



BERMUDA

MERCHANT SHIPPING (RADIO EQUIPMENT SURVEY) REGULATIONS 2021

BR 172 / 2021

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The Minister responsible for Maritime Administration, in exercise of the powers conferred by section 93 of the Merchant Shipping Act 2002, makes the following Regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Radio Equipment Survey) Regulations 2021.

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### Interpretation

2 In these Regulations—

“authorised person” means an individual or company recognised or authorised in an Agreement or any equivalent legal arrangement made under the Merchant Shipping (Ship Inspection and Survey Organisations) Regulations 2021, to conduct surveys;

“Bermuda Shipping and Maritime Authority” or “BSMA” means the Bermuda Shipping and Maritime Authority established under section 3 of the Bermuda Shipping and Maritime Authority Act 2016;

“Certifying Authority” means the person who is to issue a certificate to which a survey carried out pursuant to these Regulations relate;

“Convention” or “SOLAS” means the International Convention for the Safety of Life at Sea 1974;

“Convention State” means a State which is a party to the Convention;

“passenger certificate” means a certificate issued pursuant to section 93 of the Merchant Shipping Act 2002;

“prescribed” means prescribed in Regulations made by the Minister;

“proper Authority” means in relation to a Convention State, the authority appointed by the government of that State to carry out the country’s obligations in relation to surveys and certificates;

“radio certificate” means a cargo ship safety radio certificate in the form specified for that certificate in the Appendix to the Convention;

“radio equipment” means the equipment specified in Chapter IV of the Convention;

“tons” means gross tonnage as defined in regulation 6 of the Merchant Shipping (Tonnage) Regulations 2008.

### Application

3 (1) Subject to this regulation, these Regulations apply to—

- (a) Bermuda ships of 300 gross tons or over, to which the Convention applies; and
- (b) other seagoing Convention ships, while they are within Bermuda waters.

(2) These Regulations shall not apply to—

- (a) vessels licensed under section 44 of the Marine and Ports Services Act 2021;
- (b) pleasure vessels;
- (c) fishing vessels;
- (d) cargo ships of less than 300 tons; and

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- (e) craft to which the Merchant Shipping (High-Speed Craft) Regulations 2010 apply.

### Ships and persons in distress

4 Nothing in these Regulations shall prohibit any ship, survival craft or person in distress from using any means at their disposal to attract attention, make known their position or obtain help.

### Ambulatory reference

5 (1) In these Regulations, any reference to SOLAS is to be construed as a reference to that Convention as modified from time to time, and if that Convention is replaced by another instrument, as a reference to that instrument.

- (2) For the purposes of paragraph (1), Chapter IV (SOLAS 74/88) is modified if—
  - (a) omissions, additions, or other alterations of the text take effect in accordance with Article VIII of the Convention; or
  - (b) supplementary provisions made under Article VIII of the Convention, take effect.

### Survey requirement

6 (1) The owner of every ship to which Part IV of the Convention applies and in respect of which—

- (a) in the case of a cargo ship, a radio certificate is required to be issued or renewed; and
- (b) in the case of a passenger ship, a passenger certificate is required to be issued or renewed,

shall cause the ship to be surveyed in accordance with Part IV of the Convention, to ascertain whether it complies with Part IV of the Convention.

(2) The survey required by paragraph (1) shall be carried out annually, subject to any extensions of the period of validity of the relevant certificate prescribed or permitted by the Minister.

### Surveyors

7 Where a survey is to be carried out pursuant to these Regulations, it shall be carried out by—

- (a) a surveyor appointed under section 217 of the Merchant Shipping Act 2002; or
- (b) an authorised person.

### Applications for survey

8 Applications for surveys pursuant to these Regulations shall be made by or on behalf of the owner of the ship, to the relevant survey organisation.

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### Duties of surveyors

9 (1) A surveyor appointed to carry out a survey shall survey the ship and satisfy himself that the radio equipment of the ship—

- (a) complies (subject to any exemption granted in respect of the ship) with all the requirements of the Convention, applicable to the ship; and
- (b) is in all respects satisfactory for the service for which the ship is intended, having regard to the period for which the relevant certificate is to be issued.

(2) The appointed surveyor, if satisfied as mentioned in paragraph (1), shall complete a Declaration of Survey containing such particulars as may be required by the Certifying Authority, to enable it to issue the relevant certificate and shall deliver the Declaration of Survey, to the Chief Marine Surveyor if the ship is a passenger ship.

### Issue of radio certificates

10 On receipt of a Declaration of Survey in respect of—

- (a) a passenger ship, the Chief Marine Surveyor shall, if satisfied that the ship complies with all the Convention requirements applicable to it (and provided the prescribed fee has been paid), issue a certificate in respect of the ship in the form and for the period specified in the Convention, for radio certificates; and
- (b) a cargo ship, the certifying authority shall, if satisfied that the ship complies with all the Convention requirements applicable to it (and provided that the prescribed fee has been paid), issue a radio certificate in respect of the ship, in the form and for the period specified in the Convention, for radio certificates.

### Equivalent and exemptions

11 (1) Where these Regulations require that a particular fitting, material, appliance or apparatus, or type thereof, shall be fitted or carried in a ship, or that any particular provision shall be made, the Minister may permit any other fitting, material, appliance or apparatus or type thereof to be fitted or carried, or any other provision, to be made in that ship if he is satisfied by trial thereof or otherwise that such other fitting, material, appliance or apparatus, or type thereof, or provision, is at least, as effective as that required by these Regulations.

(2) The Minister may exempt any individual ship or class or description of ships from any of the provisions of these Regulations, on such terms as he may specify and may, on reasonable notice, alter or cancel any such exemption.

### Responsibilities of owner and master

12 (1) The owner or master of every ship to which the Convention applies shall ensure that—

- (a) the equipment specified in the Convention is maintained in accordance with the Convention;

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- (b) after any survey required by these Regulations has been completed, no material change is made in the certified equipment subject to such survey, without the approval of the Certifying Authority; and
- (c) whenever an accident occurs to a ship or a defect is discovered, either of which affects the efficiency or completeness of its radio equipment, the accident or defect is reported at the earliest opportunity, to the Minister, who shall cause investigations to be initiated to determine whether a survey is necessary and shall in that event require such a survey to be carried out.

(2) If the ship is in a port outside Bermuda, then the master or owner shall, in addition, make such a report immediately to the proper authority of the State in which the port is situated, and the appointed surveyor shall ascertain from the proper authority in question that, that report was duly made.

### Procedure to be adopted when radio installations are deficient

13 (1) When an authorised person finds a radio installation is non-compliant during a survey, the master of the vessel (or responsible person) must be advised in writing, of the fault.

(2) It is the responsibility of the master (or responsible person) to make the necessary arrangements to correct the deficiency noted by the authorised person.

(3) If a deficiency which significantly affects safety cannot be rectified in the port of survey, a certificate should not be issued or endorsed or a declaration completed, until the deficiency has been rectified, or a timescale agreed with the Chief Marine Surveyor.

### Penalties

14 If a ship to which these Regulations apply proceeds or attempts to proceed to sea without any of the requirements of these Regulations having been complied with, the owner or master of the ship, each commit an offence and is liable on summary conviction, to a fine not exceeding \$10,000 or on conviction on indictment, to imprisonment for a term not exceeding two years or a fine of \$50,000 or both.

### Defence

15 It shall be a defence for a person charged under these Regulations to show that he took all reasonable precautions to avoid the commission of the offence.

### Power to detain

16 In any case where a ship to which these Regulations apply does not comply with the requirements of these Regulations, the ship is liable to be detained and section 242 of the Merchant Shipping Act 2002 (which relates to the detention of a ship) shall have effect in relation to the ship, subject to the modification that for the words "this Act" wherever they appear, there shall be substituted "the Merchant Shipping (Radio Equipment Survey) Regulations 2021".

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Made this 29th day of December 2021

Minister of Transport

[Operative Date: 29 December 2021]