



## BERMUDA

### MERCHANT SHIPPING AND FISHING VESSELS (ALCOHOL) (PRESCRIBED LIMITS) REGULATIONS 2019

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The Minister responsible for Maritime Administration, after consulting the persons referred to in section 94(3) of the Merchant Shipping Act 2002, and in exercise of the power conferred by sections 93 and 94 of the Merchant Shipping Act 2002, makes the following Regulations:

#### Citation

1 These Regulations may be cited as the Merchant Shipping and Fishing Vessels (Alcohol) (Prescribed Limits) Regulations 2019.

#### Interpretation

2 (1) In these Regulations—

“accident” has the meaning defined under section 228 of the Merchant Shipping Act 2002;

“drug” includes any intoxicant other than alcohol;

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“pilot” means a person appointed as a pilot under section 31 of the Marine Board Act 1962;

“ship” includes every description of vessel used in navigation;

“STCW Code” means the Seafarers’ Training, Certification and Watchkeeping Code adopted by the 2010 Manila Conference of Parties to the STCW Convention;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978.

(2) A reference to navigation of a vessel includes a reference to the control or direction, or participation in the control or direction, of the course of a vessel.

(3) Section 2(1) of the Merchant Shipping Act 2002 (interpretation) shall apply to the following expressions used in these Regulations—

- (a) fishing vessel;
- (b) master;
- (c) seafarer or seaman;
- (d) Bermuda ship; and
- (e) Bermuda waters.

Application

3 (1) These Regulations apply to Bermuda ships wherever they may be and to other ships when they are in Bermuda waters.

(2) These Regulations apply to—

- (a) vessels of over 150 gross tons used in commercial operation; and
- (b) vessels licensed under section 77 of the Marine Board Act 1962.

Professional staff on duty

4 (1) This Regulation applies to the following persons while on duty—

- (a) a professional master of a ship;
- (b) a professional pilot of a ship; and
- (c) a professional seafarer of a ship.

(2) A person to whom this Regulation applies, commits an offence, if his ability to carry out his duties is impaired because of drinks or drugs.

(3) A person to whom this Regulation applies, commits an offence, if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(4) For the purpose of this Regulation, a master, a pilot or a seafarer is a professional only if he acts as master, pilot or seafarer in the course of business or employment.

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(5) Where a person is charged with an offence under this Regulation in respect of the effect of a drug on his ability to carry out duties on a ship or fishing vessel, it is a defence for him to show that—

- (a) he took the drug for a medicinal purpose on, and in accordance with medical advice; or
- (b) he took the drug for a medicinal purpose and had no reason to believe that it should impair his ability to carry out his duties.

### Professional staff off duty

5 (1) This Regulation applies to a professional seafarer in a ship at a time when he is not on duty, but in the event of an emergency, he would or might be required by the nature of the terms of his engagement or employment, to take action to protect the safety of passengers.

(2) A person to whom this Regulation applies, commits an offence if his ability to take the action mentioned in paragraph (1), is impaired because of a drink or drugs.

(3) A person to whom this Regulation applies, commits an offence if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(4) For the purposes of this Regulation, a seafarer is a professional only if he acts as a seafarer in the course of a business or employment.

(5) Where a person is charged with an offence under this Regulation with respect to a drug, on his ability to take action, it is a defence for him to show that—

- (a) he took the drug for a medicinal purpose on, and in accordance with, medical advice; or
- (b) he took the drug for medicinal purposes and had no reason to believe that it would impair his ability to take action.

### Non-professional staff

6 (1) This Regulation applies to a person who—

- (a) is on board a ship which is under way;
- (b) is exercising or purporting to or attempting to exercise, a function in connection with the navigation of a ship; and
- (c) is not a person to whom Regulation 4 or 5 applies.

(2) A person to whom this Regulation applies commits an offence if his ability to exercise the function mentioned in paragraph (1)(b) is impaired because of a drink or drugs.

(3) A person to whom this Regulation applies, commits an offence if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(4) The Minister may make Regulations providing for paragraph (3) not to apply, in specified circumstances.

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Prescribed limit

7 The prescribed limit for the purposes of these Regulations is—

- (a) in the case of breath, 0.25 milligrammes of alcohol in 1 litre, or 0.025%;
- (b) in the case of blood, 50 milligrammes of alcohol in 100 millilitres, or 0.05%;
- (c) in the case of urine, 67 milligrammes of alcohol in 100 millilitres, or 0.067%.

Offences

8 A person found in breach of Regulation 4(2) or (3), 5(2) or (3) or 6(2) or (3) commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding \$10,000; or
- (b) on conviction on indictment, to an unlimited fine or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Made this 16th day of October 2019

Minister of Tourism and Transport

[Operative Date: 17 October 2019]