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The Minister responsible for Maritime Administration, in exercise of the powers conferred by section 122 of the Merchant Shipping Act 2002, makes the following Regulations:

PART I
PRELIMINARY

Citation
1 These Regulations may be cited as the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2019.

Interpretation
2 (1) In these Regulations—

“Annex VI” means Annex VI to the Convention, which was added to the Convention by the Protocol of 1997, and includes—

(a) all amendments to that Annex adopted by the Marine Environment Protection Committee of the IMO before the date on which these Regulations are made; and

(b) any subsequent amendment to that Annex which is considered by the Chief Marine Surveyor to be relevant from time to time and is specified in a Merchant Shipping Notice;

“anniversary date” means the day and month of each year which will correspond to the date of expiry of the latest appropriate certificate which has been issued and which is still valid in respect of the ship in question;

“annual survey” means a survey carried out under Regulation 8;

“annual survey period” means the period specified in Regulation 8(6);

“appropriate certificate” means—

(a) an IAPP Certificate, in relation to—

(i) a platform which is or will be engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government other than Bermuda; and

(ii) any other Bermuda ship of 400 GT or above which is or will be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government other than Bermuda;

(b) a BAPP Certificate in relation to—

(i) a platform which is not or will not be engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government other than Bermuda; and
(ii) any other Bermuda ship of 400 GT or above which is not and will not be engaged in voyages to a port or offshore terminal under the jurisdiction of a Contracting Government other than Bermuda;

“BAPP” means Bermuda Air Pollution Prevention Certificate issued by the Minister;

“Bermuda Exclusive Economic Zone” means the exclusive economic zone proclaimed in the Proclamation Establishing an Exclusive Economic Zone for Bermuda 1996 (GN407/1996);

“Bermuda Limits” means Bermuda waters (defined in the Merchant Shipping Act 2002) and the Bermuda Exclusive Economic Zone;

“Calendar year” means the period from 1 January until 31 December inclusive;

“Certifying Authority” means the Minister or any organisation which is an authorised organisation for the purposes of IMO Assembly Resolution A739. (18) as amended, and IMO Assembly Resolution A789.(19) and has a valid agreement;

“company” means the owner of the ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention;

“continuous feed” in relation to a shipboard incinerator, means the process whereby waste is fed into a combustion chamber without human assistance while the incinerator is in normal operating conditions with the combustion chamber operative temperatures within the range of 850° and 1200°C;

“Contracting Government” means the Government of a State which has consented to be bound by the Convention, and for which the Protocol of 1997 to the Convention, is in force;

“Convention” means the International Convention for the Prevention of Pollution from Ships, 1973 (including its protocols, annexes and appendices, as amended by the Protocols of 1978 and 1997, and includes—

(a) all the amendments adopted by the Marine Environment Protection Committee of the IMO on or before the date on which these Regulations are made; and

(b) any subsequent amendment to that Convention, which is considered by the Chief Marine Surveyor to be relevant from time to time and is specified in a Merchant Shipping Notice;

“date of expiry”, in relation to an appropriate certificate held in respect of a ship, means the last day of the period specified in that appropriate certificate as the period for which the certificate is valid;

“distance travelled” means distance travelled over ground;
“emission” means any release of a substance subject to control by these Regulations, from a ship, into the atmosphere or sea;

“EEDI” means Attained Energy Efficiency Design Index (attained EEDI);

“exclusive economic zone” in relation to a foreign State, means the area beyond and adjacent to the territorial sea of that State, but not extending beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured;

“flag State” in relation to a ship, means the State whose flag the ship is entitled to fly;

“fuel oil” means such substances as may be specified by the Chief Marine Surveyor in a Merchant Shipping Notice;

“GT” means gross tonnage, and the gross tonnage of a ship is to be determined for the purposes of these Regulations, in accordance with Schedule 1;

“harbour master” has the same meaning as in section 149(1) of the Act;

“IAPP Certificate” means a certificate entitled “International Air Pollution Prevention Certificate” issued in accordance with the Convention;

“IEE Certificate” means a certificate entitled “International Energy Efficiency Certificate” issued in accordance with the Convention;

“IMO” means the International Maritime Organization;

“initial survey” means a survey carried out under Regulation 6(5);

“intermediate survey period” means the period specified in Regulation 9(5);

“Marine Guidance Note” means a Note described as such and issued by the Chief Marine Surveyor or the equivalent UK Marine Guidance Note, as applicable;

“maximum continuous rating of the engine” means the rated power in kW as given in the Engine International Air Pollution Prevention Certificate issued in accordance with the NOx Technical Code;

“Merchant Shipping Notice” means a Notice described as such and issued by the Chief Marine Surveyor, or the equivalent UK Merchant Shipping Notice, as applicable;

“nautical mile” means an international nautical mile of 1,852 metres;

“new installation” means the installation of systems, equipment, including new portable fire extinguishing units, insulation, or other material on a ship, but excludes repair or recharge of previously installed systems, equipment, insulation, or other material, and excludes recharge of portable fire extinguishing units;

“NOx Emission Control Area” means an area designated under MARPOL Annex VI Regulation 13;
“NOx Technical Code” means the Technical Code on Control of Emission of Nitrogen Oxides from Marine Diesel Engines and includes any document amending it which is considered by the Chief Marine Surveyor to be relevant from time to time and is specified in a Merchant Shipping Notice;

“noxious liquid substance” has the meaning given in Regulation 1.10 of Annex II to the Convention;

“offshore terminal” means an installation situated away from the shore, where bulk, fluid or gas cargo (or more than one of these) is—
(a) transferred between ships;
(b) loaded onto a ship after having been transported from the shoreline; or
(c) unloaded from a ship for transporting to the shoreline;

“ozone-depleting substance” means a controlled substance defined in paragraph 4 of article 1 of the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987 listed in Annex A, B, C or E to that Protocol and in Appendix 4 to the UK Merchant Shipping Notice 1819 (M+F);

“platform” includes fixed and floating platforms and drilling rigs;


“renewal survey” means a survey carried out under Regulation 7;

“sea” includes any estuary or arm of the sea;

“SEEMP” means Ship Energy Efficiency Management Plan;

“ship” means a vessel of any type whatsoever, including a hydrofoil boat, an air-cushion vehicle, a submersible, a floating craft and a platform, which is operating in the marine environment;

“shipboard incineration” means the incineration on board a ship, of wastes or other matter generated during the normal operation of the ship;

“shipboard incinerator” means a shipboard facility designed for the primary purpose of incineration;

“short voyage” means a voyage which does not exceed 1,000 nautical miles between the last port of call in the country in which the voyage begins, and the last port of call in the voyage, before beginning any return voyage; and on any return voyage, does not exceed 1,000 nautical miles between the port of call in which the ship begins its return voyage and the first port of call in the country in which the voyage began, and for the purposes of this definition, no account is to be taken of any deviation by a ship from its intended voyage due solely to stress of weather or any other circumstances that neither the master nor the owner nor the charterer (if any) of the ship could have prevented or forestalled;
“sludge oil” means sludge from fuel or lubricating oil separators, waste lubricating oil from main or auxiliary machinery, or waste oil from bilge water separators, oil filtering equipment or drip trays;

“Statement of Compliance” means a Statement of Compliance issued by the Minister under Regulation 13 which confirms that data related to fuel oil consumption has been reported in accordance with Annex VI Regulation 22A;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended in 1995 by resolution 1 of the STCW Convention, convened at the IMO’s headquarters from 26th June to 7th July 1995 and as may be amended from time to time;

“sulphur oxide emission control area” means an area designated under MARPOL Annex VI Regulation 14;

“surveyor” means a surveyor of ships or any other person appointed by a Certifying Authority (other than the Minister), to be a surveyor and “survey” means a survey carried out by a surveyor;

“tanker” means—

(a) an oil tanker as defined in Regulation 1(5) of Annex I to the Convention; or

(b) a chemical tanker as defined in Regulation 1.16.1 of Annex II to the Convention;

“terminal operator” means the person who controls the activities of any terminal, jetty, pier, floating structure or other work within a port at which ships can obtain shelter or ship and unship goods or passengers;

“Tier I, Tier II or Tier III” means Tier I, Tier II or Tier III as defined in Regulation 13 of Annex VI to the Convention;

“UKAPP/BAPP Certificate” means a certificate entitled “UKAPP/BAPP Air Pollution Prevention Certificate” issued by a Certifying Authority and evidencing compliance with these Regulations;

“warship”, means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer commissioned by the Government of the State and whose name appears in the appropriate service list or its equivalent, and crew of which is under regular armed forces discipline.

(2) For the purposes of these Regulations, “Bermuda ship” means a ship as defined in section 16(3) of the Merchant Shipping Act 2002.

(3) Any reference in Part II, to a survey, so far as it concerns a survey of engines and equipment for compliance with Regulation 25, means a survey in accordance with the NOx Technical Code.

(4) Any reference in these Regulations to the date of construction of a ship is a reference to the date on which the keel of the ship is laid or on which the ship is at a stage of construction at which—
(a) construction, identifiable with a specific ship has begun; and
(b) assembly of that ship has incorporated at least 50 tonnes of structural material or one per cent of the estimated mass of all structural material, whichever is less.

(5) In the application of these Regulations to—
(a) an air-cushion vehicle, a reference to the master of a ship includes a reference to the captain of that air-cushion vehicle; and
(b) a platform, a reference to the master of a ship includes a reference to the manager of that platform.

Application and exemptions

3 (1) These Regulations apply to—
(a) a Bermuda ship wherever it may be: or
(b) any other ship while it is within Bermuda limits.

(2) Regulations 6 to 12 apply to—
(a) a platform, other than one that is registered in, or is not registered in but is entitled to fly the flag of, a country whose government is a Contracting Government other than Bermuda; or
(b) any other Bermuda ship of 400 GT or above, wherever it may be.

(3) Regulation 14 applies to—
(a) a platform engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government other than Bermuda; or
(b) any Bermuda ship of 400 GT or above engaged in voyages to ports or offshore terminals under the jurisdiction of a Contracting Government other than Bermuda.

(4) Regulations 15 and 23 apply to a ship which is—
(a) not a Bermuda ship;
(b) registered in, or is not registered in but is entitled to fly the flag of a country whose government is a Contracting Government;
(c) engaged in voyages to ports or offshore terminals under the jurisdiction of a Contracting Government;
(d) of 400 GT or above, unless it is a drilling rig: and
(e) in Bermuda waters or the Bermuda Exclusive Economic Zone.

(5) Regulations 18, 19, 20(1) to (6), 21, 22(1) and (2) apply to—
(a) a platform other than one that is registered in, or is not registered in but is entitled to fly the flag of a country whose government is a Contracting Government, other than Bermuda; and

(b) any other Bermuda ship of 400 GT or above; wherever it may be.

(6) Regulation 20(1) applies to a ship which is—

(a) not a Bermuda ship;

(b) engaged in voyages to ports or offshore terminals under the jurisdiction of a Contracting Government other than Bermuda; and

(c) of 400 GT or above, unless it is a drilling rig; and in—

(i) a port; or

(ii) an offshore terminal in Bermuda in the Exclusive Economic Zone.

(7) Regulation 22(3), (4) and (5) applies in relation to a ship which is—

(a) a platform engaged in voyages to waters under the sovereignty or jurisdiction of a Contracting Government other than Bermuda;

(b) a Bermuda ship, of 400 GT or above, wherever it may be, which is engaged in voyages to ports or offshore terminals under the jurisdiction of a Contracting Government other than Bermuda; or

(c) any other ship of 400 GT or above, while it is within Bermuda limits, which is not a Bermuda ship.

(8) Regulation 23(2) applies to a ship which satisfies all the criteria set out in paragraph (4), except for the criterion in paragraph (4)(b).

(9) Regulation 25(4) applies to any engine on a ship wherever that ship may be.

(10) These Regulations do not apply to any warship, naval auxiliary or other ship owned or operated by a State and used for the time being on government, non-commercial service.

(11) These Regulations do not apply to fuel oil—

(a) intended for the purpose of research and testing;

(b) intended for processing, prior to final combustion; or

(c) to be processed in the refining industry.

(12) These Regulations do not apply to any emission—

(a) necessary for the purpose of securing the safety of a ship or saving life at sea;

(b) resulting from damage to a ship or its equipment, except to the extent that the emission is due to—
(i) a failure to take all reasonable precautions after the occurrence of the
damage or discovery of the emission, for the purpose of preventing or
minimising the emission; or

(ii) damage caused in consequence of the company or master either
intending to cause damage, or recklessly and with knowledge that
damage would probably result; and

(c) from any platform resulting from the incineration of substances that are
solely and directly the result of exploration, exploitation and associated
offshore processing of sea-bed mineral resources, including but not limited
to—

(i) the flaring of hydrocarbons and the burning of cuttings, muds and
stimulation fluids during well completion and testing operations;

(ii) flaring arising from upset conditions; and

(iii) the release of gases and volatile compounds entrained in drilling fluids
and cuttings; associated solely and directly with the treatment,
handling or storage of a sea-bed mineral resource; or from a diesel
engine that is solely dedicated to the exploration, exploitation and
associated off-shore processing of sea-bed mineral resources.

(13) A permit issued under this Regulation shall not exempt a ship from the
reporting requirement under Regulation 22A of Annex VI of the Convention and shall not
alter the type and scope of data required to be reported under Regulation 22A.

**Equivalents**

4 The Minister may permit any fitting, material, appliance or apparatus to be fitted
in a ship as an alternative to that required by these Regulations if that fitting, material,
appliance or apparatus is at least as effective as that required by these Regulations.

**Ambulatory reference**

5 (1) In these Regulations, any reference to Annex VI is to be construed—

(a) as a reference to that Annex as modified from time to time; and

(b) if that Annex is replaced by another instrument, as a reference to that
instrument.

(2) For the purposes of paragraph (1), Annex VI is modified if—

(a) omissions, additions or other alterations to the text take effect in
accordance with Article 16 of the Convention; or

(b) supplementary provision made under Article 16 of the Convention takes
effect.

(3) A modification to or a replacement of Annex VI by virtue of paragraph (1) has
effect at the time such modification or replacement comes into force in accordance with
Article 16(2)(f) and (g) of the Convention.
PART II
SURVEYS AND CERTIFICATES OF SHIPS

Requirement for appropriate certificate or Statement of Compliance: initial survey

A ship to which this Regulation applies, shall not—

(a) be put into service; or

(b) (if it is already in service) continue in service,

on or at any time after the date applicable to that ship specified in paragraph (2), unless the requirements set out in paragraph (3) are met.

(2) The date applicable to—

(a) a ship which was constructed before 19th May 2005 is 18th May 2008, or if earlier, the date of its first scheduled dry-docking after the day, before these Regulations come into force; or

(b) any other ship, is the date on which these Regulations come into force.

(3) The requirements are that—

(a) a survey has been carried out in respect of the ship;

(b) at the date of the survey, the surveyor is satisfied that the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part III, or an alternative that has been permitted pursuant to Regulation 4;

(c) the ship’s attained EEDI has been calculated and submitted in accordance with the requirements of Regulation 32; and

(d) the SEEMP required by Regulation 30 is carried on board, and in consequence, an IAPP Certificate and an IEE Certificate have been issued in respect of that ship and are still valid.

(4) A survey of engines and equipment for compliance with Regulation 13 of Annex VI shall be conducted in accordance with the NOx Technical Code.

(5) A survey carried out under this Regulation is referred to in these Regulations as an “initial survey”.

Renewal of appropriate certificate: renewal survey

A ship to which this Regulation applies shall not—

(a) proceed to sea; or
(b) (if it is already at sea) remain at sea, after the date of expiry of an appropriate certificate in respect of that ship, unless the requirements set out in paragraph (2) are met.

(2) The requirements are that—

(a) a survey has been carried out in respect of the ship;

(b) at the date of the survey, the surveyor is satisfied that the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part III, or an alternative that has been permitted pursuant to Regulation 4;

(c) where necessary, the ship’s attained EEDI has been calculated and submitted in accordance with the requirements of Regulation 32(4);

(d) the SEEMP required is carried on board; and

(e) in the case of a ship of 5000 GT and above, the ship’s fuel oil consumption has been reported in accordance with Regulation 31 and in consequence, an IAPP Certificate, an IEE Certificate, and where applicable, a Statement of Compliance, have been issued in respect of that ship and are still valid.

(3) A survey of engines and equipment for compliance with Regulation 13 of Annex VI shall be conducted in accordance with the NOx Technical Code.

(4) A survey carried out under this Regulation is referred to in these Regulations as a "renewal survey".

(5) A renewal survey shall be carried out at intervals specified in Appendix 5 of UK Merchant Shipping Notice 1819 M+F, but not exceeding five years, except where Regulation 9.2, 9.5, 9.6 or 9.7 of Annex VI apply.

Annual survey

8 (1) Subject to paragraph (3), a ship to which this Regulation applies shall not—

(a) proceed to sea; or

(b) (if it is already at sea) remain at sea, after the end of any annual survey period for that ship, unless the requirements set out in paragraph (2) are met.

(2) The requirements are that—

(a) a survey has been carried out in respect of the ship;

(b) at the date of the survey, the surveyor is satisfied that the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part III, or are an alternative that has been permitted pursuant to Regulation 4;

(c) the ship’s attained EEDI has been calculated and submitted in accordance with the requirements of Regulation 32(4);
(d) the SEEMP required by Regulation 30 is carried on board;

(e) in the case of a ship of 5000 GT and above, the ship’s fuel oil consumption has been reported in accordance with Regulation 31, and in consequence, the IAPP Certificate, and the IEE Certificate have been endorsed to this effect and are still valid, and where applicable, a Statement of Compliance has been issued in respect of that ship and is still valid.

(3) Paragraph (1) does not apply if the requirements of Regulation 8(2) or 10(2) have been met during the annual survey period in question.

(4) A survey of engines and equipment for compliance with Regulation 13 of Annex VI shall be conducted in accordance with the NOx Technical Code.

(5) An endorsement referred to in sub-paragraph (2)(b)(ii) of Annex VI of the Convention shall be—

(a) in the form set out in Appendix I to Annex VI, where the certificate is an IAPP Certificate; and

(b) in the form set out in Appendix VII to Annex VI, where the certificate is an IEE Certificate; and

(c) in the form set out in Appendix 5 to UK Merchant Shipping Notice 1819 (M +F), where the certificate is a UK/BAPP Certificate.

(6) In this Regulation, “annual survey period” means the period of six months beginning three months before each anniversary date.

Intermediate surveys

9 (1) Subject to paragraph (3), a ship to which this Regulation applies shall not—

(a) proceed to sea; or

(b) (if it is already at sea) remain at sea,

after the third anniversary date, unless the requirements set out in paragraph (2) are met.

(2) The requirements are that—

(a) a survey has been carried out in respect of the ship;

(b) at the date of the survey, the surveyor is satisfied that the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part III, or an alternative that has been permitted pursuant to Regulation 4;

(c) the ship’s attained EEDI has been calculated and submitted in accordance with the requirements of Regulation 32(4);

(d) the SEEMP required by Regulation 30 is carried on board; and

(e) in the case of a ship of 5000 GT and above, the ship’s fuel oil consumption has been reported in accordance with Regulation 31, and in consequence,
the IAPP Certificate and the IEE Certificate have been endorsed to this effect and are still valid, and where applicable, a Statement of Compliance has been issued in respect of that ship and is still valid.

(3) A survey of engines and equipment for compliance with Regulation 13 of Annex VI shall be conducted in accordance with the NOx Technical Code.

(4) An endorsement referred to in sub-paragraph (2)(b)(ii) of Annex VI of the Convention shall be—

(a) in the form set out in Appendix I to Annex VI, where the certificate is an IAPP Certificate;

(b) in the form set out in Appendix 7 to Annex VI, where a certificate is an IEE Certificate; and

(c) in the form set out in Appendix 5 to UK Merchant Shipping Notice 1819 (M+F) where the certificate is a UK/BAPP Certificate.

(5) In this Regulation, “intermediate survey period” means a period of six months beginning three months before the second or third anniversary date.

**Responsibilities of the company and the master of a ship**

10 (1) The company and the master of a ship to which this Regulation applies, shall ensure that the condition of the ship and its equipment are maintained to conform with Part III, so as to ensure that the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) The company and the master of a ship to which this Regulation applies, shall ensure that after any survey of the ship required by this Part has been completed, no change, except by way of direct replacement, is made to the equipment, systems, fittings, arrangements and materials of that ship covered by the survey, without the approval of—

(a) the Certifying Authority that appointed the surveyor to carry out the survey; or

(b) the Minister, where the IAPP or IEE Certificate was issued by a Contracting Government following a request made pursuant to Regulation 14,

as the case may be.

(3) Whenever—

(a) an accident occurs on a ship; or

(b) a defect is discovered in a ship, which substantially affects the integrity of the ship or the efficiency or completeness of the equipment of the ship required under Part III,

the company and the master of the ship shall ensure that the requirements of paragraph (4) are complied with.

(4) The requirements are that—
(a) the accident or defect, as the case may be, is reported at the earliest opportunity, to the Certifying Authority that issued the appropriate certificate in respect of the ship; and

(b) in the case of a ship in a port outside of Bermuda, the accident or the defect, as the case may be, is also immediately reported to the appropriate maritime authorities in the country in which the port is situated.

(5) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph (4)(a), the Certifying Authority—

(a) shall cause an investigation to be initiated to determine whether or not an additional survey is necessary; and

(b) if it considers that an additional survey is necessary, shall cause that survey to be carried out.

(6) Whenever an accident or defect is reported to a Certifying Authority in accordance with paragraph (4)(a) and the ship in question is in a port outside of Bermuda, the Certifying Authority shall take all appropriate steps to ascertain that the requirement in paragraph (4)(b) has been complied with.

(7) In paragraph (2), “direct replacement” means the direct replacement of equipment and fittings with equipment and fittings that conform with Annex VI.

Additional surveys

11 (1) This Regulation applies to a ship where—

(a) a repair resulting from an investigation referred to in Regulation 10(5) has been made to the ship; or

(b) an important repair or renewal has been made to the ship.

(2) A ship to which this Regulation applies, shall not—

(a) proceed to sea; or

(b) (if it is already at sea) remain at sea.

unless the requirements set out in paragraph (3) are met.

(3) The requirements are that—

(a) a survey has been carried out in respect of the ship; and

(b) at the date of the survey, the surveyor is satisfied that—

(i) the repair or renewal has been made effectively;

(ii) the materials used in, and the workmanship of the repair or renewal are satisfactory in all respects; and

(iii) the ship complies in all respects with the requirements of Part III.
(4) A survey carried out under paragraph (3), is referred to in these Regulations as an "additional survey".

**Issue of appropriate certificate by a Certifying Authority**

12 (1) Subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2012, on being notified by a surveyor that the surveyor—

(a) has carried out an initial survey or a renewal survey in respect of a ship to which this Regulation applies; and

(b) is satisfied at the date of the survey that the equipment, systems, fittings, arrangements and materials fully comply with the requirements of Part III or an alternative that has been permitted pursuant to Regulation 4,

a Certifying Authority shall issue an appropriate certificate in respect of that ship.

(2) Where a ship to which this Regulation applies, is on transfer from the flag of another Contracting Government, a Certifying Authority shall issue an appropriate certificate in respect of that ship, where—

(a) an IAPP, or IEE Certificate or Statement of Compliance has been issued in respect of the ship and was still valid immediately before the date of transfer;

(b) the Certifying Authority has caused a survey to be carried out in respect of the ship; and

(c) the Certifying Authority is satisfied that—

(i) the condition of the ship and its equipment is maintained to conform with Annex VI, so as to ensure that the ship is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment; and

(ii) no change, other than a change referred to in paragraph (3), has been made to the equipment, systems, fittings, arrangements or material covered by the last survey carried out under Regulation 5(1) of Annex VI without the approval of the Contracting Government in question.

(3) The changes referred to in paragraph (2)(c)(ii) of Annex VI are the direct replacement of equipment and fittings with equipment and fittings that conform with Annex VI.

(4) An IAPP Certificate issued under this Regulation shall be in English and in the form set out in Appendix 1 to Annex VI.

(5) An IEE Certificate issued under this Regulation shall be in English and in the form set out in Appendix VIII to Annex VI.

(6) A UKAPP/ BAPP certificate issued under this Regulation shall be in the form prescribed by the Minister in Appendix 5 to the UK Merchant Shipping Notice 1819 (M+F).
MERCHAND SHIPPING (PREVENTION OF AIR POLLUTION FROM SHIPS)
REGULATIONS 2019

Issue of Statement of Compliance by a Certifying Authority
13 (1) This Regulation applies to a ship of 5000 GT and above.
(2) A Statement of Compliance issued under paragraph (3) shall be issued by the Certifying Authority not later than five months from the beginning of the calendar year.
(3) Subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2012, where—
   (a) a company or master reports the data on fuel oil consumption required by Regulation 31 in relation to a ship; and
   (b) the Certifying Authority determines that the report complies with the requirements of that Regulation,
the Certifying Authority shall issue a Statement of Compliance related to fuel oil consumption by that ship.
(4) A Statement of Compliance issued under paragraph (3) shall be issued by the Certifying Authority at the time it determines that the report complies with the requirements of Regulation 31.
(5) A Statement of Compliance issued under this Regulation shall be in English and in the form set out in Appendix X to Annex VI.

Issue of IAPP, or IEE Certificates by another Government in respect of Bermuda ships
14 (1) The Minister may request a Contracting Government to survey a ship to which this Regulation applies, and to—
   (a) issue, or authorise the issue of; or
   (b) endorse, or authorise the endorsement of,
an IAPP or IEE Certificate, in accordance with the requirements of Annex VI, in respect of that ship, if the Contracting Government is satisfied that the ship complies with the requirements of Annex VI.
(2) Where an IAPP or IEE Certificate is issued pursuant to paragraph (1)—
   (a) the Minister is to be treated as the Certifying Authority in relation to it; and
   (b) any reference in these Regulations to the Certifying Authority that issued the certificate is to be treated as a reference to the Minister.

Issue of IAPP or IEE Certificates in respect of ships which are not Bermuda ships
15 (1) When requested to do so by a Contracting Government, the Minister—
   (a) may cause a survey to be carried out in respect of a ship to which this Regulation applies; and
   (b) shall, subject to the payment of any fee due under the Merchant Shipping (Fees) Regulations 2012, issue in respect of that ship an IAPP or IEE certificate, or endorse the IAPP or IEE Certificate or Statement of
compliance with the requirements of Annex VI, if the Minister is satisfied that the requirements of Annex VI are complied with.

(2) An IAPP or IEE Certificate issued pursuant to paragraph (1), shall—

(a) be in English in the form set out in Appendix 1 to Annex VI, or in the case of an IEE Certificate, Appendix VIII to Annex VI;

(b) contain a statement that it has been so issued; and

(c) have the same effect as if it had been issued by the Contracting Government which made the request referred to in paragraph (1), and not by the Minister.

(3) The Minister shall send as soon as possible to the Contracting Government which made the request referred to in paragraph (1), a copy of—

(a) the IAPP or IEE Certificate issued pursuant to that paragraph; and

(b) the survey report.

(4) The Minister shall not issue an IAPP or IEE Certificate in respect of a ship which—

(a) is registered in a country whose government is not a Contracting Government; or

(b) is not registered, but is entitled to fly the flag of a country whose government is not a Contracting Government.

Duration and validity of IAPP certificates

16 (1) Subject to the following paragraphs and to Regulations 20(3) and 22(1), an IAPP certificate issued in respect of a ship to which this Regulation applies is valid for such period as is specified in the certificate, not exceeding five years beginning with the date of completion of the relevant initial or renewal survey.

(2) Subject to paragraph (3) and Regulation 17(9), where a renewal survey is—

(a) within the final three-month period; or

(b) after the date of expiry of the latest appropriate certificate,

the new IAPP Certificate is valid for such period as is specified in the certificate, beginning with the date of the completion of the renewal survey and ending with a date not exceeding five years from the date of expiry of the latest IAPP certificate.

(3) An IAPP Certificate issued in respect of a ship ceases to be valid—

(a) upon whichever is the earlier of the following—

(i) the ship being transferred to the flag of another State;

(ii) the ship proceeding to sea, where—
(aa) a repair or renewal referred to in Regulation 11(1) has been made; and

(bb) the requirements set out in Regulation 11(3) have not been complied with;

(b) if a survey under Regulation 6, 7, 8 or 9 is not completed in accordance with the requirements of these Regulations;

(c) if an IAPP certificate is not endorsed in accordance with the requirements of these Regulations;

(d) upon a new IAPP Certificate being issued in respect of the ship; or

(e) upon the date of expiry of the certificate.

(4) In this Regulation the “final three-month period” means the three-month period ending on the expiry date of the certificate in question.

Extension of periods of validity of IAPP certificates

17 (1) Where the period of validity of an IAPP Certificate issued in respect of a ship to which this Regulation applies is less than five years, the Certifying Authority that issued the certificate may extend its period of validity to a maximum period of five years, provided that, any survey required under Regulation 8 or 9 has been carried out.

(2) Where a renewal survey has been completed by a surveyor; but a new IAPP certificate cannot be issued or placed on board the ship before the date of expiry of the latest IAPP Certificate, the surveyor may endorse the latest IAPP certificate.

(3) Where an IAPP Certificate has been endorsed under paragraph (2), that certificate is valid for such further period as is specified in the certificate, not exceeding five months beginning with the original date of expiry of the certificate.

(4) Where—

(a) a renewal survey has not been completed before the date of expiry of the latest IAPP Certificate in question; and

(b) at the date of expiry the ship is not in the port in which the survey is to be carried out,

the Certifying Authority that issued the latest IAPP Certificate may extend the period of validity of that certificate for a period not exceeding three months, if it appears to the Certifying Authority that it is proper and reasonable to do so, solely for the purpose of allowing the ship to complete its voyage to its port of survey.

(5) Where the period of validity of an IAPP Certificate has been extended pursuant to paragraph (4), the ship in question shall not leave its port of survey until a new certificate has been issued in respect of that ship.

(6) Subject to paragraph (10), the Certifying Authority that issued the latest IAPP Certificate in respect of a ship engaged solely on short voyages may extend the period of validity of that certificate, for a period not exceeding one month.
(7) A Certifying Authority shall not extend the period of validity of an IAPP Certificate under paragraph 9, if the period of validity of that certificate has already been extended under paragraph (1), (3) or (4).

(8) Subject to paragraph (10) and to Regulations 20(3) and 22(1), where a renewal survey has been completed and a new IAPP Certificate has been issued in respect of a ship referred to in paragraph (6) or (7), the new Certificate is valid for such period as is specified in the certificate, not exceeding five years beginning with the original date of expiry of the previous certificate.

(9) In the special circumstances set out in UK Marine Guidance Note 381 (M+F), the period of validity of a new IAPP certificate which is—

(a) issued in respect of a ship referred to in paragraph (6) or (7); or

(b) referred to in Regulation 16(2)(b) and issued where the renewal survey is completed after the date of expiry of the latest IAPP certificate,

is such period as is specified in the new certificate, not exceeding five years beginning with the date of the completion of the renewal survey in question.

(10) Where the period of validity of an IAPP Certificate is extended under paragraph (1), (4) or (6), or an endorsement is to be made pursuant to paragraph (2), the Certifying Authority in question shall endorse the Certificate in accordance with paragraph (12).

(11) An endorsement referred to in paragraph (12) shall be—

(a) in the form set out in Appendix I to Annex VI; and

(b) in the form set out in Appendix 5 to UK Merchant Shipping Notice 1819 (M+F) where the certificate is a Bermuda Certificate.

(12) Where a survey is completed under Regulation 8 before the annual survey period or a survey is completed under Regulation 9 before the intermediate survey period, the anniversary date shown on the Certificate shall be amended by an endorsement on the IAPP Certificate, to a date which shall not be more than three months later than the date on which the survey referred to in this paragraph or paragraph 12A was completed.

(12A) Where the anniversary date on an IAPP Certificate is amended in accordance with paragraph (13), any subsequent annual or intermediate survey required under these Regulations shall be completed at the intervals prescribed by these Regulations using the new anniversary date.

(13) Where—

(a) a survey is completed under Regulation 8 before the annual survey period; or

(b) a survey is completed under Regulation 9 before the intermediate survey period,

the date of expiry of the IAPP Certificate may remain unchanged, provided that any surveys required by Regulation 8 or 9 are carried out so that the maximum intervals between the surveys as required by these Regulations are not exceeded.
(14) In this Regulation—
“annual survey period”, has the same meaning as in Regulation 8;
“intermediate survey period”, has the same meaning as in Regulation 9; and
“the original date of expiry”, means the date on which the IAPP Certificate would have expired, but for any extension of its period of validity.

**Duration and validity of IEE Certificates**

18
(1) Subject to paragraph (2) and to Regulations 20(3) and 22(1), an IEE certificate issued in respect of a ship to which these Regulations apply, is valid throughout the life of the ship.

(2) An IEE Certificate issued in respect of a ship ceases to be valid—
(a) if the ship is withdrawn from service or if a new certificate is issued following a major conversion of the ship; or
(b) upon transfer of the ship to the flag of another State.

**Duration and validity of Statements of Compliance**

19
(1) A Statement of Compliance issued under Regulation 13, is valid—
(a) for the calendar year in which it is issued; and
(b) for the first five months of the following calendar year.

(2) A Statement of Compliance issued under Regulation 14, is valid—
(a) for the calendar year in which it is issued;
(b) for the following calendar year; and
(c) for the first five months of the subsequent calendar year.

**Procedure to be adopted when a ship is deficient**

20
(1) This Regulation applies where a surveyor determines that—
(a) the condition of a ship to which paragraphs (1) to (5) of this Regulation apply, or its equipment, does not correspond substantially with the particulars of an appropriate certificate (if any) issued in respect of the ship; or
(b) a ship to which paragraphs (1) to (5) of this Regulation apply, is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) The surveyor shall—
(a) advise the company or master, of the corrective action which in the opinion of the surveyor, is required; and
(b) where an appropriate certificate has been issued in respect of the ship and is still valid, notify the Certifying Authority that issued the appropriate certificate—

(i) that the surveyor has so advised the company and master; and

(ii) if that corrective action has not been taken.

(3) Where an appropriate certificate has been issued in respect of the ship and is still valid, the Certifying Authority may suspend the validity of that certificate until the corrective action has been taken.

(4) Where the Certifying Authority suspends the validity of an appropriate certificate issued in respect of a ship, it shall immediately give notice of such suspension—

(a) to the company; and

(b) where the ship is in a port outside of Bermuda, to the appropriate maritime authorities of the country in which the port is situated.

(5) Where the company responsible for the ship is given notice of suspension, that company shall notify the master of the ship in question, of the suspension.

(6) In the application of paragraphs (1) and (2) to a ship of the kind specified in Regulation 3(6)—

(a) “the Certifying Authority” means the Government of the State where the ship is registered (or if the ship is not registered, the Government of the flag State); and

(b) “surveyor” includes a person authorised by that Government, to survey the ship.

Arbitration

21 (1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a ship to which this Regulation applies, the applicant may serve a written notice on the responsible person within 21 days of receiving notification of that outcome—

(a) stating that there is a dispute between them; and

(b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to paragraph (3), an arbitrator referred to in paragraph (1), shall be appointed by agreement between the applicant and the responsible person.

(3) In default of agreement between the applicant and the responsible person, the arbitrator is such person as may be appointed by the appointments committee of the Chartered Institute of Arbitrators, Bermuda Branch, following a request made by—

(a) a party, after giving written notice to the other party; or

(b) the parties jointly.
(4) No person is to be an arbitrator under this Regulation unless that person is a person who holds a certificate to act as—

(a) a master or chief mate on a seagoing ship of 3,000 GT or more, in accordance with Regulation II/2 of Chapter 2 of the Annex to the STCW Convention; or

(b) a chief engineer officer or second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more, in accordance with Regulation III/2 of Chapter 3 of the Annex to the STCW Convention;

(c) a person who holds a certificate of competency equivalent to a certificate referred to in sub-paragraph (a);

(d) a naval architect;

(e) a qualified person;

(f) a person with special experience of shipping matters, or of the fishing industry, or of activities carried on in ports; or

(g) a member of the Chartered Institute of Arbitrators, Bermuda Branch.

(5) An arbitrator appointed under this Regulation has the powers of an inspector conferred by section 220 of the 2002 Act.

(6) The rules for arbitration set out in UK Merchant Shipping Notice M1613 apply, unless alternative procedures are agreed between the applicant and the responsible person, before the commencement of arbitration proceedings.

(7) In this Regulation—

“applicant” means a person who makes an application for a survey required by these Regulations;

“qualified person” means a barrister and attorney of not less than 10 years call;

“responsible person” means—

(a) the Certifying Authority responsible under Regulation 12 or 14, for the issue of the appropriate certificate in connection with which a survey required by these Regulations is carried out; or

(b) in the case of a dispute relating to an additional survey required by Regulation 11, the Certifying Authority that issued the appropriate certificate in respect of the ship.

**Miscellaneous provisions relating to appropriate certificates and Statements of Compliance**

22 (1) The Minister may cancel an appropriate certificate issued in respect of a ship to which this regulation applies, where the Minister has reason to believe that—

(a) the appropriate certificate was issued on false or erroneous information; or
(b) since the completion of any survey required by these Regulations, the equipment or machinery of the ship has sustained damage or is otherwise deficient.

(2) The Minister may require that an appropriate certificate issued in respect of a ship to which this regulation applies, and which has expired or which has been cancelled, is to be surrendered within such time and in such manner as he may in writing, direct.

(3) In relation to a ship to which this regulation applies, no person may—

(a) intentionally alter an appropriate certificate or Statement of Compliance;
(b) intentionally make a false appropriate certificate or Statement of Compliance;
(c) knowingly or recklessly provide false information in connection with a survey required under these Regulations;
(d) knowingly or recklessly provide false information when reporting fuel oil consumption data in accordance with Regulation 32;
(e) with intent to deceive, use or lend an appropriate certificate or Statement of Compliance or permit a Statement of Compliance or an appropriate certificate, to be used by another person; or
(f) fail to surrender an appropriate certificate or Statement of Compliance, where required to do so pursuant to paragraph (2).

(4) The company and the master of a ship, in respect of which an appropriate certificate has been issued and to which this Regulation applies, shall ensure that the certificate is readily available on board the ship, for inspection at all times.

(5) The company and the master of a ship in respect of which a Statement of Compliance has been issued and to which this Regulation applies, shall ensure that the Statement is readily available on board the ship for inspection at all times.

**Prohibition on non-Bermuda ships proceeding to sea without an IAPP or IEE Certificate or Statement of Compliance**

23 (1) A ship to which this Regulation applies shall not proceed to sea from a port in Bermuda unless—

(a) an IAPP or IEE certificate or Statement of Compliance has been issued pursuant to Annex VI in respect of that ship and is still valid;
(b) a surveyor of ships is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment; or
(c) a person having power to detain the ship has permitted the ship to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.
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(2) A ship to which this regulation applies, shall not proceed to sea from a port in Bermuda unless documentation has been issued in respect of that ship, which is still valid and shows that—

(a) a survey has been carried out in respect of the ship, as if Regulation 6 applied to the ship; and

(b) a surveyor of ships is satisfied that the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment, or a person having powers to detain the ship has permitted the ship to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard available.

PART III
CONTROL OF EMISSIONS FROM SHIPS

Ozone-depleting substances
24 (1) The deliberate emission of an ozone-depleting substance from a ship is prohibited.

(2) For the purposes of this Regulation “deliberate emission” includes an emission occurring in the course of maintaining, servicing, repairing or disposing of systems or equipment, but does not include minimal releases associated with the recapture or recycling of an ozone-depleting substance.

(3) New installations which involve the introduction on a ship, other than a Bermuda ship, of an ozone-depleting substance are prohibited.

(4) Prior to 1st January 2020, paragraph (3) has effect as if after “substance” there were inserted “other than hydrochlorofluorocarbons”.

Nitrogen oxides
25 (1) Subject to paragraph (2), this Regulation applies to—

(a) every diesel engine with a power output of more than 130 kW which is installed on a ship constructed on or after 1st January 2000; and

(b) every diesel engine with a power output of more than 130 kW which is installed on a ship and which undergoes or has undergone a major conversion on or after 1st January 2000.

(2) This Regulation does not apply to any engine referred to in Schedule 2.

(3) Where a diesel engine is installed on a Bermuda ship engaged solely in voyages to ports or offshore terminals within Bermuda limits, and—

(a) that ship was constructed; or

(b) the engine underwent a major conversion.
before 19th May 2005, the Minister may on application by the company direct that this Regulation does not apply to that engine.

(4) Subject to paragraph (7), the operation of a diesel engine is prohibited, except where the emission of nitrogen oxide (calculated as the total weighted emission of nitrogen oxide) from the engine is no more than—

(a) 17.0 g/kWh when $n$ is less than 130 rpm;

(b) $45.0 \times n - 0.2 \text{ g/kWh}$ when $n$ is 130 or more but less than 2,000 rpm;

(c) 9.8 g/kWh when $n$ is 2,000 rpm or more,

where $n = \text{rated engine speed (crankshaft revolutions per minute)}$ and the emission of nitrogen oxides are calculated as total weighted emissions of NOx.

(5) When assessing under paragraph (4), the emission of nitrogen oxide from a diesel engine using fuel composed of blends of hydrocarbons derived from petroleum refining, the test procedure and measurement methods shall be in accordance with the NOx Technical Code.

(6) The tier and on/off status of marine diesel engines installed on board a ship which are certified to both Tier II and Tier III or which are certified to Tier II only, shall be recorded in a log book as prescribed by the Chief Marine Surveyor at entry into and exit from an emission control area, or when the on/off status changes within such area, together with the date, time and position of the ship.

(7) Notwithstanding paragraph (4), the operation of a diesel engine is permitted when either an exhaust gas cleaning system or any other equivalent method, approved in accordance with UK Merchant Shipping Notice 1734 (M+F) or UK Merchant Shipping Notice 1735 (M+F) as appropriate, is applied to the engine to meet the emission standards in paragraph (4).

(8) The company shall ensure that the emission of nitrogen oxide from a diesel engine that is installed on that ship and that has undergone a major conversion, is recorded in accordance with the NOx Technical Code and approved by the Certifying Authority.

(9) In this Regulation—

(a) “major conversion” means a modification of an engine, where—

(i) the engine is replaced by a new engine built on or after 1st January 2000; or

(ii) any substantial modification, as defined in the NOx Technical Code, is made to the engine; or

(iii) the maximum continuous rating of the engine is increased by more than 10 per cent; and

(b) “Tier II” and “Tier III” means Tier II and Tier III, as described in Regulation 13 of Annex VI.
Sulphur oxides
26 (1) Subject to paragraph (2), the sulphur content of any fuel oil used on board a ship shall not exceed the limits prescribed in Regulation 14.1 of Annex VI.

(2) In the case of a ship within a sulphur oxide emission control area—

(a) the sulphur content of fuel oil used on board shall not exceed the limits prescribed in Regulation 14.4 of Annex VI;

(b) an approved exhaust gas cleaning system must be applied to reduce the total emission of sulphur oxide, from both auxiliary and main propulsion engines, to 6.0 grams per kilowatt hour or less, calculated as the total weight of sulphur dioxide emission; or

(c) any other technological method to limit sulphur oxide emissions is used that has been approved for the purposes of these Regulations by the Minister, in accordance with a Merchant Shipping Notice.

(3) The master of any ship using separate fuel oils to comply with paragraph (2)(a) shall comply with Regulation 14.6 of Annex VI.

(4) The master shall ensure that waste streams from the use of equipment approved pursuant to paragraph (2)(b) are not discharged into a port, harbour or estuary.

(5) The master of a Bermuda ship making a record pursuant to paragraph (3) shall make it in a log book in the format prescribed in Appendix 6 to UK Merchant Shipping Notice 1819 (M+F).

(6) In this Regulation “approved exhaust gas cleaning system” means an exhaust gas cleaning system approved in accordance with UK Merchant Shipping Notice 1734 (M+F) or UK Merchant Shipping Notice 1735 (M+F), as appropriate.

Volatile organic compounds
27 (1) The operation by a harbour authority or terminal operator of a vapour emission control system for volatile organic compounds is prohibited, unless the Minister has given his written approval for that system.

(2) A harbour authority or terminal operator operating a vapour emission control system for volatile organic compounds shall comply with Schedule 4 to the UK Merchant Shipping Notice 1819 (M+F).

(3) The company responsible for and master of a Bermuda tanker subject to vapour emission control in a harbour or terminal notified to the IMO as a designated harbour or terminal pursuant to the Convention shall comply with Schedule 4 to UK Merchant Shipping Notice 1819 (M+F).

Shipboard incineration
28 (1) Subject to paragraph (6), all shipboard incineration shall take place in a shipboard incinerator.
(2) Subject to paragraph (12), in respect of a ship, on which a shipboard incinerator was installed after 31st December 1999, the company shall, on demand, demonstrate to a surveyor that the incinerator complies with UK Merchant Shipping Notice 1734 (M+F).

(3) Where a shipboard incinerator was installed on or before 18th May 2005 on a Bermuda ship solely engaged in voyages within Bermuda waters, the Minister may on application by the company, direct that paragraph (2) does not apply to that incinerator.

(4) Shipboard incineration of the substances listed in Regulation 16.2 of Annex VI is prohibited.

(5) In this Regulation “garbage” means all kinds of victual, domestic and operational wastes generated during the normal operation of a ship and liable to be disposed of continuously or periodically, but does not include fresh fish and parts thereof or sewage.

(6) While a ship is in a port, harbour or estuary, shipboard incineration of sewage sludge and sludge oil generated during the normal operation of the ship shall not take place in the main or auxiliary power plant or boiler.

(7) Shipboard incineration of polyvinyl chlorides is prohibited except in a shipboard incinerator for which a Type Approval Certificate, has been issued in accordance with UK Merchant Shipping Notice 1734 (M+F).

(8) A ship with a shipboard incinerator installed on it shall at all times carry an operating manual of the manufacturer of that incinerator, which specifies how to operate the incinerator within the limits described in Schedule 5 to the UK Merchant Shipping Notice 1819 (M+F).

(9) Every person responsible for the operation of a shipboard incinerator shall be trained and capable of implementing the guidance provided in the manufacturer’s operating manual.

(10) Combustion flue gas outlet temperatures shall be monitored at all times and the waste shall not be fed into a continuous-feed shipboard incinerator when the temperature is below 850°C.

(11) No batch-loaded shipboard incinerator is to be used if the temperature in the combustion chamber fails to reach 600°C within five minutes of start-up.

(12) The Minister may approve the design, installation and operation of alternative shipboard thermal waste treatment devices that meet or exceed the requirements of this Regulation for use, instead of one issued in accordance with UK Merchant Shipping Notice 1734 (M+F).

(13) Unless expressly provided otherwise, any ship covered by paragraph (1) of this Regulation shall comply with the environmental-related provisions of the introduction and with chapter 5 of part II-A of the Polar Code, in addition to any other applicable requirements of this Annex.

Fuel oil quality

29  (1) This Regulation does not apply to—
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(a) coal in its solid form;
(b) nuclear fuels; or
(c) any hydrocarbon which is produced on a platform and used on that platform as fuel, if that use has been approved by the Minister.

(2) A fuel oil supplier shall ensure that fuel oil for combustion purposes delivered to a relevant ship for use on board that ship meets the requirements in paragraph (6) or (7), as applicable.

(3) The master of a relevant ship shall ensure that fuel oil for combustion purposes used on board that ship meets the requirements of paragraph (6) or (7).

(4) The master of a relevant ship shall notify the flag state and the Chief Marine Surveyor, of the relevant port of destination when it cannot purchase fuel oil for combustion purposes to be used on board a ship, that meets the requirements of paragraph (6) or (7).

(5) The master of a relevant ship which has on board fuel oil for combustion purposes which does not meet the requirements of paragraph (6) or (7) shall comply with any requirement of the Minister, as notified in a Merchant Shipping Notice.

(6) Fuel oil for combustion purposes delivered to and to be used on board a ship shall comply with the requirements of Regulation 18.3 of Annex VI.

(7) A local supplier of fuel oil for combustion purposes delivered to and used on board a relevant ship shall—

(a) register with the Minister in accordance with Schedule 7 to the UK Merchant Shipping Notice 1819 (M+F);
(b) provide the master of the relevant ship with a bunker delivery note containing the information set out in Appendix V of Annex VI;
(c) provide a declaration in the bunker delivery note that is signed by the fuel oil supplier’s representative, that the fuel oil supplied, conforms with Regulations 14(1) or 14(4)(a) (as applicable) and 18(1) of Annex VI;
(d) retain a copy of the bunker delivery note for three years from the date of delivery; and
(e) not contaminate or blend the fuel so that it no longer conforms with the declaration required by sub-paragraph (c).

(8) The master of a relevant ship shall—

(a) ensure that the bunker delivery note is kept on board the ship in a place so as to be readily available for inspection at all reasonable times;
(b) when requested by an inspector appointed by the Minister to do so, certify whether any copy of the bunker delivery note is a true copy of the original; and
(c) ensure that the bunker delivery note is retained for a period of three years from the day on which the fuel oil has been delivered on board.
(9) The local supplier’s representative shall provide a representative sample of the fuel oil delivered to accompany the bunker delivery note, and that sample shall—

(a) be collected in accordance with Schedule 7 and Appendix 1 to the UK Merchant Shipping Notice 1819 (M+F);

(b) on completion of bunkering operations, be sealed and signed by the local supplier’s representative and the master or officer in charge of the bunkering operation; and

(c) be retained under the control of the master of the ship or company for not less than twelve months starting with the day of delivery or until the fuel oil is substantially consumed, if the fuel oil is not consumed in less than twelve months.

(10) The bunker delivery note and the sample of fuel oil required under paragraph (9) shall be available for inspection and verification at all reasonable times in accordance with Schedule 7 to the UK Merchant Shipping Notice 1819 (M+F).

(11) The bunker delivery note required under paragraphs (9) and (10) shall be available for copies to be made at all reasonable times.

(12) In this Regulation—

“fuel oil supplier”, means a person who is responsible for the final blend of fuel oil supplied to a local supplier of fuel oil;

“fuel oil supplier’s representative”, means a person appointed by a fuel oil supplier to provide a declaration on the bunker delivery note, that the fuel supplied complies with Regulations 14(1) or 14(4)(a) (as applicable) and 18(1) of Annex VI;

“local supplier of fuel oil”, means a person who receives fuel oil with a view to its delivery to and use on board a relevant ship;

“local supplier’s representative”, means a person who delivers fuel oil to a relevant ship on behalf of a local supplier of fuel oil; and

“relevant ship” means—

(a) a platform; or

(b) a ship, other than a platform, of 400 GT or above.

Ship Energy Efficiency Management Plan (SEEMP)

(1) A company shall ensure that a ship specific SEEMP is kept on board a ship to which this Regulation applies.

(2) In the case of a ship of 5,000 gross tonnage and above, the SEEMP shall include a description of the methodology that will be used to collect the data required by Regulation 32 and Regulation 22A.1 of MARPOL Annex VI and the processes that will be used to report the data to the Chief Marine Surveyor.
(3) A SEEMP shall be developed taking into account the IMO’s 2016 Guidelines for the development of a Ship Energy Efficiency Management Plan annexed to Resolution MEPC.282(70).

**Collection and reporting of ship fuel oil consumption data**

(1) This Regulation applies to a ship of 5,000 gross tonnage and above.

(2) From calendar year 2019, a company shall in respect of each ship collect the data specified in appendix IX to Annex VI, for that and each subsequent calendar year or portion thereof, as appropriate, according to the methodology included in the SEEMP.

(3) At the end of each calendar year, the company shall aggregate the data collected in that calendar year or portion of it, as appropriate.

(4) Within three months after the end of each calendar year, the company shall report to the Certifying Authority, the aggregated value for each datum specified in appendix IX to Annex VI, via electronic communication and using a standardised format developed by the IMO.

(5) Where a ship is transferred from the Bermuda shipping register to the register of another Contracting Government, the company shall on the day of completion of the transfer or as close as practical to that date, report to the Certifying Authority, the aggregated data for the period of the calendar year corresponding to the time when the ship was a Bermuda ship, as specified in Appendix IX of Annex VI and, upon prior request of the Chief Marine Surveyor, the disaggregated data.

(6) In the event of a change of ownership or responsibility for the ship, the former company shall on the day of completion of the change or as close as practical thereto, report to the Certifying Authority, the aggregated data for the portion of the calendar year corresponding to the period during which the former company was responsible for the ship, as specified in appendix IX to Annex VI and, upon request of the Chief Marine Surveyor, the disaggregated data.

(7) In the event of a ship ceasing to be registered in Bermuda and a change from one company to another concurrently, paragraph (5) of this Regulation shall apply.

(8) The data shall be verified according to procedures established by the Chief Marine Surveyor, taking into account guidelines developed by the IMO.

(9) Except as provided for in paragraphs (5), (6) and (7) of this Regulation, the disaggregated data that underlies the reported data noted in Appendix IX to Annex VI for the previous calendar year shall be readily accessible for a period of not less than 12 months from the end of that calendar year and be made available to the Chief Marine Surveyor upon request.

(10) The Chief Marine Surveyor shall ensure that the data noted in Appendix IX to Annex VI reported by a Bermuda ship are transferred to the IMO Ship Fuel Oil Consumption Database via electronic communication and using a standardized format developed by the IMO not later than one month after issuing a Statement of Compliance in relation to the ship.
Regulations on energy efficiency of ships

32  (1) This Regulation applies to a ship of 400 gross tons or above.

(2) This Regulation does not apply to—
   (a) a ship solely engaged in voyages within Bermuda waters;
   (b) a ship not propelled by mechanical means;
   (c) a platform, regardless of its propulsion;
   (d) a general cargo ship having ice-breaking capability;
   (e) a ship with non-conventional propulsion delivered on or after 1 September 2019 other than a cruise passenger ship or LNG carrier.

(3) The Minister may exempt a ship, other than a ship to which Regulation 19.5 of Annex VI applies, from the requirements of this Regulation.

(4) The Company shall calculate the attained EEDI in accordance with Regulation 21 of Annex VI for—
   (a) each new ship;
   (b) a new ship which has undergone a major conversion; and
   (c) a new or existing ship which has undergone a major conversion, that is so extensive that the ship is regarded by the Certifying Authority as a newly-constructed ship, which falls into one or more of the categories in paragraph (5).

(5) The categories of ship are the categories of ships defined in Regulation 2.25 to 2.35 and 2.38 and 2.39 of Annex VI.

(6) The attained EEDI shall be specific to each ship and shall indicate the estimated performance of the ship in terms of energy efficiency.

(7) The Company shall submit the attained EEDI to the Certifying Authority, together with the EEDI technical file that contains the information necessary for the calculation of the attained EEDI and that shows the process of calculation.

(8) The Certifying Authority shall verify the attained EEDI, based on the EEDI technical file.

(9) In this Regulation—
   "delivered on or after 1 September 2019" has the meaning given in Regulation 2.43 of Annex VI;
   "general cargo ship", "cruise passenger ship" and “LNG carrier” have the meanings given in Regulation 2.29, 2.37 and 2.38 of Annex VI respectively; and
   “major conversion” has the meaning given in Regulation 2.24 of Annex VI.
INSPECTIONS, DETENTIONS AND OFFENCES

Inspection of ships

(1) In so far as sections 219 and 220 of the 2002 Act (powers to inspect ships and their equipment, powers of inspectors in relation to premises and ships) apply in relation to a ship to which any of these Regulations applies, or any ship delivering fuel oil for combustion purposes for the purposes of checking compliance with these Regulations, those sections have effect subject to the following modifications.

(2) The power in those sections to inspect a ship and its equipment, any part of the ship, any articles on board and any documentation carried in the ship, is limited to—

(a) verifying whether an appropriate certificate or statement of compliance has been issued in respect of the ship and is still valid;

(b) verifying whether documentation referred to in Regulation 23(2) (“appropriate documentation”) has been issued in respect of the ship and is still valid;

(c) investigating any operation regulated by these Regulations, if there are clear grounds for believing that the master or the crew are not familiar with essential shipboard procedures relating to the prevention of air pollution;

(d) verifying whether the ship has emitted any substances in violation of these Regulations;

(e) inspecting the log book entries required under paragraph 5 of Schedule 4; or

(f) inspecting bunker delivery notes that are to be made available for inspection under Regulation 29(6)(a).

except where there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of the appropriate certificate or other appropriate documentation referred to in sub-paragraphs (a) and (b).

(3) The power in those sections to go on board a ship may only be exercised if the ship in question is in a port or offshore terminal in Bermuda.

(4) Where the ship is inspected for the purposes of paragraph (2)(d) and is not a Bermuda ship, the person exercising the powers of inspection shall ensure that the report of the inspection is sent to—

(a) the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State; and

(b) any other Party to the Convention that requested the inspection.

(5) Where log book entries are inspected under paragraph (2)(e), or bunker delivery notes are inspected under paragraph (2)(f), the person exercising the power of inspection may—
MERCHANT SHIPPING (PREVENTION OF AIR POLLUTION FROM SHIPS)
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(6) Any copy certified in accordance with paragraph (5) is to be admissible in any judicial proceeding as evidence of the facts stated in it.

Investigation of alleged violations by Bermuda ships
34 Upon receiving evidence that a Bermuda ship has emitted a substance in violation of these Regulations, the Minister shall—

(a) cause the matter to be investigated;
(b) inform the IMO of the action taken; and
(c) where another State has reported the violation, inform that State of the action taken.

General provisions on detention
35 (1) Where a determination is made of the kind mentioned in Regulation 20(1) in relation to a ship, or a surveyor of ships has clear grounds for believing that—

(a) an appropriate certificate or Statement of Compliance is required to have been issued in respect of a ship but has not been issued, or has been issued and is not valid;
(b) documentation referred to in Regulation 23(2) (“appropriate documentation”) is required to have been issued in respect of a ship but has not been issued, or has been issued but is not valid;
(c) the condition of a ship or its equipment does not correspond substantially with the particulars of that certificate or Statement of Compliance or other appropriate documentation;
(d) the master or crew of a ship are not familiar with essential shipboard procedures relating to the prevention of air pollution; or
(e) an offence under Regulation 33(2)(a) to (e) is being committed in respect of the ship,

the ship is liable to be detained until a surveyor of ships is satisfied that it can proceed to sea without presenting any unreasonable threat of harm to the marine environment.

(2) But a person having powers to detain a ship may permit a ship which is liable to be detained under paragraph (1), to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(3) Where a surveyor of ships has clear grounds for believing that an offence comprising a contravention of Regulation 24(1), 25(4), 26(1) and (2), 28 (3) or (4) or (7) or 31(4), has been committed in respect of a ship, the ship is liable to be detained.
(4) The power under this Regulation to detain a ship may only be exercised if the ship in question is in a port or offshore terminal in Bermuda.

(5) Section 242 of the 2002 Act (enforcing detention of a ship) applies where a ship is liable to be detained under the preceding provisions of this Regulation, as if—

(a) references to detention of a ship under the Act were references to detention of the ship in question under the preceding provisions of this Regulation; and

(b) subsection (7) were omitted.

(6) Where a ship is liable to be detained under the preceding provisions of this Regulation, the person detaining the ship shall serve on the master of the ship a detention notice which—

(a) states the grounds of the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 242(1) of the 2002 Act.

(7) Where a ship other than a Bermuda ship is detained, the Minister shall immediately inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly or the appropriate maritime authorities of that State.

(8) Where a ship is detained under paragraph (3), a person having power to detain the ship shall, at the request of the company or master, immediately release the ship—

(a) if no proceedings for an offence under Regulation 24(1), 25(4), 26(1) and (2), 28(3) or (4) or (7) or 31(4), are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for any such offence, having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted;

(c) if either—

(i) the sum of $50,000 is paid to the Minister by way of security; or

(ii) security which, in the opinion of the Minister, is satisfactory and is for an amount not less than $50,000 is given to the Minister;

(d) where the company or master is convicted of any such offence, if any costs or expenses ordered to be paid by that person, and any fine imposed on that person have been paid; or

(e) where the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea 1982, and any bond or other financial security ordered by such court or tribunal is posted.

(9) The Minister shall repay any sum paid in pursuance of paragraph (8)(c) or release any security so given—
(a) if no proceedings for an offence under Regulation 24(1), 25(4), 26(1) and (2), 28(3) or (4) or (7) or 31(4), are instituted within the period of seven days beginning with the day on which the sum is paid; or

(b) if proceedings for any such offence, having been instituted within that period, are concluded without the company or master being convicted.

Where a sum has been paid, or security has been given, by any person in pursuance of paragraph (8)(c) and the company or master is convicted of an offence under Regulation 24(1), 25(4), 26(1), 28(3), (4) or (7) or 31(4), the sum so paid or the amount made available under the security, shall be applied as follows—

(a) first, in payment of any costs or expenses ordered by the court to be paid by the company or master;

(b) next, in payment of any fine imposed by the court; and

(c) any balance shall be repaid to the first-mentioned person.

Section 144 of the 2002 Act (interpretation of section 143) applies for the purposes of paragraphs (8) to (10), but as if—

(a) references to the master or owner of the ship were references to the master or company; and

(b) references to an offence under section 130 were references to an offence under Regulation 24(1), 25(4), 26(1), 28(3), (4) or (7), or 31(4).

Power for harbour master to detain

(1) Where the harbour master of a harbour in Bermuda has clear grounds for believing that an offence under Regulation 24(1), 25(4), 26(1), 28(3), (4) or (7) or 31(4), or paragraph 2 of Schedule 4 has been committed, the harbour master may detain the ship.

(2) Section 143(2) and (3) of the 2002 Act (harbour master’s power of detention of ships for certain offences) applies to a detention under paragraph (1) as it applies to a detention under section 143(1) of the 2002 Act.

(3) Where a ship is liable to be detained under this Regulation, the harbour master detaining the ship shall serve on the master of the ship a detention notice which—

(a) states the grounds for the detention; and

(b) requires the terms of the notice to be complied with until the ship is released by the harbour authority.

(4) Where a ship is detained under paragraph (2), the harbour master shall immediately release the ship—

(a) if no proceedings for an offence under Regulation 24(1), 25(4), 26(1), 28(3), (4) or (7) or 31(4) are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for any such offence, having been instituted within that period, are concluded without the company or master being convicted.
(c) if either—

(i) the sum of $50,000, is paid to the harbour authority by way of security: or

(ii) security which, in the opinion of the harbour authority, is satisfactory
and is for an amount not less than $50,000 is given to the harbour
authority, by or on behalf of the company or master;

(d) where the company or master is convicted of any such offence, if any costs
or expenses ordered to be paid by that person and any fines imposed on
that person, have been paid; or

(e) where the release is ordered by a court or tribunal referred to in article 292
or other financial security ordered by such court or tribunal is posted.

(5) The harbour authority shall repay any sum paid in pursuance of paragraph (4)
or release any security so given—

(a) if no proceedings for an offence under Regulation 24(1), 25(4), or 26(1), 28
(3), (4) or (7) or 31(4) or paragraph 2 of Schedule 4 are instituted within the
period of seven days beginning with the day on which the sum is paid; or

(b) if proceedings for any such offence having been instituted within that
period, are concluded without the company or master being convicted.

(6) Where a sum has been paid, or security has been given, by any person in
pursuance of paragraph (4)(c) and the company or master is convicted of an offence under
Regulation 24(1), 25(4), 26(1), 28(3), (4) or (7) or 31(4), the sum so paid or the amount made
available under the security shall be applied as follows—

(a) first, in payment of any costs or expenses ordered by the court to be paid
by the company or master; and

(b) next, in payment of any fine imposed by the court.

(7) Section 144 of the 2002 Act (interpretation of section 143) applies for the
purposes of paragraphs (4) to (6) as if—

(a) references to the master or owner of the ship were references to the master
or company; and

(b) references to an offence under section 130 were references to an offence
under Regulation 24(1), 25(4), 26(1), 28(3), (4) or (7) or 31(4) or paragraph
2 of Schedule 4.

Duty of harbour master to report deficient ships

If the harbour master of a harbour in Bermuda has reason to believe that a ship is
about to enter or leave the harbour and does not comply with the requirements of these
Regulations, the harbour master shall immediately report the matter to the Minister.
Right of appeal and compensation

Regulation 14 of the Merchant Shipping (Port State Control) Regulations 2019 (right of appeal and compensation) applies in relation to the exercise of the powers of detention under these Regulations as it applies in relation to the exercise of those powers under those Regulations, subject to the modifications referred to in paragraph (2).

(2) The modifications are—

(a) references to “inspector” are to be taken as references to the authority detaining the ship or the harbour master, as the case may be;

(b) references to “refusal of access notice”, “service of the refusal of access notice” and “refusal of access” are to be omitted; and

(c) in Regulation 16(2) after “Minister” there is added “, except where the ship is detained by a harbour master, in which case any compensation awarded under this section shall be payable by the harbour authority”.

Non-compliant fuel oil for combustion purposes

Where any person exercising a power of inspection under section 219 or 220 of the 2002 Act finds on a ship, fuel oil for combustion purposes that does not comply with these Regulations and which is intended for use on a relevant ship, that person may require the relevant local supplier of fuel oil—

(a) to bring that fuel oil into compliance; or

(b) not to deliver that fuel oil to the relevant ship.

(2) Where any person exercising a power of inspection under section 219 or 220 of the 2002 Act finds on a relevant ship fuel oil for combustion purposes that does not comply with these Regulations, that person may require that it be brought into compliance or removed.

(3) In this Regulation “local supplier of fuel oil” and “relevant ship” have the same meanings as in Regulation 29.

Offences

Any contravention of—

(a) Regulation, 6(1), 7(1), 8(1), 9(1), 10(1), (2) or (3), 11(2), 22(4), 23(1) or (2), 24(1), is an offence by the company and by the master of the ship in question;

(b) Regulation 20(5), 23(1), 25(8), 28(2), 30, 31, 32(4) or (7) is an offence by the company responsible for the ship in question;

(c) Regulation 24(1), 25(4), 28 or 29, is an offence by the master of the ship in question;

(d) Regulation 17(5) or 23 is an offence by the company and master of the ship in question;
(e) Regulation 22(3) is an offence by the person in question;

(f) Regulation 27(1) or (2) is an offence by the harbour authority or terminal operator in question;

(g) Regulation 29(2) is an offence by the fuel oil supplier in question; or

(h) Regulation 29(7) or (9) is an offence by the local supplier of fuel oil in question.

(2) An offence under paragraph (1) is punishable—

(a) on summary conviction, to a fine not exceeding $10,000; or

(b) on conviction on indictment, to a fine not exceeding $50,000.

(3) A fuel oil supplier’s representative who makes a false declaration in a bunker delivery note commits an offence and is punishable—

(a) on summary conviction, to a fine not exceeding $10,000; or

(b) on conviction on indictment, to a fine not exceeding $50,000.

(4) Where a ship uses an emission abatement method that has been—

(a) permitted in accordance with paragraph 6 or 7 of Schedule 4; or

(b) authorised for the purposes of the Convention by a Government other than Bermuda,

the company or master commits an offence and is punishable on summary conviction, by a fine not exceeding $10,000 or on conviction on indictment, by a fine not exceeding $50,000.

(5) Where a ship uses emission abatement technologies which are not—

(a) permitted in accordance with paragraph 6 or 7 of Schedule 4;

(b) authorised for the purposes of Annex VI by a Contracting Government other than Bermuda,

the company and master commit an offence and are punishable: on summary conviction, by a fine not exceeding $10,000; or on conviction on indictment, by a fine not exceeding $50,000.

(6) A person to whom a requirement under Regulation 25(2) is made, who fails to comply with that requirement, commits an offence and is punishable: on summary conviction, by a fine not exceeding $10,000; or on conviction on indictment, by a fine not exceeding $50,000.

(7) Where an offence under these Regulations is committed, or would be committed but for the operation of Regulation 45(1), by any person, due to the act or default of some other person, that other person also commits the offence, and the person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings are taken against the first person.
(8) In this Regulation “fuel oil supplier’s representative”, “fuel oil supplier” and “local supplier of fuel oil” have the same meaning as in Regulation 29.

Service of documents on foreign companies

41 Section 142(3) of the 2002 Act (service of documents on foreign companies required or authorised by any statutory provision in connection with proceedings for an offence under section 130 of the 2002 Act) applies to proceedings for an offence under these Regulations as it applies to proceedings for an offence under section 130, as if—

(a) the reference to section 130 were to these Regulations;

(b) in the case of an offence in respect of a ship other than a platform, the reference to the company were to the company; and

(c) in the case of an offence in respect of a platform, the reference to—

(i) the owner of the ship, were to the owner of the platform; and

(ii) the master of the ship, were to the manager of the platform.

Enforcement and application of fines

42 Section 145 of the 2002 Act (enforcement and application of fines) applies to any fine for an offence under Regulation 24(1), 25(4), 26(1), (2) or (4), 28(1), (4) or (7), 29(2) or (4), as if—

(a) in subsection (1) of that section, the reference to proceedings against the owner or master of a ship for an offence under Chapter III were a reference to proceedings against the company or master, for an offence under Regulation 24(1), 25(4), 26(1), (2) or (4) or 28(1), (4) or (7), 29(2) or (4); and

(b) in subsection (2) of that section, the reference to an offence under section 130 were a reference to an offence under Regulation 24(1), 26(1), (2) or (4), 28(1), (4) or (7), 29(2) or (4).

Restriction on jurisdiction over offences outside Bermuda limits

43 (1) Where there has been a contravention of Regulation 25(4) in respect of a ship which is not a Bermuda ship, in the internal waters, territorial sea or exclusive economic zone of a foreign State, proceedings in respect of that offence shall not be instituted in Bermuda, unless—

(a) that foreign State, the flag State of the ship in question or a State polluted or threatened with pollution as a result of the offence, requests that proceedings be taken; or

(b) the offence has caused or is likely to cause air pollution in controlled waters or Bermuda Exclusive Economic Zone.

(2) Where proceedings have been instituted but not concluded, they shall be suspended upon the request of the foreign State in question and the Minister shall ensure that all of the evidence, court records and documents relating to the case, together with any sum paid or security given, are provided to the foreign State.
(3) In this Regulation “foreign State” means a State or country other than Bermuda.

Suspension of proceedings at flag state request
44 (1) This Regulation applies to proceedings instituted but not concluded in Bermuda, in respect of a contravention of Regulation 25(4), committed outside Bermuda territorial limits by a ship which is not a Bermuda ship.

(2) Subject to paragraph (3), any proceedings shall be suspended if the court is satisfied that the flag State of the ship in question has instituted proceedings corresponding to the proceedings in Bermuda in respect of the contravention of that provision, within six months of the institution of the proceedings by Bermuda.

(3) Paragraph (2) does not apply—
   (a) where the contravention of Regulation 25(4) or 26(1) or (2), resulted in serious pollution to Bermuda; or
   (b) where the Minister certifies that the flag State in question has repeatedly disregarded its obligation to enforce effectively, the requirements of the Convention, in respect of its ships.

(4) Where proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings shall be terminated.

Defences
45 (1) In any proceedings for an offence under these Regulations, it is a defence for the person charged to prove, that person took all reasonable steps and exercised all due diligence to ensure that the Regulation in question was complied with.

(2) Notwithstanding paragraph (1), in any proceedings for an offence comprising a contravention of Regulation 25(4), it is a defence for the person charged to prove that—
   (a) the ship was not a Bermuda ship;
   (b) the emission took place in waters that were neither controlled waters nor Bermuda limits; or
   (c) the ship was in a port in Bermuda at the time of the institution of proceedings, by reason only of stress of weather or any other reason beyond the control of the master or company.

Revocation
46 The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2015 are revoked.
GROSS TONNAGE

Determination of Gross Tonnage

1. The “gross tonnage” of a Bermuda ship is to be determined in accordance with paragraphs 3 to 7; the “gross tonnage” of a ship other than a Bermuda ship is to be determined in accordance with paragraphs 8 to 10.

Interpretation

2. In this Schedule—
   “2008 Regulations” means the Merchant Shipping (Tonnage) Regulations 2008;
   “length overall” and “length” (except in the expression “length overall”) have the same meaning as in the 2008 Regulations; and

Bermuda ships

3. In the case of a ship of 24 metres in length or over, for which the Minister permits the continuing use of a gross tonnage pursuant to Regulation 12(1) of the 2008 Regulations, the “gross tonnage” is the smaller of—
   (a) the largest gross tonnage permitted for that ship pursuant to Regulation 12(1) of the 2008 Regulations; and
   (b) the gross tonnage of the ship determined in accordance with Regulation 6 of the 2008 Regulations.

4. In the case of any other ship of 24 metres in length or over, the “gross tonnage” is the gross tonnage of the ship determined in accordance with Regulation 6 of the 2008 Regulations.

5. In the case of a fishing vessel of 15 metres or more in length overall but less than 24 metres in length, the “gross tonnage” is the tonnage of the vessel determined in accordance with Regulations 6 and 14 of the 2008 Regulations.

6. In the case of a fishing vessel of less than 15 metres in length overall and less than 24 metres in length, the “gross tonnage” is the Registered Tonnage of the vessel determined in accordance with Regulation 6 of the 2008 Regulations.
In the case of any other ship of less than 24 metres in length, the “gross tonnage” is the tonnage of the ship determined in accordance with Regulation 14(2) of the 2008 Regulations.

**Ships other than Bermuda ships**

Subject to paragraph 9, in the case of a ship which has a gross tonnage determined in accordance with the Tonnage Convention, the “gross tonnage” is that gross tonnage.

Where a ship has a gross tonnage determined in accordance with the Tonnage Convention but the State whose flag the ship flies or is entitled to fly permits the use of some other gross tonnage, the “gross tonnage” of the ship is the smaller of—

(a) the largest gross tonnage permitted by the flag State to be used for that ship; and

(b) the gross tonnage determined in accordance with the Tonnage Convention.

In the case of a ship which does not have a gross tonnage determined in accordance with the Tonnage Convention, the “gross tonnage” is the gross tonnage or equivalent measure determined in accordance with the law of the State whose flag the ship flies or is entitled to fly (and where the ship has more than one such gross tonnage or equivalent measure, the “gross tonnage” is to be taken to be the largest of them).
SCHEDULE 2

(Regulation 25)

ENGINES EXCLUDED FROM REGULATION 25

Engines excluded from Regulation 25

1 Regulation 25 does not apply to any—

(a) equipment or other device intended to be used solely in case of an emergency, including any emergency diesel engine and any diesel engine installed in a lifeboat;

(b) diesel engine installed on a ship solely engaged in voyages within Bermuda waters, provided that the engine is subject to an alternative nitrogen oxide control measure that has been approved by the Minister; or

(c) marine diesel engine with a power output of more than 130 kW which is installed on or in a recreational craft or personal watercraft placed on the market in Bermuda.

Interpretation

2 In this Schedule—

“marine diesel engine” means any reciprocating internal combustion engine operating on liquid or dual fuel, to which Regulations 5, 6 and 13 of Annex VI apply, including booster and compound systems;

“personal watercraft” means a vessel less than 4 metres in length which uses an internal combustion engine having a jet water pump as its primary source of propulsion and designed to be operated by a person sitting, standing or kneeling on, rather than within the confines of the hull;

“recreational craft” means any boat of any type intended for sports and leisure purposes of hull length from 2.5 metres to 24 metres measured according to the harmonised standard, fitted with a marine diesel engine of over 130 kW and whether used for charter or recreational boating:
INFORMATION TO BE INCLUDED IN A BUNKER DELIVERY NOTE

1. Name and IMO number of receiving ship.
2. Harbour where delivery takes place.
3. Date of commencement of delivery.
4. Name, address and telephone number of fuel oil supplier or local supplier of fuel Oil.
5. Product name.
6. Quantity in metric tons.
7. Density at 15°C (kg/m3) where the fuel has been tested in accordance with ISO 8675.
8. Sulphur content (%m/m) where the fuel has been tested in accordance with ISO 8754.
9. A declaration signed and certified by the fuel oil supplier’s representative that the fuel oil supply is in conformity with Regulations 14(1) or 14(4)(a) (as applicable) and 18(1) of Annex VI.
SCHEDULE 4

Interpretation

1 In this Schedule—

“approved exhaust gas cleaning system” means an exhaust gas cleaning system approved in accordance with UK Merchant Shipping Notice 1734 (M+F) or UK Merchant Shipping Notice 1735 (M+F) as applicable;

“emission abatement method” means any fitting, material, appliance or apparatus to be fitted in a ship or other procedure, alternative fuel or compliance method, used as an alternative to low sulphur marine fuel, meeting the requirements that is verifiable, quantifiable and enforceable;

“marine fuel” means any petroleum based liquid fuel intended for use or in use on board a vessel including those fuels defined in ISO 8217 (2005).

Control of sulphur oxide emissions: general provisions

2 (1) This paragraph applies to any ship, unless paragraph 4(3) or a permission granted under paragraph 6 or 7 applies to it.

(2) While a ship to which this paragraph applies is within a sulphur oxide emission control area, it shall comply with at least one of the following conditions—

(a) the sulphur content of any fuel oil used on board the ship shall not exceed 1.50 per cent by mass;

(b) an approved exhaust gas cleaning system shall be applied to reduce the total emission of sulphur oxide from the ship, including both auxiliary and main propulsion engines, to 6.0g/kW h or less, calculated as the total weight of sulphur dioxide emission; and

(c) any other technological method to limit sulphur oxide emissions may be used that has been—

(i) approved for the purposes of these Regulations by the Minister, in accordance with a Merchant Shipping Notice; or

(ii) authorised for the purposes of Annex VI by a Contracting Government other than Bermuda.

(3) While a ship to which this paragraph applies is not within a sulphur oxide emission control area, it shall not use fuel oil which has a sulphur content exceeding 3.50 per cent by mass or as the case may be 0.50 per cent by mass, unless the ship is using an emission abatement method operating in closed mode.

(4) The master of any ship using separate fuel oils to comply with sub-paragraph (2)(a) shall—
allow sufficient time for the fuel oil service system to be fully flushed of all fuels containing sulphur exceeding 1.0 percent or as the case may be 0.10 percent, by mass prior to entry into a sulphur oxide emission control zone; and

(b) record in accordance with paragraph 5, the details of any fuel changeover operation.

**Maximum sulphur content of marine fuel used by passenger ships**

3 (1) Subject to paragraphs 2 to 4, 6 and 7 of this Schedule, these Regulations apply to—

(a) a Bermuda ship wherever it may be; and

(b) any other ship while it is within Bermuda waters.

(2) This paragraph does not apply to a passenger ship—

(a) while paragraph 4(3) applies to it;

(b) using an approved exhaust gas cleaning system;

(c) using an exhaust gas cleaning system authorised for the purposes of Annex VI by a Contracting Government other than Bermuda; or

(d) using emission abatement technologies that have been—

(i) permitted in accordance with paragraph 6 or 7; or

(ii) authorised for the purpose by another Party to the Convention.

(3) A ship to which this paragraph applies shall not, in the sea areas described in sub-paragraph (4)—

(a) until 31st December 2019, use marine fuel which has a sulphur content exceeding 1.5 per cent by mass; and

(b) on or after 1st January 2020, use marine fuel which has a sulphur content exceeding 0.50 per cent by mass.

(4) The sea areas referred to in sub-paragraph (3) are—

(a) Bermuda waters; and

(b) controlled waters.

(5) The master of a ship to which this paragraph applies shall record in accordance with paragraph 5, the details of any fuel changeover operation.

(6) In this paragraph—

“passenger ship” means a ship that carries more than 12 passengers, where a passenger is every person other than—

(a) the master and members of the crew, or other persons employed or engaged in any capacity on board a ship on the business of that ship; and
(b) a child under one year of age.

Maximum content of marine fuel used by ships at berth

4  (1) This paragraph applies to a ship at berth.

(2) This paragraph does not apply to—

(a) a ship at berth for that period of time which is sufficient to allow the crew to complete any necessary fuel changeover operations—

   (i) as soon as possible after arrival at berth;

   (ii) as late as possible before departure;

(b) a ship which switches off all engines and uses shore-side electricity while at berth; or

(c) a ship using emission abatement technologies that have been—

   (i) permitted in accordance with paragraph 6 or 7; or

   (ii) authorised for the purpose by another Party to the Convention.

(3) A ship to which this paragraph applies, shall not use marine fuel which has a sulphur content exceeding 0.10 per cent by mass.

(4) The master of a ship to which this paragraph applies, shall record in accordance with paragraph 5, the details of any fuel changeover operation.

(5) In this paragraph—

"ship at berth" means a ship which is securely moored or anchored in a Bermuda port while it is loading, unloading or hoteling, including the time spent when not engaged in cargo operations.

Records in ship’s logbook

5  (1) A record made pursuant to paragraph 2(4)(b) or 3(5) of a fuel changeover operation consisting of a change from fuel oil having a sulphur content exceeding 1.50 per cent by mass to fuel oil having a sulphur content not exceeding 1.50 per cent by mass, shall state—

   (a) the time, date and position of the ship when the operation is completed; and

   (b) the volume, in each tank at that time, of fuel oil having a sulphur content not exceeding 1.50 per cent by mass.

(2) A record made pursuant to paragraph 2(4)(b) or 3(5) of a fuel changeover operation consisting of a change from fuel oil having a sulphur content not exceeding 1.50 per cent by mass to fuel oil having a sulphur content exceeding 1.50 per cent by mass, shall state—

   (a) the time, date and position of the ship when the operation commenced; and
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(b) the volume, in each tank at that time, of fuel oil having a sulphur content not exceeding 1.50 per cent by mass.

(3) A record made pursuant to paragraph 4(4) of a fuel changeover operation consisting of a change from fuel oil having a sulphur content exceeding 0.10 per cent by mass to a fuel oil having a sulphur content not exceeding 0.10 per cent by mass, shall state—

(a) the time and date when the operation commenced and is completed; and
(b) the volume in each tank at that time, of fuel oil having a sulphur content not exceeding 0.10 per cent by mass.

(4) A record made pursuant to paragraph 4(4), of a fuel changeover operation consisting of a change from fuel oil having a sulphur content not exceeding 0.10 per cent by mass to fuel oil having a sulphur content exceeding 0.10 per cent by mass, shall state—

(a) the time and date when the operation commenced and is completed; and
(b) the volume, in each tank at that time, of fuel oil having a sulphur content not exceeding 0.10 per cent by mass.

(5) The master of a ship making a record referred to in sub-paragraph (1), (2), (3) or (4) shall make it—

(a) in the case of a Bermuda ship, in a log book in the format prescribed in Appendix 6 to the UK Merchant Shipping Notice 1819 (M+F); or
(b) in the case of any other ship, in a ship's log book.

(6) A ship is prohibited from entering a port in Bermuda if the requirements of this paragraph have not been met.

Trials of emission abatement technologies

6 (1) The Minister may on application in writing by a company, grant permission for the ship to use emission abatement technologies for trial purposes—

(a) if the ship is a Bermuda ship; or
(b) while the ship is operating within—
   (i) Bermuda waters; or
   (ii) controlled waters.

(2) A permission under sub-paragraph (1), is valid only if it is in writing; and it contains a limit on the period of the trial, such period not to exceed 18 months.

(3) Subject to sub-paragraph (6), a permission under sub-paragraph (1) may—

(a) include such conditions as the Minister believes appropriate to the trial in question; and
be varied or revoked at any time by the Minister giving written notice to the company.

(4) The Minister shall provide information on the permission granted to a ship to undertake trials on emission abatement technologies, to any port State concerned.

(5) For the purposes of sub-paragraph (4), a port State concerned is a State to or from which a ship intends to operate during the intended trial.

(6) Any permission granted under sub-paragraph (1), is subject to the following conditions—

(a) tamper-proof equipment shall be installed on the ship to monitor and continuously funnel gas emissions and such equipment shall be used throughout the trial;

(b) emission reductions shall be achieved which are at least equivalent to those which would have been achieved by the use of any fuel oil which complied with paragraph 2(2)(a), 3(3) or 4(3), as applicable;

(c) proper waste management systems shall be in place during the trial in respect of any waste generated by the emission abatement technologies;

(d) throughout the trial, the company shall carry out an assessment of the impacts on the marine environment, particularly the ecosystems in enclosed ports, harbours and estuaries; and

(e) within five months of completion of the trial, the company shall—

(i) provide full results of the assessment referred to in paragraph (d), to the Minister; and

(ii) make those results publicly available.

Permission to use emission abatement technologies

7 (1) The Minister may, on application in writing by a company, grant permission for the ship to use emission abatement technologies while paragraph 3 or 4 applies to it.

(2) A permission under sub-paragraph (1), is valid only if it is in writing.

(3) Subject to sub-paragraphs (4) and (5), a permission under sub-paragraph (1) may—

(a) include such conditions as the Minister believes appropriate; and

(b) be varied or revoked at any time, by the Minister giving written notice to the company.

(4) Where appropriate, the Minister shall include in any permission granted under sub-paragraph (1), a condition that ensures compliance with any criteria established under Bermuda merchant shipping and environmental laws relating to the use of emission abatement technologies while in Bermuda harbours and ports.
(5) Any permission granted under sub-paragraph (1), is subject to the following conditions—

(a) emission reductions shall be continuously achieved which are at least equivalent to those which would have been achieved by the use of fuel oil which complied with paragraph 2(2)(a), 3(3) or 4(3), as applicable;

(b) the ship shall be fitted with continuous emission monitoring equipment; and

(c) there shall be a record that thoroughly documents that any waste streams discharged into enclosed ports, harbours and estuaries have no impact on the ecosystems of those ports, harbours and estuaries based on any criteria communicated by the authorities of port States, to the IMO.

**Restriction on the marketing of marine diesel oil**

8 The placing on the market of marine diesel oil is prohibited if the sulphur content exceeds 1.50 per cent by mass.

**Analysis**

9  

(1) Analysis of marine fuel to determine its sulphur content shall be in accordance with sub-paragraphs (2) to (4).

(2) The reference method adopted for determining the sulphur content is to be that defined by PrEN ISO 14596(a) or ISO method 8754 (2003) as appropriate.

(3) The arbitration method is to be that specified in PrEN ISO 14596.

(4) The statistical interpretation of the verification of the sulphur content of marine gas oil is to be carried out in accordance with ISO standard 4259 (2006).

Made this 16th day of October 2019

Minister of Tourism and Transport

[Operative Date: 18 October 2019]