principles.

(3) Every master of a ship of more than 500 GT to which these Regulations apply shall ensure that the ship does not proceed to sea unless there is on board a Safe Manning Document and that the manning of the ship is in compliance with it.

Medical care on board

6 In any ship in which no doctor is carried the shipowner shall ensure that there is at least one seafarer on board, who may be the master, who is nominated to be in charge of medical care and the administration of medicines and who is qualified in accordance with the STCW Code Section A-VI/4 for persons designated to take charge of medical care on board ship.

Exceptional circumstances

7 Notwithstanding the requirements of regulation 5(3), on any occasion when a seafarer employed in a position shown on the Safe Manning Document becomes incapacitated through accident, illness or is unable to fulfil his duties through some other unforeseen circumstance such that the ship does not have the manning specified on the ship's Safe Manning Document, the ship may proceed to sea at the master's discretion provided that—

- (a) the duration of the voyage is no more than 21 days;
- (b) in the event that it is the master who is unavailable, the vessel has a person on board who holds a certificate of competency showing that he is certified in the capacity of master;
- (c) suitable arrangements for watchkeeping are made until the time when a replacement seafarer is expected to join the ship such that the minimum

MERCHANT SHIPPING (MANNING OF SHIPS) REGULATIONS 2011

rest requirements in the Merchant Shipping (Hours of Rest) Regulations 2011 can be complied with;

- (d) necessary adjustments are made to the ship's emergency plans to allow for the missing seafarer; and
- (e) the master informs the Bermuda Department of Maritime Administration before sailing and when a replacement seafarer joins the ship.

Penalties

8 (1) Any shipowner who contravenes regulation 5(2) commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

(2) Any master who contravenes regulation 5(3) commits an offence and is liable on summary conviction to a fine not exceeding \$15,000.

Inspection

9 (1) Any person duly authorised by the Minister may inspect any ship to which these Regulations apply when in a port in Bermuda and if he is satisfied that the arrangements for manning are not in accordance with the requirements stated in the ship's Safe Manning Document he may detain the ship until the deficiency is rectified, but in the exercise of these powers he shall not detain or delay the ship unreasonably.

(2) Any authorised officer of the Department of Maritime Administration who discovers that a Bermuda ship does not comply with the manning shown on her Safe Manning Document may—

- (a) withdraw the vessel's Maritime Labour Certificate until such time as the deficiency is rectified; or
- (b) if the vessel is in a port outside Bermuda, inform the port state authority for that port of the deficiency.

Revocations

10 Regulations 24, 25, 26, and 27, of the Merchant Shipping (Training, Certification, Manning and Watchkeeping) Regulations 2005, are hereby revoked.

Made this 20th day of September, 2011

Minister of Transport