



BERMUDA

MERCHANT SHIPPING (MEDICAL STORES) REGULATIONS 2005

BR 46 / 2005

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The Minister of Tourism and Transport in exercise of the powers conferred upon him by section 93(1)(a) of the Merchant Shipping Act 2002, makes the following regulations:

Citation

1 (1) These Regulations may be cited as the Merchant Shipping (Medical Stores) Regulations 2005.

Interpretation

2 (1) In these Regulations—

“crew” means all persons including the master employed in any capacity on board a ship;

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“dangerous substances” means substances listed as such in Annex 4 of MSN 1768;

“harbour area” means any harbour in Bermuda in respect of which a harbour authority has statutory powers or duties of improvement, maintenance or management;

“Maritime and Coastguard Agency” means the Maritime and Coastguard Agency, an executive agency of the United Kingdom, Department for Transport.

“Merchant Shipping Notice” or “MSN” means a Notice described as such, issued by the Maritime and Coastguard Agency of the United Kingdom, and includes a reference to any document amending or replacing that Notice;

“medical stores” includes medicines, medical equipment and antidotes;

“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 the users of the vessel other than by the owner; or
 - (iii) 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 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;
- (b) 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.

“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;

“Ship Captain’s Medical Guide” means the publication of that name published on behalf of the Maritime and Coastguard Agency;

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“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;

“tug” means a vessel constructed solely for the purpose of, and normally used for, providing external motive power for floating objects or vessels;

“voyage” means a journey from a port to the next port of call of a ship (which may be the same port).

(2) Any reference in these Regulations to the British Pharmacopoeia, the European Pharmacopoeia, or the British National Formulary shall in its application to a particular case be construed as a reference to the edition that is current at, or not more than three months before, the time in question.

(3) Any reference in these Regulations to a publication (other than those mentioned in paragraph (2) of this regulation) includes a reference to any amendment which is published before the date on which these Regulations are made (and, in the case of the United States Pharmacopoeia, means the edition current at such date, as it is amended); and shall include any document amending the same, or shall mean any new edition of the document together with any document amending the same and is specified in a Merchant Shipping Notice.

[Regulation 2 paragraph (1) definition “owner” revoked, and “seafarer”, “shipowner” and “pleasure vessel” inserted by BR 53 / 2011 reg. 2 effective 28 September 2011]

Application

- 3 (1) These Regulations apply to Bermuda ships other than—
- (a) pleasure vessels
 - (b) tugs operating in a harbour area.

(2) The Minister may grant exemptions from all or any of the provisions of these Regulations (as may be specified in the exemption) for classes of cases or individual cases on such terms (if any) as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

[Regulation 3 subsection (1)(a) amended by BR 53 / 2011 reg. 3 effective 28 September 2011]

Carriage of medical stores

- 4 (1) Every ship to which these Regulations apply shall carry on board medical stores in accordance with the Table below.

COLUMN 1 Description of ship	COLUMN 2 Category of medicines and medical stores
1. A sea-going ship with no limitation on length of voyage.	Medical stores as specified in Category A of MSN 1768.
2. A sea-going ship making a voyage during which it is not more than 150 nautical miles	Medical stores as specified in Category B of MSN 1768.

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from the nearest port with adequate medical equipment (or no more than 175 nautical miles from the nearest port with adequate medical equipment if in this case it remains continuously within range of helicopter rescue services).

3. A sea-going ship carrying a dangerous substance in its cargo, or any residue of a dangerous substance from an earlier cargo. Medical stores as specified in MSN 1768 in relation to such ships
4. A sea-going ship carrying more than 12 passengers but not a doctor as a member of the crew. Medical stores as specified in Annex 2 in MSN 1768.

(2) The requirements in entries 3 and 4 are in addition to those in entry 1, 2 or 3 (as the case may be).

(1) Notwithstanding the requirements for medical stores set out in regulation 4, in the case of passenger ships in which a qualified doctor is always employed, the medical stores carried may be varied from those specified in regulation 4 in accordance with current medical practice and where improved medicines are available in lieu of those specified in regulation 4, provided always that the capability to deliver medical care is not in any way reduced.

(2) In the case of passenger ships in which a qualified doctor is always employed, the competent person specified in regulation 11 to inspect the ship's medical stores annually may be that doctor and he shall maintain proper records of the medical stores carried and the expiry dates of all medicines.

[Regulation 5 revoked and replaced by BR 53 / 2011 reg. 4 effective 28 September 2011]

Medical report forms

5A (1) Every ship shall use a standard format of medical report forms and that format shall be the format set out in the Ship Captain's Medical Guide for the purposes of reporting to relevant medical authorities ashore, or a format recognisably similar to it.

(2) The contents of medical report forms generated in accordance with paragraph (1) shall be kept confidential and shall be used only to facilitate the medical treatment of seafarers.

[Regulation 5A inserted by BR 53 / 2011 reg. 5 effective 28 September 2011]

Standards of medical stores

6 All medical stores required by these Regulations to be kept on board a vessel shall conform to the standards and requirements of the British National Formulary, the British Pharmacopoeia, the European Pharmacopoeia, or the United States Pharmacopoeia, and with the requirements and specifications of MSN 1768.

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Packaging and labeling of containers

7 (1) Without prejudice to any other enactment, any container of medical stores required by regulation 4 to be kept on board a ship—

- (a) shall have in English on a label the particulars specified in paragraph (3) of this regulation;
- (b) in the case of a container of tablets or capsules, shall be capable of reclosure to prevent ingress of moisture;
- (c) in the case of a container of disinfectant, shall not show deleterious reaction with the disinfectant after storage in normal conditions for six months;
- (d) in the case of a container of insecticide, shall be air-tight, water-tight, packed in a suitable and sturdy case and, if the container is a pressure canister, have a cap or other means of protecting the valve against accidental opening when the canister is not in use;
- (e) in the case of medicine or disinfectant not in the container supplied by its manufacturer, shall be packed in a sturdy, brown-coloured or non-translucent container.

(2) Any label referred to in paragraph (1)(a) of this regulation shall either be firmly affixed to the container and rendered resistant to moisture by varnish or other effective means or be an integral part of the container.

(3) The particulars required by paragraph (1)(a) of this regulation to be shown on labels are—

- (a) the ordering name by which the medical store is referred to in MSN 1768.
- (b) any storage requirements laid down in any of the publications referred to in regulation 6, elsewhere in these Regulations or in MSN 1768;
- (c) if the medical stores are perishable, the expiry date as defined in regulation 9;
- (d) the name and address of the supplier of the medical stores, the product licence number and batch number;
- (e) in the case of any container of a disinfectant or of an antiseptic prescribed in any of the categories set out in MSN 1768, the dilution recommended for any purpose stated thereon;
- (f) in the case of any container of an insecticide prescribed in any of the categories set out in MSN 1768, instructions for use and precautions to be taken as detailed in that MSN;
- (g) in the case of a container of hypochlorite, a notice indicating that the chemical may combust spontaneously and that the hypochlorite should be stored in a cool dark place; and
- (h) any further information required by MSN 1768.

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Storage of medicines

8 (1) Any medical store required to be carried by regulation 4 shall be stored in accordance with any instructions on its container.

(2) Any medicine which is a controlled drug shall, be stored in accordance with the requirements for controlled drugs contained in the Ship Captain's Medical Guide.

(3) Subject to paragraph (2), any medicine mentioned in paragraph (1), unless it is required to be kept in a refrigerator or in a first aid satchel or box, shall be stored—

(a) if a ship is one to which the Merchant Shipping (Crew Accommodation) Regulations 1978, as amended apply in the medical cabinet; or

(b) otherwise in a cool, dry, locked cabinet or locked container.

(4) Any medical stores kept in a hyperbaric decompression chamber or otherwise in such a way as not to be readily accessible at all times to the master or any person authorised by him shall not be taken into account in respect of the requirements of regulation 4.

Replenishment of dated medicines

9 Where—

(a) a vessel is required in pursuance of regulation 4 to have on board any medical stores in accordance with any of the categories set out in MSN 1768; and

(b) any label required by regulation 7(1)(a) to be borne by any container of any such medical stores, indicates a date after which the medical store contained in it is not to be used (hereafter called "the expiry date"),

that medical store shall be replaced at the earliest possible date after the expiry date, and in any event within three months of the expiry date. Medical stores which have passed the expiry date shall, once replacements have been obtained, or after 3 months (whichever is the earlier), be disposed of in accordance with the Ship Captain's Medical Guide.

Carriage of guides

10 A ship to which these Regulations apply shall carry guides as to the use of medical stores required by regulation 4 to be carried on board it appropriate as to their categories, including in particular instructions for the use of antidotes, as specified in MSN 1768.

Inspection of medicines and medical stores

11 The owner of a ship to which these Regulations apply shall ensure that the medical stores are inspected by a competent person or authority at least once a year to ensure that—

(a) the ship is carrying the medical stores which it is required to carry by regulation 4;

(b) such medical stores are correctly stored;

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- (c) any perishable medicines have been replaced in accordance with the requirements of regulation 9.

Offences

12 (1) If any requirement of regulations 4 to 11 is contravened, the owner of the ship shall in respect of each contravention be guilty of an offence, punishable on summary conviction by a fine not exceeding \$10,000.

(2) It shall be a defence for any person charged in connection with a contravention of regulation 4 to show that the deficiency was caused by medicines and medical stores being used for their proper purpose and that it has not been practicable to replace them.

(3) It shall be a defence for a person charged under this regulation, including a person charged by virtue of regulation 13, to show that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(4) Where an offence under these Regulations is committed, or would have been committed except for the operation of paragraph (3), by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

Inspection, improvement notices and detention of vessels

13 (1) Any person duly authorised by the Minister may inspect any ship to which these Regulations apply and, if he is satisfied that there is a failure to comply in relation to that ship with the requirements of regulation 4, 6, 7, 8, 9 and 10 of these Regulations, he may issue an improvement notice or detain the vessel until such requirements are met.

(2) Where a ship is liable to be issued an improvement notice or detained under these Regulations, sections 222 and 242 of the Merchant Shipping Act 2002 (which relate to improvement notices and the detention of ships) shall have effect in relation to the ship as if for the words "this Act" wherever they appear, there were substituted the words "the Merchant Shipping (Medical Stores) Regulations 2005".

Revocation

14 The Merchant Shipping (Medical Stores) Regulations 1989 (BR 19/1989) are hereby revoked.

Made this 3rd day of October, 2005.

Minister of Tourism and Transport

[Amended by:

BR 53 / 2011]