

MERCHANT SHIPPING ORDINANCE, 2021

MERCHANT SHIPPING (SAFETY OF NAVIGATION) REGULATIONS, 2021

(Section 54)

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MERCHANT SHIPPING ORDINANCE, 2021

MERCHANT SHIPPING (SAFETY OF NAVIGATION) REGULATIONS, 2021

In exercise of the powers conferred by section 54 of the Merchant Shipping Ordinance, 2021, the Governor in Council makes the following Regulations:

PART I PRELIMINARY**Citation**

1. These Regulations may be cited as the Merchant Shipping (Safety of Navigation) Regulations, 2021.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—
 “**Chapter V**” means Chapter V of SOLAS;
 “**IMO**” means the International Maritime Organization;
 “**International Regulations**” means the Convention on the International Regulations for Preventing Collisions at Sea 1972, including Annexes I to IV, as amended; and
 “**Maritime Authority**” means the person appointed in accordance with section 2A;
 “**SOLAS**” means the International Convention for the Safety of Life at Sea 1974, its Protocols of 1978 and 1988, and any amendments in force on the date of commencement of these regulations.

(2) A word or expression used in these Regulations which is defined in SOLAS or the International Regulations has the meaning given in SOLAS or the International Regulations.

General application

3. (1) These Regulations apply to—
- (a) a St Helena ship, wherever the ship may be;
 - (b) a foreign ship while the ship is within the waters of St Helena;
 - (c) a seaplane which is registered in St Helena and is on or over waters, wherever the waters may be; and
 - (d) any other seaplane which is on or over St Helena.

(2) In this regulation “ship” includes—

- (a) a fishing vessel; and
- (b) a hovercraft.

Construction of references in SOLAS to Administrations etc, Flag States and Contracting Governments

4. In applying any provision of Chapter V of SOLAS in accordance with these Regulations, unless the context indicates otherwise—

- (a) a reference to the “Administration of a State”, the “Administration” or to the “Flag State” is to be construed—
 - (i) in relation to a St Helena ship, as a reference to the Maritime Authority; and
 - (ii) in relation to a foreign ship, as a reference to the maritime administration of the ship’s Flag State or, if none, the government of the Flag State; and
- (b) a reference to a Contracting Government or a Party is to be construed as a reference to—
 - (i) in relation to St Helena waters the St Helena Government; and
 - (ii) in relation to any other State or the waters of any other State, the Government of that State if it is a Party, and

references to a duty or requirements imposed on, or undertakings given by, an Administration, Flag State, Contracting Government or Party are to be read accordingly.

Conferral of functions on the St Helena Government

5. (1) The functions conferred on the St Helena Government by Chapter V must be discharged in accordance with this regulation.

(2) The Maritime Authority must perform the functions conferred on the St Helena Government under the following Regulations in Chapter V—

- (a) Regulation V/4 (navigational warnings);
- (b) Regulation V/5 (meteorological service and warnings);
- (c) Regulation V/7 of Chapter V (search and rescue services)
- (d) Regulation V/8 (lifesaving signals);
- (e) Regulation V/9 (hydrographic services);
- (f) Regulation V/10 (ships routeing);
- (g) Regulation V/11 (ship reporting systems);
- (h) Regulation V/12 (vessel traffic services); and
- (i) Regulation V/13 (establishment and operation of aids to navigation).

Discretionary functions of the Maritime Authority

6. Where a function is conferred by regulation 5, in exercising that function, the Maritime Authority must have regard to any provision of the following which is relevant to the function—

- (a) guidance issued or adopted in accordance with section 2A(4) of the Ordinance;
- (b) a Code; and
- (c) IMO guidelines.

Application of Regulations

7. (1) Regulations 8, 9, 10, 11, 12, 13 and 14 apply to all ships to which these Regulations

apply on all voyages, except—

- (a) naval auxiliaries and other ships owned or operated by a Party and used only on Government non-commercial service; and
- (b) ships operating solely in waters landward of the St Helena baseline.

(2) A rigidly connected composite unit of a pushing vessel and associated pushed vessel, when designed as a dedicated and integrated tug and barge combination, must be regarded as a single ship for the purpose of regulations 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14.

Requirements of Chapter V

8. (1) Subject to sub-regulation (2), a ship to which regulations 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 apply must comply with the provisions of Chapter V which are applicable to the ship's type, size and date of construction.

(2) The provisions of Chapter V which are specified in sub-regulation (3) do not apply to—

- (a) a ship below 150 GT engaged on any voyage;
- (b) a ship below 500 GT not engaged on international voyages; and
- (c) a fishing vessel.

(3) The provisions of Chapter V to which sub-regulation (2) refers are—

- (a) regulation V/15 (principles relating to bridge design, design and arrangement of navigational systems and equipment and bridge procedures);
- (b) regulation V/16 (maintenance of equipment);
- (c) regulation V/17 (electromagnetic compatibility);
- (d) regulation V/18 (approval, surveys, and performance standards of navigational systems and equipment and voyage data recorders);
- (e) regulation V/19 (carriage requirements for shipborne navigational systems and equipment);
- (f) regulation V/20 (voyage data recorders);
- (g) regulation V/21 (International Codes of Signals and IAMSAR Manual);
- (h) regulation V/22 (navigation bridge visibility);
- (i) regulation V/23 (pilot transfer arrangements);
- (j) regulation V/24 (use of heading and/or track control systems);
- (k) regulation V/25 (operation of steering gear);
- (l) regulation V/26 (steering gear testing and drills);
- (m) regulation V/27 (nautical charts and nautical publications); and
- (n) regulation V/28 (records of navigational activities and daily reporting).

Ships' manning

9. (1) A ship must not proceed to sea unless it is sufficiently and efficiently manned.

(2) For the purpose of this regulation, a ship is sufficiently and efficiently manned if the manning of the ship is maintained at all times to at least the levels specified in the safe manning document issued in respect of the ship and—

- (a) in the case of a St Helena ship, the Maritime Authority has issued a valid safe manning document in respect of the ship; or

(b) in the case of a foreign ship, the maritime administration of the ship's flag State has issued a valid safe manning document in respect of the ship.

(3) A safe manning document must be issued by the Maritime Authority if the Maritime Authority is satisfied, on the application of the ship's owner, that the number, grades and qualifications of the crew proposed in the application secure the objectives and principles of minimum safe manning set out in Annex 1 to IMO Resolution A.1047(27) (Principles of Minimum Safe Manning) and that the principles of minimum safe manning will be met by the ship if the ship proceeds to sea.

(4) The safe manning document issued in respect of a ship must be kept on board the ship at all times.

(5) Where, after the Maritime Authority has issued a safe manning document, there is any change in circumstances which is pertinent to that document, the owner must immediately inform the Maritime Authority to the changes.

(6) Upon receipt of notification under sub-regulation (5), the Maritime Authority may review the safe manning document's continuing validity or approve amendments to the safe manning document.

Responsibility to maintain Chapter V equipment

10. (1) The master must ensure that adequate arrangements are in place and all reasonable steps are taken to ensure that the performance of the systems and equipment required under Chapter V is maintained.

(2) Notwithstanding sub-regulation (1), if a suitable arrangement is made by the master to take any inoperative equipment or unavailable information into account in planning and executing a safe voyage to a port where repairs can take place, malfunction of that equipment must not be considered as making the ship unseaworthy or as a reason for delaying the ship in ports where repair facilities are not readily available.

Operational limitations

11. (1) This regulation applies to a passenger ship engaged on an international voyage.

(2) A list of all limitations on the operation of a passenger ship, including exemptions, restrictions in operating areas, weather restrictions, sea state restrictions, restrictions in permissible loads, trim, speed and any other limitations, whether imposed by the Maritime Authority or established during the design or the building stages, must be compiled before the passenger ship is put in service.

(3) The list, together with any necessary explanations, must be—
(a) documented in a form acceptable to the Maritime Authority; and
(b) kept on board readily available to the master.

(4) The master and owner must ensure that the list is kept updated.

(5) If the language used is not English the list must also be provided in English.

Masters' discretion

12. A person must not prevent or restrict the master from taking or executing any decision which, in the master's professional judgement, is necessary for safety of life at sea and protection of the marine environment.

Misuse of distress signals

13. A person must not use of international distress signal, except for the purpose of indicating that a person is in distress, and the use of any signal which may be confused with an international distress signal are prohibited.

Exemptions and equivalents: Chapter V

14. (1) The Maritime Authority may grant—

- (a) general exemptions from the provisions of Regulations V/15, V/17, V/18, V/19 (except V/19.2.1.7), V/20, V/22, V/24, V/25, V/26, V/27, and V/28 of Chapter V to ships without mechanical means of propulsion;
- (b) exemptions or equivalents of a partial or conditional nature to individual ships when any such ship is engaged on a voyage where the maximum distance of the ship from the shore, the length and nature of the voyage, the absence of general navigational hazards, and other conditions affecting safety are such as to render the full application of Chapter V unreasonable or unnecessary, provided that the Maritime Authority has taken into account the effect such exemptions and equivalents may have upon the safety of all other ships;
- (c) exemptions to individual ships from the application of the provisions of—
 - (i) Regulation V/19.2.4 of Chapter V, where the circumstances specified in Regulation V/19.2.4.4 of that Chapter apply; and
 - (ii) Regulation V/19.2.10 of Chapter V, where the circumstances specified in Regulation V/19.2.11 of that Chapter apply; and
- (d) to individual ships constructed before 1 July 2002, other than ro-ro passenger ships, exemptions from being fitted with a voyage data recorder where the circumstances specified in Regulation V/20.3 of Chapter V apply.

(2) The Maritime Authority must submit to the IMO, as soon as possible after 1st January in each year, a report summarizing all new exemptions and equivalents granted under this regulation during the previous calendar year and giving the reasons for granting such exemptions and equivalents.

Construction of references to vessels in the International Regulations

15. In applying any provision of the International Regulations in accordance with these regulations, a reference to a vessel is to be construed as a reference to a ship.

Prevention of collisions

16. A ship must comply with the provision of Rules 1 to 36 and Annexes I to III of the International Regulations

Signals of distress

17. (1) The master must not use a signal of distress unless that signal to be used as a signal of distress is listed in Annex IV of the International Regulations.

(2) The master must not order any signal of distress to be used in relation to the ship unless satisfied that—

- (a)* the ship is in serious and imminent danger, or that another ship or an aircraft or person is in serious and imminent danger and cannot send a signal; and
- (b)* the ship, aircraft or person in danger requires immediate assistance in addition to any assistance then available.

(3) A person, other than the master, must not use a signal of distress unless the master has authorised or ordered the person to use the signal.

(4) If a signal of distress is sent from a ship by radio or other means the master must cause the signal to be withdrawn by all appropriate means as soon as the master is satisfied that the relevant ship, aircraft or person to which or to whom the signal of distress pertains is no longer in need of additional immediate assistance.

Exemptions etc from the International Regulations

18. (1) If the Maritime Authority is satisfied that it is unreasonable or impracticable for a ship to comply with Rule 1(e) of the International Regulations (ship of special construction or purpose) the Maritime Authority may in writing exempt the ship to which Rule 1(e) of the International Regulations applies from any of the provisions of the International Regulations with respect to—

- (a)* the number, position, range or arc of visibility of lights or shapes; and
- (b)* the disposition and characteristics of sound-signalling appliances.

(2) Where the Maritime Authority grants an exemption in respect of a ship under sub-regulation (1), the ship must comply with any other requirements that the Maritime Authority specifies (which requirements may in particular refer to other enactments), as the closest possible compliance with the International Regulations with respect to that ship, in relation to—

- (a)* the number, position, range or arc of visibility of lights or shapes; and
- (b)* the disposition and characteristics of sound-signalling appliances.

(3) The Maritime Authority may, on the giving of reasonable notice, alter or cancel an exemption granted under sub-regulation (1).

(4) The Maritime Authority may in writing exempt a ship to which sub-regulation (5) applies (individually or as a member of a class) from compliance with these Regulations to the extent specified in Rule 38(a) to (h) of the International Regulations.

- (5) A ship which may be exempted is a ship—
- (a) to which Rule 38 of the International Regulations applies (ship constructed before the entry into force of the International Regulations); and
 - (b) which complies with the requirements of the International Regulations for Preventing Collisions at Sea, 1960.

Offences and penalties

19. (1) A person who contravenes regulation 10, 11 or 12 commits an offence.
Penalty: A fine of £10,000.

(2) A person who contravenes regulation 13 commits an offence.
Penalty: A fine of £10,000.

(3) A contravention of regulation 13 is considered to be a contravention by—

- (a) the owner;
- (b) the master; and
- (c) any other person for the time being responsible for the conduct of a ship.

(4) A contravention of regulation 16 is considered to be a contravention by the master and a master who contravenes regulation 16 commits an offence.
Penalty: On summary conviction a fine of £20,000.

(5) A contravention of regulation 17(1), (2) or (4) is considered to be a contravention by the master and a master who contravenes regulation 17(1), (2) or (4) commits an offence.
Penalty: On summary conviction a fine of £10,000.

(6) A person who contravenes regulation 17(3) commits an offence.
Penalty: On summary conviction a fine of £10,000.

(7) A contravention of regulation 18(2) is considered to be a contravention by the master and a master who contravenes regulation 18(2) commits an offence.
Penalty: On summary conviction a fine of £10,000.

Defences

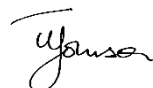
20. It is a defence for a person charged with an offence under these Regulations to show that the person took all reasonable precautions to avoid the commission of the offence.

Power to detain

21. Where a provision of these Regulations is contravened, a ship may be detained in accordance with the manner prescribed under the Ordinance.

HB 52 *No.17 Merchant Shipping (Safety of Navigation)Regulations, 2021.*

Made by the Governor in Council this 11th day of October 2021.



Connie Johnson
Clerk of Councils

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for implementation of matters relevant to Chapter V of the Safety of Life At Sea Convention and for the Convention on the International Regulations for Preventing Collisions at Sea.