



BERMUDA

MERCHANT SHIPPING (MINIMUM AGE AT SEA AND EMPLOYMENT
OF YOUNG PERSONS AT SEA) REGULATIONS 2013

BR 104 / 2013

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The Minister responsible for Maritime Administration, in exercise of the power conferred by sections 3 and 67 of the Merchant Shipping Act 2002, makes the following regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Minimum Age at Sea and Employment of Young Persons at Sea) Regulations 2013.

Interpretation

2 In these Regulations—

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“commercial activity” means any 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;

“local time” means the time in use on board a vessel according to the time zone in which the vessel is operating;

“Maritime Labour Certificate” means the certificate issued to a ship in accordance with Article V of the Maritime Labour Convention;

“Maritime Labour Convention” means the Maritime Labour Convention 2006, adopted at a general conference of the International Labour Organization in Geneva on 7 February 2006;

“Minister” means the Minister responsible for Maritime Administration;

“night” means a period of 9 consecutive hours which includes the period between 00:00 local time and 5:00 local time;

“pleasure vessel” means—

- (1) A vessel which, at the time of its use, is—
 - (a) in the case of—
 - (i) 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
 - (ii) 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
 - (b) on a voyage or excursion from 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 that voyage or excursion, and no other payments are made by or on behalf of users of the vessel other than by the owner; or
- (2) A vessel which, at the time of its use, is any vessel wholly owned by or on behalf of a member’s club formed for the purpose of sport or pleasure, which is used only for the sport or pleasure of members of that club or their immediate family; and
 - (a) for the use of which, any charges levied are paid into club funds and applied for the general use of the club; and
 - (b) no other payments are made by or on behalf of users of the vessel other than by the owner;
- (3) For the purposes of this definition—

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(i) “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 husband or wife; and

(ii) “relative” means brother, sister, ancestor or lineal descendant;

“Port State Authority” means the authority, in any country, assigned the responsibility under Article V of the Maritime Labour Convention for the inspection of ships of other flags in its territory;

“seafarer” in these Regulations 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

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

“young person” means a person under 18 years of age.

Application

3 These regulations apply to—

(a) Bermuda ships, wherever they may be, other than—

(i) fishing vessels;

(ii) vessels owned and operated by a Government Department or Agency for non-commercial purposes;

(iii) pleasure vessels in which no seafarers are employed.

(b) To the extent specified in regulation 10, these Regulations apply to ships that are not Bermuda ships when in port in Bermuda other than:

(i) fishing vessels;

(ii) pleasure vessels;

(iii) warships, naval auxiliaries and other ships owned or operated by a Government department or Agency not engaged in commercial activity.

Minimum age at sea

4 No person under the age of 16 may be employed in any capacity, or be engaged to work, or work on any Bermuda ship.

Records of young persons

5 Where a young person is employed on any Bermuda ship, the master of the ship shall maintain a list showing the names and capacities of any young persons employed, the dates on which they became employed and their dates of birth, and shall transmit one copy

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of that list to the Maritime Administration on creating it, and whenever the list changes, and shall retain an up to date list on board that shall be available to any authorised officer of the Maritime Administration.

Restrictions on working for young persons

6 (1) Except as may be permitted by paragraph (2) of this regulation, a young person may not work at night.

(2) Young persons may be permitted to work at night only—

- (a) when the work is a part of a course of training which is recognised by the Minister or by the Minister for the time being responsible for education, and when experience of working at night is an essential part of that training and its effectiveness would be impaired if the person under training did not gain experience of working at night; or
- (b) when the specific nature of the duty to be performed, or the recognised training programme, requires that the young person performs duties at night, and the Minister is satisfied, after consultation with the shipowner's and seafarer's organisations concerned that the work will not be detrimental to the health or well-being of the young person.

(3) When, in accordance with paragraph (2) of this regulation, a young person is permitted to work at night, he shall not be permitted to work alone.

(4) A young person shall not be employed as—

- (a) a ship's cook; or
- (b) the operator of any lifting appliance or cargo handling equipment.

Work detrimental to health or safety

7 (1) No young person shall be employed on any Bermuda ship for the purposes of work that are likely to jeopardise his health or safety.

(2) For the purposes of this regulation, work that is likely to jeopardise the health or safety of a young person includes, but is not limited to—

- (a) trimming;
- (b) stoking;
- (c) other work that, after a risk assessment, is beyond the young person's physical or psychological capacity;
- (d) work inside any tank, ballast tank, boiler, void space, or other enclosed space that is potentially dangerous for reasons of oxygen depletion or the presence of flammable or toxic gases, and where special precautions for entry are required;
- (e) work that involves the use of chemicals or other substances likely to cause harm such that special protective equipment is required for their safe use;

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- (f) work that requires the use of breathing apparatus or diving equipment;
- (g) work that exposes a young person to harmful noise or vibration levels;
- (h) work at height;
- (i) the servicing of electrical equipment; or
- (j) the handling or taking charge of ship's boats.

(3) In addition to the types of work described in subparagraphs (1) and (2), young persons shall not be employed as operators of hoisting and other power machinery or tools, or as the signallers for the operators of such machinery or tools.

(4) The prohibition of employment of young persons in the types of work described in subparagraphs (1), (2) and (3) shall not preclude the participation of young persons in such work under supervision, and as an essential part of any training course referred to in regulation 6(2).

Young persons' medical certificates

7A No person shall employ a young person on a Bermuda ship, unless the young person holds a valid certificate of medical fitness in accordance with the Merchant Shipping (Medical Certification of Seafarers) Regulations 2013.

[Regulation 7A inserted by BR 52 / 2014 reg. 2 effective 30 June 2014]

Offences

8 (1) A shipowner who contravenes regulation 4 or regulation 8 commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

(2) A shipowner or a master who contravenes regulations 6, 7 or 7A, and a master who contravenes regulation 5, commits an offence and is liable on summary conviction to a fine not exceeding \$10,000.

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

[Regulation 8 paragraph (2) amended by BR 52 / 2014 reg. 3 effective 30 June 2014]

Inspection

9 (1) Any person duly authorised by the Minister may inspect any ship to which regulation 3(b) applies when in a port in Bermuda and, if he is satisfied that the arrangements for young persons are not in accordance with the requirements stated in the Declaration part 1 to the ship's Maritime Labour Certificate or, in the case of a ship which is not required to carry a Maritime Labour Certificate, with the requirements of Regulation 1.1 of the Maritime Labour Convention, 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 Maritime Administration who discovers that a Bermuda ship does not comply with these Regulations may—

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- (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.

Revocation

10 The following regulations are revoked—

Merchant Shipping (Employment of Young Persons) Regulations 1997.

Commencement

11 These Regulations shall come into operation on the same date on which the Merchant Shipping (ILO) Amendment Act 2012 comes into operation.

Made this 12th day of December 2013

Minister of Tourism Development and Transport

[Amended by:

BR 52 / 2014]