

ST HELENA

REVISED EDITION OF THE LAWS, 2017

MARITIME & AVIATION LAW

MERCHANT SHIPPING ORDINANCE¹

*Ordinance 1 of 2021
In force on 12 October 2021²*

Amended by Ordinance 11 of 2021

**MERCHANT SHIPPING (SAFETY AND HEALTH)
(LOAD LINES) REGULATIONS, 2021**

Page 63

Legal Notice 16 of 2021

**MERCHANT SHIPPING (SAFETY OF NAVIGATION)
REGULATIONS, 2021**

Page 76

Legal Notice 17 of 2021

**MERCHANT SHIPPING (ACCIDENT REPORTING
AND INVESTIGATION) REGULATIONS, 2021**

Page 83

Legal Notice 18 of 2021

**MERCHANT SHIPPING (SAFETY OF LIFE AT SEA)
REGULATIONS, 2021**

Page 101

Legal Notice 19 of 2021

**The following items of subsidiary legislation were made locally under the UK
Merchant Shipping laws that apply to St Helena:**

COMPULSORY INSURANCE REGULATIONS, 1976

Page 140

Legal Notice 7 of 1976

In force 1 April 1976

No amendments to 1 November 2017

JAMESTOWN (REGISTRY PORT) ORDER, 1977

Page 143

Legal Notice 23 of 1977

In force 30 September 1977

No amendments to 1 November 2017

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 12 October 2021.

² LN 15 of 2021

MERCHANT SHIPPING ORDINANCE, 2021

ARRANGEMENT OF SECTIONS

PART 1 PRELIMINARY

1. Citation and commencement
2. Interpretation
- 2A. Maritime Authority
3. Application of Ordinance to Government ships

PART 2 BRITISH AND ST HELENA SHIPS

4. Part replaces UK Merchant Shipping Acts
5. St Helena ships
6. Flags St Helena ships may fly
7. Duty to declare national character of ship

PART 3 REGISTRATION REQUIREMENTS

General

8. Port of registry for St Helena ships
9. Limitation on ship registration
10. Keeping of register
11. Registration of St Helena ships
12. Status of certificate of registration
13. Tonnage of ships
14. Private law provisions for registered ships and liability of owner
15. Offences relating to a ship's St Helena connection

Regulations

16. Registration regulations
17. Tonnage regulations
18. Bareboat charter regulations

Supplemental

19. Disclosure of information relating to registration

PART 4 EMPLOYMENT IN ST HELENA SHIPS

Application of Part

- 20. Application of Part
- 21. Interpretative provisions

Engagement and discharge of crews

- 22. Crew agreement regulations
- 23. Discharge of seafarers regulations

Wages, etc.

- 24. Wages regulations
- 25. Account regulations
- 26. Breach of crew agreement regulations
- 27. Dispute settlement regulations
- 28. Restriction on assignment of and charge upon wages
- 29. Allotment regulations
- 30. Right to wages in certain circumstances
- 31. Claims for maintenance regulations
- 32. Remedies of master for remuneration, disbursements and liabilities

Safety, health and welfare

- 33. Obligation of ship owners as to seaworthiness
- 34. Crew accommodation regulations
- 35. Provisions and water complaints regulations
- 36. Medical treatment, etc. regulations

Manning, qualifications, training and uniform

- 37. Application of sections 39 and 40
- 38. Manning regulations
- 39. Crew's English knowledge regulations
- 40. Unqualified persons going to sea as qualified officers or seafarers
- 41. Young persons' regulations

Offences by masters and persons employed on ships

- 42. Conduct endangering ships, structures or individuals
- 43. Concerted disobedience and neglect of duty

Disciplinary offences

- 44. Codes of conduct regulations

Disqualifications and inquiries

- 45. Fitness or conduct of qualified officers' regulations
- 46. Disqualification of holder of certificates - other than officer
- 47. Inquiries and appeals regulations

Civil liability of seafarers for offences

48. Relief and return of persons' regulations

Documentation

49. Official logbook regulations
50. Crew list regulations
51. St Helena seafarer's card regulations
52. Discharge book regulations
53. Handing over of documents by master

PART 5
SAFETY

Safety and health on ships

54. Chapter V of the Annex to the SOLAS Convention regulations
55. Safety and health regulations
56. Submersible and supporting apparatus regulations

Special provisions

57. Dangers to navigation regulations

Assistance at sea

58. Duty of ship to assist the other in case of collision
59. Duty to assist persons in danger and to respond to distress calls

Unsafe ships

60. Dangerously unsafe ships regulations
61. Master liable for unsafe operation of ships

Temporary exclusion zones

62. Temporary exclusion zone regulations

Offences in connection with passenger ships

63. Offences in connection with passenger ships
64. Stowaways
65. Unauthorised presence on board ship
66. Master may put person under restraint
67. Unauthorised persons: offences relating to safety
68. Return to be furnished by masters of ships as to passengers
69. Returns of births and deaths in ships, etc.

PART 6
PREVENTION OF POLLUTION

CHAPTER 1
POLLUTION GENERALLY

- 70. Prevention of pollution from ships regulations
- 71. Transfers between ships in St Helena waters regulations

CHAPTER 2
WASTE RECEPTION FACILITIES

- 72. Use of waste reception facilities regulations

CHAPTER 3
OIL POLLUTION

General provisions

- 73. Discharge or escape of oil from ships
- 74. Restrictions on transfer of oil at night
- 75. Defence of person charged with offence under section 75 or 75

Shipping casualties

- 76. Directions in respect of shipping casualties
- 77. Direction following accident: person in control of land
- 78. Other directions and orders
- 79. Action in lieu of direction
- 80. Enforcement
- 81. Variation, revocation and issue of direction
- 82. Unreasonable loss and damage
- 83. Expenses
- 84. Ships to which section 76, 77 and 78 applies

Enforcement

- 85. Oil records
- 86. Enforcement of Conventions relating to oil pollution

Miscellaneous and Supplementary

- 87. Exemptions

PART 7
AIDS TO NAVIGATION

- 88. Establishment and management of aids to navigation

- 89. Nautical publications, charts and other information
- 90. Offences relating to aids to navigation
- 91. Detention of ships
- 92. Fire or lights detrimental to navigation

PART 8 WRECK

Administration

- 93. Functions of Governor as to wreck

Ships in distress

- 94. Ships in distress
- 95. Liability for damage in case of plundered ship

Dealing with wreck

- 96. Wreck regulations

Offences in respect of wreck

- 97. Wreck offences
- 98. Powers of entry, etc.

Removal of dangerous wrecks

- 99. Powers of Harbour Master in respect of dangerous wrecks

PART 9 ENFORCEMENT OFFICERS AND THEIR POWERS

Enforcement Officers

- 100. Appointment of a person to administer the Ordinance

Powers and functions

- 101. Functions of inspector
- 102. Powers to require production of ships' documents
- 103. Powers to inspect ships and their equipment, etc.

Improvement notices and prohibition notices

- 104. Improvement notices
- 105. Prohibition notices
- 106. Arbitration regulations

PART 10
ACCIDENT INVESTIGATIONS AND INQUIRIES

Marine accident investigations

107. Investigation of marine accidents regulations

Inquiries into and reports on deaths and injuries

108. Inquiries into deaths of crew members and others

PART 11
LEGAL PROCEEDINGS

109. Offences by a company

110. Accessories and abettors

Jurisdiction

111. Jurisdiction in respect of offences

112. Jurisdiction in case of offences on board ship

113. Offences committed by St Helena seafarers

Return of offenders

114. Return of offenders regulations

Detention of ship and distress on ship

115. Detention of ship regulations

116. Enforcement of fines, costs and wage payments

Special evidential provisions

117. Admissibility in evidence of certain documents

Service of documents

118. Service of documents

PART 12
GENERAL PROVISIONS

119. Administration

120. Returns, etc. to Governor

121. Application of Ordinance to certain structures

122. Proceedings on forfeiture of a ship

123. Notices and forms

124. Regulations - general provisions

SCHEDULE: Private law provisions for St Helena ships

AN ORDINANCE to regulate merchant shipping; and for connected and incidental purposes.

PART 1 PRELIMINARY

Short title and commencement

(1) This Ordinance may be cited as the Merchant Shipping Ordinance, 2021, and comes into force on a date fixed by the Governor by Order.

(2) An Order under subsection (1) may—

- (a) appoint different dates for different provisions or for different purposes of the same provision; and
- (b) contain such transitional or consequential provisions as appear to the Governor to be necessary or convenient.

Interpretation

2. In this Ordinance, unless the context otherwise indicates—
“**accident**”, in respect of a ship, means—

- (a) a collision of ships;
- (b) a stranding;
- (c) any other incident of navigation; and
- (d) any other event (whether on board a ship or not),
that results in material damage to a ship or a ship’s cargo or in an imminent threat of material damage to a ship or a ship’s cargo;

“**aid to navigation**” and “**aid**” means—

- (a) a lighthouse;
- (b) a buoy beacon;
- (c) a radio aid; and
- (d) any other light, signal or mark,
established to aid marine navigation and includes any building, mooring or work associated with an aid to marine navigation;

“**British ship**” has the meaning given to that expression by section 1 of the Merchant Shipping Act, 1995;

“**Consolidated Fund**” means the Fund established by section 98 of the Constitution;

“**company**” means a corporate body that is incorporated under any Ordinance or law and whether the registered office of that corporate body is located in St Helena or elsewhere;

“**consular officer**”, in respect of a foreign country, means the officer recognised by Her Majesty as a consular officer of the foreign country;

“**crew accommodation**” includes—

- (a) sleeping rooms;
- (b) mess rooms;
- (c) sanitary accommodation;
- (d) hospital accommodation;
- (e) recreation accommodation;
- (f) storerooms; and
- (g) catering accommodation,

- provided for the use of seafarers that is not also used by or provided for the use of passengers;
- “crew agreement”** means an agreement between a person who employs a person to work on a ship and the person;
- “customs officer”** bears the meaning as assigned in the Customs and Excise Ordinance, 1999;
- “Exclusive Economic Zone”** means that established by proclamation dated 13th July, 2017 and published as LN No. 16 of 2017;
- “fishing vessel”** means a ship used to fish with the intention of fishing for profit, but does not include a ship used wholly to convey a person wishing to fish for pleasure;
- “foreign ship”** means a ship that is not a British ship;
- “harbour authority”** means a person or body of persons empowered by the Ports Ordinance, 2016 to make charges in respect of ships entering a port in St Helena or using facilities therein;
- “Harbour Master”** means the person appointed pursuant to section 3 of the Ports Ordinance, 2016;
- “hazardous pollution”** in respect of an escape from a ship, means an escape of oil or a mixture containing oil or an escape of another substance that is liable or likely—
- (a) to create a hazard to human health;
 - (b) to harm living resources and marine life;
 - (c) to damage amenities; or
 - (d) to interfere with other legitimate uses of the sea;
- “hazardous substance”** includes oil and means—
- (a) any substance which created a hazard to human health, harms living resources or marine life, damages amenities or interferes with the lawful use of the sea; and
 - (b) any substance prescribed under section 78 to be a hazardous substance;
- “IMO”** means the International Maritime Organization established by a United Nation’s Convention adopted at the United Nations Maritime Conference held in Geneva, Switzerland that entered into force on 17 March 1958;
- “IMO Convention”** or **“convention”** means a convention, agreement or other suitable instrument drafted by the IMO in accordance with Article 2 of the Convention that established the IMO;
- “inspector”** means a person appointed to be an inspector under section 100;
- “management agreement”**, in respect of a ship, means an agreement, other than a charter-party or a contract of employment, under which the ship is managed, either wholly or in part, by a person other than the owner, whether on behalf of the owner or on behalf of some other person;
- “Maritime Authority”**³ means the person appointed in accordance with section 2A;
- “master”**, in respect of a ship, means the ship’s captain and a person (except a pilot) having for the time being charge of the ship;
- “MCA”**⁴ means the United Kingdom’s Maritime and Coastguard Agency, an executive agency of the United Kingdom’s Secretary of State for Transport;
- “Merchant Shipping Act”** includes the Merchant Shipping Act 1894 and the Merchant Shipping Act 1995 of the United Kingdom as for the time being in force and as the context may require or unless otherwise stated;
- “oil”** means—
- (a) oil of any description;
 - (b) spirit produced from oil of any description; and

³ Definition of “Maritime Authority” inserted by Ord. 11 of 2021

⁴ Definition of “MCA” inserted by Ord. 11 of 2021

(c) coal tar;

“owner”, in relation to ship that is—

(a) chartered by demise; or

(b) managed, either wholly or in part, by a person other than the ship’s owner under the terms of a management agreement,

and includes the ship’s charterer or manager, as the case may be;

“port” has the same meaning as that prescribed in the Ports Ordinance, 2016;

“pollution” means significant pollution in St Helena, St Helena waters or an area of the sea specified pursuant to section 70;

“private law provisions for St Helena ships” means—

(a) the provisions set out in the Schedule; and

(b) the provisions of the registration regulations made for the purpose of the Schedule;

“proper officer” means a consular officer duly appointed as a public officer in respect of a port outside St Helena as an officer exercising functions like those of a superintendent;

“qualifying foreign ship” means any ship other than—

(a) a British ship; or

(b) a ship which is not registered pursuant to this Ordinance;

“receiver” means a receiver of wreck appointed under section 93(2);

“register” means the register maintained under section 10;

“Registrar” means the person appointed by the Governor to be the Registrar;

“registration regulations” means regulations made under section 16;

“risk to safety” means a risk to the safety of persons, property or anything navigating in or using St Helena waters;

“safety regulations” means regulations made under section 55;

“Secretary of State” means the United Kingdom’s Secretary of State concerned with merchant shipping;

“seafarer” means a person who is or was employed on a St Helena ship under a crew agreement;

“serious injury” includes an injury which is sustained by a person, resulting in incapacitation where the person injured is unable to function normally for a period of more than 72 hours, commencing within 7 days from the date when the injury was suffered;

“ship” includes every description of ship used in navigation including a ship’s boat, a life-raft, lighter, barge or like ship;

“specified”, when used in respect of regulations or a direction, means specified in the regulations or the direction;

“St Helena connection” in relation to a ship, means a connection the ship is required to have under the registration regulations so that the ship is qualified to be registered as a St Helena ship;

“St Helena ship” means a ship that is a St Helena ship by virtue of section 5;

“St Helena waters” means the sea within the seaward limits of the territorial sea of St Helena;

“superintendent” means a mercantile marine superintendent appointed under section 100;

“surveyor of ships” means a person appointed under section 100;

“tonnage regulations” means regulations to be made under section 17;

“wages” includes emoluments;

“wreck” means—

(a) jetsam;

(b) flotsam;

(c) lagan;

(d) derelict; or

(e) a fishing boat or fishing gear lost or abandoned at sea,

that is found or taken possession of within St Helena waters or beyond St Helena waters and brought within them.

Maritime Authority

2A.⁵ (1) Subject to subsection (5), the Governor in Council may in writing appoint a person to be the Maritime Authority which will have responsibility for the performance of functions and the execution of duties prescribed in Regulations and where a person is not appointed the functions of the Maritime Authority must be performed by the Governor in Council until the person is appointed.

(2) An appointment made pursuant to subsection (1) may be revoked at the discretion of the Governor in Council and may be made unconditionally or on the conditions specified by the Governor in Council.

(3) Further to subsection (2) and notwithstanding an appointment pursuant to subsection (1) the Governor in Council may at the discretion of the Governor in Council, by direction in writing to the Maritime Authority, retain responsibility for any function or duty prescribed to be performed by the Maritime Authority.

(4) The Maritime Authority may publish guidance to give effect to Regulations made pursuant to this Ordinance and an owner and a master must have regard to any guidance published by the Maritime Authority.

(5) The guidance of the MCA must be obtained by the Governor in Council before approving—

- (a) an appointment pursuant to subsection (1); and
- (b) the terms and conditions of an appointment pursuant to subsection (1).

Application to Government ships

3. This Ordinance does not apply to a ship that—

- (a) forms part of Her Majesty's Navy; or
- (b) does not form part of Her Majesty's Navy but belongs to Her Majesty or is held by a person on behalf of, or for the benefit of, the Crown in right of the United Kingdom.

PART 2 BRITISH AND ST HELENA SHIPS

Part replaces UK Merchant Shipping Acts

4. This Part replaces the provisions of the United Kingdom Merchant Shipping Acts 1894 to 1995 in so far as the provisions relate to the registration of ships as St Helena ships.

St Helena ships

5. (1) A ship is a St Helena ship if, immediately before the commencement of this Part, the ship was a St Helena ship by virtue of any provision of the Merchant Shipping Acts

⁵ Section 2A inserted by Ord. 11 of 2021

1894 to 1995 in their application to St Helena.

(2) A ship is also a St Helena ship if the ship is registered under Part 3.

(3) Even though a ship is not a St Helena ship by virtue of registration under Part 3, the ship is still a St Helena ship if—

- (a) the ship is less than 24 metres in length when measured in accordance with the tonnage regulations;
- (b) the ship has a St Helena connection;
- (c) the ship is wholly owned by a person who, under the registration regulations is qualified to be owner of a St Helena ship; and
- (d) the ship is not registered in any jurisdiction.

Flags St Helena ships may fly

6. A St Helena ship may fly—

- (a) the red ensign without defacement or modification;
- (b) colours allowed to be worn in pursuance of a warrant from Her Majesty or the Secretary of State in respect of St Helena ships; or
- (c) the red ensign defaced with the arms of St Helena, if authorised or confirmed by Her Majesty by Order in Council made under section 2 of the Merchant Shipping Act, 1995.

Duty to declare national character of ship

7. (1) A master must in the manner prescribed declare to a customs officer the name of the jurisdiction to which a ship belongs and the customs officer must not grant a clearance or transire for the ship until the master has made the declaration to the customs officer.

(2) The customs officer must enter on the clearance or transire the jurisdiction declared by the master.

(3) If the master fails to declare the name of the jurisdiction, the customs officer may, in the manner prescribed, detain the ship until the declaration is made.

PART 3 REGISTRATION REQUIREMENTS

General

Port of registry for St Helena ships

8. The port of registry for St Helena ships is Jamestown.

Limitation on ship registration

9. A ship may not be registered as a St Helena ship if such a ship would be prohibited from registration under an Order in Council made by Her Majesty under section 18 of the Merchant Shipping Act 1995.

Keeping of register

10. (1) There continues to be a register of ships registered in St Helena and a Registrar whose appointment continues in accordance with the Merchant Shipping Act, 1894 and who continues to have responsibility for maintaining the register of ships.

- (2)** The register of ships must—
 - (a)* be divided into parts so that a clear distinction is made between the registration of different classes of ships; and
 - (b)* include the registration of fishing vessels.
- (3)** The Registrar must maintain the register in accordance with—
 - (a)* the registration regulations; and
 - (b)* the private law provisions for St Helena ships.

(4) The Registrar must make the register available for public inspection during the normal business hours of the office of the Registrar.

Registration of St Helena ships

11. (1) If an application is made for registration the application must be made in accordance with the registration regulations.

(2) The Registrar must register a ship for which an application under subsection (1) is made as a St Helena ship if the requirements of the registration regulations are satisfied.

(3) A ship must not be registered if the ship is prohibited from registration by the registration regulations.

(4) If a ship is registered in a jurisdiction outside St Helena and the owner of the ship registers that ship as a St Helena ship the owner of the ship must take all reasonable steps to secure the de-registration of the ship in the jurisdiction outside St Helena as soon as is practicable after the registration of the ship as a St Helena ship.

(5) A person who contravenes subsection (4) commits an offence.
Penalty: A fine of £2,000.

Status of certificate of registration

12. The certificate of registration of a St Helena ship shall be used only for the lawful navigation of the St Helena ship and shall not be subject to detention to secure any private right or claim.

Tonnage of ships

13. (1) The Registrar must, in the entry in the register for a ship, record the tonnage of the ship as ascertained—

- (a)* under the tonnage regulations for the purpose of the ship's registration; or
- (b)* subsequently following any re-measurement of the tonnage of the ship under the tonnage regulations.

(2) Subject to subsection (3), the tonnage recorded under subsection (1) is the tonnage of the ship.

(3) If an Order in Council is made under section 12 of the Merchant Shipping Act, 1995 in respect of ships of a jurisdiction, the Governor may, by Order, provide that ships of that jurisdiction, without being re-measured in St Helena, are to be treated as being of the tonnage denoted by the certificates of registration of the ships or other national papers of the ships.

Private law provisions for registered ships and liability of owner

14. (1) The Schedule applies with respect to the title to, and the registration of mortgages over, St Helena ships.

(2) The Schedule does not apply in respect of a St Helena ship that is excluded from the application of the Schedule by the registration Regulations.

(3) Where a person is beneficially interested, otherwise than as a mortgagee, in a St Helena ship or in a share in a St Helena ship registered in the name of some other person as the owner of the St Helena ship, the person with a beneficial interest, as well as the registered owner, is liable to any pecuniary penalty imposed on the registered owner by or under this Ordinance or any other Ordinance providing a pecuniary penalty in respect of the owner of a registered ship.

(4) The termination of the registration of a St Helena ship under the registration regulations does not affect an entry made in the register relating to an undischarged registered mortgage of the ship or of a share in the ship.

(5) In subsection (4) “registered mortgage” has the same meaning as that provided in the Schedule.

Offences relating to a ship’s St Helena connection

15. (1) A person must not, in relation to a matter relevant to the St Helena connection of a ship—

- (a) make to the Registrar a statement that the person knows to be false;
- (b) recklessly make a statement that is false to the Registrar; or
- (c) furnish to the Registrar information that is false.

(2) If a change occurs affecting the St Helena connection of a ship, the ship’s owner must notify the Registrar of the change as soon as practicable.

(3) A person must not intentionally alter, suppress, conceal or destroy a document that contains information relating to the St Helena connection of a ship that the person is required to produce to the Registrar pursuant to the registration regulations.

(4) A person who contravenes subsection (1), (2), or (3) commits an offence.
Penalty: A fine not exceeding £15,000 or imprisonment for a term of 2 years, or both.

Regulations

Registration regulations

16. (1) The Governor in Council may make regulations that provide for the registration of ships in St Helena.

- (2)** Regulations made under subsection (1) may prescribe—
- (a)* the persons who are qualified to be owners of a St Helena ship and the extent of their ownership required for registration;
 - (b)* requirements designed to secure that, taken into account with the ownership requirements, only a ship that has a St Helena connection may be registered;
 - (c)* the manner in which a person may apply for the registration of a ship;
 - (d)* the information and evidence to be provided for the registration of a ship;
 - (e)* the shares in the property in, and the permitted number of owners (including joint owners) of, a ship;
 - (f)* when a certificate of registration is required to be produced or surrendered;
 - (g)* the names that may or must not be used for a St Helena ship;
 - (h)* the marks to be displayed on a St Helena ship;
 - (i)* the period for which the registration of a St Helena ship remains effective without renewal;
 - (j)* the production to the Registrar in respect of a St Helena ship of a declaration of a St Helena connection or other information relating to that connection at specified intervals or at the Registrar's request;
 - (k)* the surveys and inspections to be undertaken in respect of a St Helena ship or a ship to be registered as a St Helena ship;
 - (l)* the records to be kept of the tonnage of a St Helena ship as ascertained, or re-ascertained, under the tonnage regulations;
 - (m)* when and the circumstances under which the registration of a ship may be refused;
 - (n)* when the registration of a St Helena ship may be suspended or terminated and the course of action to be taken if the St Helena ship is suspended or terminated;
 - (o)* when the registration of a St Helena ship expires and the course of action to be taken when the registration expires; and
 - (p)* the method to be used to transfer the registration of a ship to and from the register from and to a register or a corresponding record in another jurisdiction.
- (3)** Registration regulations—
- (a)* may make provision for the registration of any class or description of ships which are excluded from the application of the private law provisions for St Helena ships and may regulate the transfer, transmission or mortgaging of ships of the class or description so excluded; and
 - (b)* must make provision which precludes notice of a trust from being entered in the register or being receivable by the Registrar, except as respects specified classes or descriptions of ships or in specified circumstances.

Tonnage regulations

17. (1) The Governor in Council may make regulations prescribing how the tonnage of a ship is to be ascertained.

- (2) Regulations made under subsection (1) may—
- (a) provide for the measurement and survey of ships to be undertaken in specified circumstances by a person appointed by the Governor;
 - (b) provide for the issue, by the Governor or by a person appointed by the Governor, of a certificate of—
 - (i) the registered tonnage of a ship; or
 - (ii) the tonnage that is to be taken for a specified purpose as the tonnage of a ship;
 - (c) provide for the cancellation and delivery up of a certificate in specified circumstances;
 - (d) make a regulation dependent on compliance with a condition evidenced in a specified manner; and
 - (e) prohibit or restrict the carriage of goods stored in spaces not included in the registered tonnage.

Bareboat charter regulations

18. (1) The Governor in Council may make regulations in respect of bareboat charters.

- (2) Regulations made under subsection (1) apply to a ship if—
- (a) the ship is registered under the law of a jurisdiction other than St Helena;
 - (b) the ship is chartered on a bareboat charter to a charterer who is a person qualified under the registration regulations to own a St Helena ship; and
 - (c) the ship is chartered in circumstances where the conditions of entitlement to registration prescribed under section 16(2)(b), read with the requisite modifications, are satisfied in respect of the charterer and the ship.

(3) “Requisite modifications” for the purpose of subsection (2)(c) mean the substitution for any requirement to be satisfied by or as respects the owner of a ship of a corresponding requirement to be satisfied by or as respects the charterer of the ship.

Supplemental

Disclosure of information relating to registration

19. (1) An obligation as to secrecy or other restriction on the disclosure of information, however imposed, does not preclude—

- (a) a Government department or public officer from disclosing information, for purpose of the performance of a statutory function, to—
 - (i) the Maritime and Coastguard Agency of the United Kingdom;
 - (ii) the Governor;
 - (iii) the Registrar; or
 - (iv) a public officer authorised by the Governor to request or receive the information;
- (b) the disclosure of information in accordance with arrangements made between the Governor and the Secretary of State for the purpose of an Order in Council made by Her Majesty under section 18 of the Merchant Shipping Act, 1995; or
- (c) disclosure by a person pursuant to any law.

(2) A person must not disclose to another person information obtained in accordance with subsection (1).

(3) A person who contravenes subsection (2) commits an offence.
Penalty: A fine of £5,000.

- (4) It is not an offence under subsection (2) if a disclosure was made—
- (a) to a person to whom the information could lawfully be disclosed; or
 - (b) for legal proceedings arising out of this Part.

PART 4

EMPLOYMENT IN ST HELENA SHIPS

Application of Part

Application of Part

20. (1) Each provision of this Part applies to a St Helena ship that is sea-going and to a master of, and a seafarer on, such a ship.

(2) The following provisions apply to a St Helena ship and to a master of, and a seafarer employed on, such a ship—

- (a) section 34 - crew accommodation regulations;
- (b) section 37 - application of sections 38 and 39;
- (c) section 38 - manning regulations;
- (d) section 39 - crew's English knowledge regulations;
- (e) section 40 - unqualified persons going to sea as qualified officers or seafarers;
- (f) section 41 - young persons' regulations;
- (g) section 42 - conduct endangering ships, structures or individuals; and
- (h) section 43 - concerted disobedience and neglect of duty.

Interpretative provisions

21. (1) References in this Part to going to sea, includes going to sea from a country outside St Helena.

(2) In this Part, a seafarer is discharged from a ship when the seafarer's employment on the ship is terminated.

(3) In this Part, a seafarer discharged from a ship in a country and left in the country is considered to have been left behind even if the ship remains in the country.

Engagement and discharge of crews

Crew agreement regulations

22. (1) The Governor in Council may make regulations in respect of crew agreements.

(2) Regulations made under subsection (1) may prescribe—

- (a) the form of a crew agreement;
 - (b) how and by whom a crew agreement is to be entered into;
 - (c) the places where and when a crew agreement is to be entered into;
 - (d) how a person may be added to a crew agreement; and
 - (e) when a crew agreement must be or need not be carried on a ship.
- (3) Regulations made under subsection (1) may also—
- (a) require a specified notice to be given to a superintendent or proper officer before a crew agreement is made;
 - (b) require a crew agreement to be delivered to a superintendent, to a proper officer or to the Registrar;
 - (c) require a copy of, or an extract from, a crew agreement to be posted in a ship;
 - (d) require a copy of, or an extract from, a crew agreement be provided to a crew member if requested; and
 - (e) require that a document carried on a ship in pursuance of this Ordinance be produced to a customs officer.

(4) If a master in St Helena attempts to take the ship to sea in contravention of regulations made under this section, the ship may be detained.

Discharge of seafarers regulations

23. (1) The Governor in Council may make regulations prescribing the procedure to be followed in connection with the discharge of a seafarer from a St Helena ship.

- (2) Regulations made under this subsection (1) may—
- (a) require that notice of a discharge be given, at a specified time, to the superintendent or proper officer at a specified place;
 - (b) require a discharge to be recorded by entries in the crew agreement and a discharge book or otherwise; and
 - (c) require copies of any such entry to be given to a superintendent, a proper officer or to the Registrar.

(3) Regulations made under subsection (1) may also apply, with such modifications as appear to the Governor to be appropriate, to a seafarer who is left behind outside St Helena otherwise than on being discharged from the ship.

(4) For the purpose of the regulations made under this section, a seafarer is considered to be discharged from a St Helena ship if the ship ceases to be a St Helena ship.

Wages, etc.

Wages regulations

24. (1) The Governor in Council may make regulations in respect of the wages of a seafarer who leaves a St Helena ship on being discharged from the St Helena ship.

(2) Regulations may provide the manner in which wages are to be paid to a seafarer when a seafarer leaves a ship and which circumstances apply and how circumstances may affect the manner in which wages are to be paid.

(3) Regulations under subsection (1) may also provide for a seafarer to receive additional payments, which may include interest, if wages or other payments are not paid to the seafarer when due.

(4) The Governor in Council may also make regulations in respect of the wages of a seafarer who leaves a St Helena ship otherwise than on being discharged from the St Helena ship.

Account regulations

25. (1) The Governor in Council may make regulations requiring the provision of an account in respect of the wages of a seafarer and the manner in which the account is to be provided.

- (2) Regulations made under subsection (1) may—
- (a) prescribe when and how the account is to be provided to the seafarer;
 - (b) require the account to show the wages due to the seafarer and any deduction subject to which the wages are payable;
 - (c) require the account to indicate if the amount stated in the account is subject to any further adjustments that may be found necessary;
 - (d) provide how the account is to be provided to the seafarer if the seafarer was employed on more than one St Helena ship under a crew agreement; and
 - (e) provide how an account is to be provided to a seafarer if the seafarer leaves a St Helena ship otherwise than on being discharged from the St Helena ship.

Breach of crew agreement regulations

26. The Governor in Council may make regulations that—
- (a) authorise a deduction (in addition to any otherwise authorised) to be made from the wages due to a seafarer if a breach of the seafarer's obligations under a crew agreement is proved; and
 - (b) specify how any amount deducted under paragraph (a) is to be dealt with.

Dispute settlement regulations

27. (1) The Governor in Council may make regulations prescribing the procedure to be followed if there is a dispute relating to the wages payable to a seafarer.

- (2) Regulations made under subsection (1) may—
- (a) establish the person or authority to whom a dispute may be submitted;
 - (b) provide the manner and form in which a dispute is submitted and determined; and
 - (c) provide the procedure for the hearing and settlement of a dispute.

(3) A decision regarding a dispute decided in accordance with regulations made under subsection (2) is final.

Restriction on assignment of and charge upon wages

28. (1) The wages due or accruing to a seafarer may not be made subject to attachment.

(2) An assignment of the wages before they have accrued does not bind the seafarer and the payment of the wages to the seafarer is valid despite any previous assignment or charge.

(3) A power of attorney or authority for the receipt of the wages of a seafarer is not irrevocable.

(4) Nothing in this section affects an allotment under section 29.

Allotment regulations

29. (1) The Governor in Council may make regulations that provide the manner in which a seafarer may allot to a person part of the wages to which the seafarer will become entitled in the course of the seafarer's employment on a St Helena ship.

(2) Regulations made under subsection (1) may—

- (a)** provide how and when an allotment may be made by a seafarer;
- (b)** specify the person to whom an allotment may be made;
- (c)** limit the circumstances in which an allotment may be made;
- (d)** limit the part of the wages that may be allotted (whether by reference to an amount or by reference to a proportion);
- (e)** prescribe the method by which that part of the wages is to be calculated;
- (f)** limit the number of persons to whom an allotment may be made; and
- (g)** prescribe the times and the intervals at which payments under an allotment are to be made.

(3) A person to whom a seafarer has allotted part of the seafarer's wages—

- (a)** may recover the part allotted in the name of the person; and
- (b)** has, for that purpose, the same remedies as the seafarer.

(4) In proceedings brought by a person in respect of an allotment, a presumption may be made, unless the contrary is shown—

- (a)** that the seafarer is entitled to the wages allotted; and
- (b)** that the allotment has not been varied or cancelled.

Right to wages in certain circumstances

30. The Governor in Council may make regulations that provide for the entitlement to wages if a seafarer is terminated before the date contemplated in a crew agreement due to the ship—

- (a)** being wrecked or lost;
- (b)** being sold while outside St Helena; and
- (c)** ceasing to be registered in St Helena.

Claims for maintenance regulations

31. (1) A sea farer may be liable for expenses incurred by a responsible authority for the benefit of a dependant of the seafarer during the seafarer's employment on a St Helena ship.

(2) The Governor in Council may make regulations to provide the manner in which liability under subsection (1) is established and such Regulations may specify—

- (a) the types of expenses for which a seafarer may be liable;
- (b) the manner in which—
 - (i) a claim may be made to have liability established; and
 - (ii) liability may be determined;
- (c) the conditions which must be satisfied before the wages of a seafarer may be retained in respect of the liability for which the seafarer is responsible;
- (d) the manner in which notice in respect of the retention of a seafarer's wages is to be served;
- (e) the form of the notice under paragraph (d);
- (f) the responsible authority which may make a claim in respect of a seafarer's liability;
- (g) the way in which the claim may be made;
- (h) the percentage of the seafarer's wages that may be made subject to the claim; and
- (i) the way in which the claim may be enforced.

Remedies of master for remuneration, disbursements and liabilities

32. The master of a St Helena ship has the same lien for the master's remuneration and for any disbursements or liabilities properly made or incurred by the master on account of the ship, as a seafarer has for wages.

Safety, health and welfare

Obligation of a ship owner as to seaworthiness

33. (1) This section applies to—

- (a) a contract of employment between the owner of a St Helena ship and the master of a St Helena ship; and
- (b) a crew agreement in relation to a St Helena ship.

(2) It is an implied provision of the contract or agreement under subsection (1) that the owner of a ship will ensure that a person to whom subsection (3) applies will use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences and to keep the ship in a seaworthy condition during the voyage.

(3) Subsection (2) applies to the owner of the ship, the ship's master and each agent charged with—

- (a) loading the ship;
- (b) preparing the ship for sea; and
- (c) sending the ship to sea.

(4) This section applies despite any agreement to the contrary.

Crew accommodation regulations

34. (1) The Governor in Council may make regulations with respect to the crew

accommodation to be provided on a St Helena ship.

- (2) Regulations made under subsection (1) may—
 - (a) prescribe the minimum space that must be provided to a seafarer for the seafarer's sleeping accommodation;
 - (b) prescribe the maximum number of seafarers by whom a specified part of the sleeping accommodation of the ship may be used;
 - (c) regulate the position on the ship where the crew accommodation or any part of the crew accommodation may be located;
 - (d) specify the standards to be observed in the construction, equipment and furnishing of crew accommodation;
 - (e) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the provision or alteration of crew accommodation;
 - (f) authorise the surveyor to inspect such works;
 - (g) provide for the maintenance and repair of crew accommodation;
 - (h) prohibit or restrict the use of accommodation for a purpose other than the purpose for which the accommodation is designed; and
 - (i) require the master or a seafarer authorised by the master to carry out specified inspections of the ship's crew accommodation.

Provisions and water complaints regulations

35. (1) The Governor in Council may make regulations which deal with any complaint made by a seafarer alleging that the provisions or water provided for seafarers employed on a St Helena ship is of bad quality, unfit for use, or is deficient in quantity.

- (2) Regulations made under subsection (1) may provide—
 - (a) that the seafarer may complain to the master;
 - (b) that the master must investigate the complaint; and
 - (c) for the course of action that the seafarer may take if the seafarer is dissatisfied with the investigation conducted by the master or if the master does not address the seafarer's complaint.

Medical treatment, etc. regulations

36. (1) The Governor in Council may make regulations that provide for the course of action to be taken if a seafarer requires surgical, medical, dental, or optical treatment, including the repair or replacement of an appliance, that cannot be postponed without impairing efficiency.

(2) The Governor in Council may make regulations that provide for the course of action to be taken if a seafarer dies while in the employ of a St Helena ship or while on board a St Helena ship.

Manning, qualifications, training and uniform

Application of sections 38 and 39

- 37.** Section 38 and 39 applies to—

- (a) a St Helena ship; and
- (b) any other ship that carries passengers between places in St Helena or on a voyage that begins and ends at the same place in St Helena, if the ship calls at no place outside St Helena.

Manning regulations

38. (1) The Governor in Council may make regulations specifying the number of qualified officers, qualified doctors, qualified cooks, and other qualified persons that are required to be carried on board a ship.

(2) Regulations made under subsection (1) may prescribe the standards of competence to be attained and other conditions to be satisfied by qualified officers, qualified doctors, qualified cooks, and other qualified persons.

(3) Regulations made under subsection (1) may also provide for—

- (a) the manner in which the attainment of a standard or the satisfaction of a condition is to be evidenced;
- (b) the conduct of examinations, the conditions for admission to examinations and the appointment and remuneration of examiners; and
- (c) the issue, form and recording of certificates and other documents.

(4) Regulations made under subsection (1) may also make provision for a person who is employed on a ship and who holds a certificate or other document as evidence of the person's qualifications, to produce the certificate for inspection if required to do so by a specified person.

(5) The owner or master must not permit the ship to go to sea or to attempt to go to sea unless the ship is carrying the qualified officers and other seafarers that are required to be carried on board by virtue of this section.

(6) A person who contravenes subsection (5) commits an offence.

Penalty: A fine of £20,000 on summary conviction and on indictment, an unlimited fine.

(7) A ship that is not in compliance with subsection (5) may be detained if the ship is in St Helena.

Crew's English knowledge regulations

39. (1) The Governor in Council may make regulations specifying the course of action that may be taken if the crew of a ship consists of or includes a person who may not understand orders given to them in the course of their duty because of their insufficient knowledge of the English language.

(2) Regulations under subsection (1) may provide that a ship that is in St Helena that is not in compliance with a requirement under the regulations, may be detained.

Unqualified persons going to sea as qualified officers or seafarers

40. (1) A person must not purport to be a qualified officer, qualified doctor, qualified cook, or other qualified person that is required to be carried on board a ship without having the qualifications necessary for an officer, doctor, cook, or other person that is required to be carried on board a ship in accordance with the regulations made under section 38.

(2) A person who contravenes subsection (1) commits an offence.
Penalty: A fine of £20,000 on summary conviction and on indictment, an unlimited fine.

(3) In this section “**qualified**” means qualified for the purpose of section 38.

Young persons’ regulations

41. The Governor in Council may make regulations that prescribe the circumstances in which and the conditions subject to which—

- (a)** a person under school-leaving age may be employed on a St Helena ship; and
- (b)** a person over school leaving age but under 18 may be employed on a St Helena ship.

Offences by masters and persons employed on ships

Conduct endangering ships, structures or individuals

42. (1) This section applies to the master of, or a person employed on—

- (a)** a St Helena ship; or
- (b)** any other ship that is in within St Helena waters while proceeding to or from a berth.

(2) The master or person must not, while on board the ship or in the ship’s immediate vicinity, do or omit to do anything that causes or is likely to cause—

- (a)** the loss or destruction of, or serious damage to, the machinery, navigational equipment or safety equipment of the ship or of another ship or to a structure; or
- (b)** the death of or serious injury to a person.

(3) A person who contravenes subsection (2) commits an offence.
Penalty: A fine of £20,000 or imprisonment for 2 years, or both on summary conviction and on indictment, an unlimited fine or imprisonment for 2 years, or both.

Concerted disobedience and neglect of duty

43. (1) A seafarer must not combine with other seafarers—

- (a)** to disobey a lawful command that is required to be obeyed at a time while the ship is at sea;
- (b)** to neglect a duty that is required to be discharged at such a time; or
- (c)** to impede, at such a time, the progress of a voyage or the navigation of the ship.

(2) A seafarer who contravenes subsection (1) commits an offence.
Penalty: A fine of £20,000 or imprisonment for 2 years, or both on summary conviction and

on indictment, an unlimited fine or imprisonment for 2 years, or both.

Disciplinary offences

Codes of conduct regulations

44. (1) The Governor in Council may make regulations necessary to maintain discipline on board St Helena ships.

(2) Regulations made under subsection (1) may make provision for the hearing on shore in St Helena, by a disciplinary body, of a complaint instituted by the master or owner of a St Helena ship against a seafarer alleging that during the seafarer's employment on board the ship the seafarer contravened a provision of a code of conduct approved by the Governor.

(3) The alleged contravention under subsection (2) may be one that took place—

- (a)** on or off the ship; or
- (b)** in St Helena or elsewhere.

(4) Regulations made under this section may—

- (a)** provide for—
 - (i)** the composition, jurisdiction and procedures of a disciplinary body; and
 - (ii)** the disciplinary action the disciplinary body may take;
- (b)** provide for an aggrieved person to appeal against any disciplinary action taken by a disciplinary body; and
- (c)** provide for proceedings to be conducted in the absence of the seafarer to whom the proceedings relate.

Disqualifications and inquiries

Fitness or conduct of qualified officers' regulations

45. (1) The Governor in Council may make regulations that provide for the procedure to be followed if an allegation is made that an officer—

- (a)** is unfit to discharge the qualified officer's duties, whether by reason of incompetence, misconduct or otherwise;
- (b)** was seriously negligent in the discharge of the qualified officer's duties; or
- (c)** has failed to comply with section 38.

(2) Regulations made under subsection (1) may provide—

- (a)** for an inquiry to be held into the allegation by one or more persons, appointed for that purpose, by the Governor;
- (b)** for the course of action the person or persons appointed under paragraph (a) may recommend to the Governor to be taken in respect of the officer if the allegation is found to be substantiated; and
- (c)** for an aggrieved person to appeal against any recommendation in respect of the officer made by the person or persons appointed under paragraph (a).

Disqualification of holder of certificates - other than officer

46. (1) The Governor in Council may make regulations that provide for the procedure to be followed if an allegation is made that the holder of a certificate is unfit to hold the certificate, whether by reason of incompetence, misconduct or otherwise.

(2) Regulations made under subsection (1) may provide—

- (a)** for the Governor to cause an inquiry to be made into the allegation;
- (b)** for the course of action the Governor may take if the Governor finds an allegation is substantiated; and
- (c)** for an aggrieved person to appeal against any course of action taken by the Governor after an inquiry.

(3) This section applies to a certificate issued under section 38 other than one certifying that a person is qualified as an officer.

Inquiries and appeals regulations

47. Regulations made under sections 45 and 46 may—

- (a)** in respect of an inquiry or appeal, provide for—
 - (i)** the appointment and summoning of assessors;
 - (ii)** the manner in which any facts may be proved;
 - (iii)** the persons allowed to appear; and
 - (iv)** the notices to be given to persons affected;
- (b)** provide for the person holding an inquiry or hearing an appeal under either of those sections to—
 - (i)** by summons, in respect of a matter in question at the inquiry or on the appeal, require a person—
 - (aa)** to attend the inquiry at a time and place stated in the summons; or
 - (bb)** to give evidence or to produce a document in the person's custody or under the person's control; and
 - (ii)** take evidence on oath and for the purpose of the inquiry and administer oaths or require the person examined to make a solemn affirmation; and
- (c)** provide that in specified circumstances the person or persons holding an inquiry or hearing the appeal may—
 - (i)** issue a warrant to arrest and bring a person before the inquiry or appeal hearing at a time and place specified in the warrant; and
 - (ii)** commit a person to custody.

Civil liability of seafarers for offences

Relief and return of a person regulations

48. The Governor in Council may make regulations to provide for the course of action to be taken if a seafarer, who became employed on a St Helena ship under a crew agreement entered into—

- (a)** in St Helena—
 - (i)** is left behind in a country outside St Helena; or
 - (ii)** is taken to such a country on being shipwrecked; or

- (b) outside St Helena—
 - (i) is left behind in St Helena; or
 - (ii) is taken to St Helena on being shipwrecked.

Documentation

Official logbook regulations

49. (1) The Governor in Council may make regulations to require a St Helena ship to have on board an official logbook.

- (2) Regulations made under subsection (1) may—
 - (a) prescribe the particulars to be entered in a logbook;
 - (b) prescribe the persons by whom the entries in the logbook are to be made, signed or witnessed;
 - (c) prescribe the procedure to be followed in the making of the entries and in the amendment or cancellation of the entries; and
 - (d) require the production or delivery of an official logbook in specified circumstances.

Crew list regulations

50. (1) The Governor in Council may make regulations to require the master of a St Helena ship to make and maintain a list of the ship's crew.

- (2) Regulations made under subsection (1) may—
 - (a) specify the particulars to be entered in the list;
 - (b) limit the time for which a list remains in force;
 - (c) provide for the maintenance of the list by a specified person;
 - (d) provide for the notification to the person maintaining the list of any change in the list;
 - (e) provide for the display of a copy of the list in a specified place including, if specified, on the ship;
 - (f) provide for the production of the list in specified circumstances;
 - (g) provide for the delivery to a superintendent or a proper officer in specified circumstances of the list or a copy of the list; and
 - (h) provide for the notification to a specified person of any changes in the list.

St Helena seafarer's card regulations

51. (1) The Governor in Council may make regulations to provide for a St Helena seafarer's card and for seafarers to apply for the card.

- (2) Regulations made under subsection (1) may—
 - (a) provide for the issue of St Helena seafarer's cards;
 - (b) prescribe the particulars of the holder of a St Helena seafarer's card and other particulars to be specified in the St Helena seafarer's card;
 - (c) require the holder of a St Helena seafarer's card to produce the card to specified persons in specified circumstances; and
 - (d) provide for the surrender of St Helena seafarer's cards in specified

circumstances.

Discharge book regulations

52. (1) The Governor in Council may make regulations to require a seafarer to have a discharge book.

(2) The Governor in Council may also make regulations to require a person with St Helenian status who is or was employed on ships, other than St Helena ships, under a crew agreement to have a discharge book.

- (3)** Regulations made under this section may—
- (a)** provide for the issue of a discharge book;
 - (b)** specify the particulars a discharge book must contain;
 - (c)** require the holder of a discharge book to produce the discharge book in specified circumstances; and
 - (d)** require the surrender of a discharge book in specified circumstances.

Handing over of documents by master

53. If a person ceases to be the master of a St Helena ship during a voyage, the person must deliver to the person's successor the documents relating to the ship or the ship's crew that are in the person's custody and a person who fails to comply with this section without reasonable excuse commits an offence.

Penalty: A fine of £1,000.

PART 5 SAFETY

Safety and health on ships

Chapter V of the Annex to the SOLAS Convention regulations

54. (1) The Governor in Council may make regulations to give effect to Chapter V of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) Regulations made under subsection (1) may require a specified person to put measures in place with respect to the provision of—

- (a)** navigational warnings;
- (b)** meteorological information services, which may include a service to warn ships;
- (c)** search and rescue services;
- (d)** lifesaving signal
- (e)** hydrographic services;
- (f)** a ship routing system;
- (g)** ship reporting systems;
- (h)** a vessel traffic service;
- (i)** aids to navigation, which may include their operation; and
- (j)** coordination in distress situations.

Safety and health regulations

- 55. (1)** The Governor in Council may make regulations—
- (a) to secure the safety of St Helena ships;
 - (b) to secure the health and safety of persons on St Helena Ships;
 - (c) to secure the safety of other ships while those ships are within St Helena waters;
and
 - (d) to secure the health and safety of persons on ships under paragraph (c).
- (2)** Safety regulations may—
- (a) provide for the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;
 - (b) make provision for the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;
 - (c) detail the execution of any operation involving a ship;
 - (d) provide for the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
 - (e) provide for the manning of ships, including the employment on ships of persons qualified to attend to the health and safety of persons on the ships;
 - (f) provide arrangements for ensuring communication between persons in different parts of a ship and between persons on the ship and other persons;
 - (g) make provision for the access of persons of any description to, their presence in and egress from a ship and different parts of a ship;
 - (h) provide for the ventilation, temperature and lighting of different parts of a ship;
 - (i) provide the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;
 - (j) provide the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;
 - (k) provide the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;
 - (l) provide for the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
 - (m) provide the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
 - (n) include provisions to prevent collisions—
 - (i) between seaplanes on the surface of water; and
 - (ii) between ships and seaplanes;
 - (o) provide that in specified cases a ship may be detained; and
 - (p) prescribe the course of action that may be taken if dangerous goods are sent or carried, or attempted to be sent or carried, on board a ship—
 - (i) without being marked as required by safety regulations;
 - (ii) without any notice having been given as required by the regulations made under this section;
 - (iii) under a false description; or
 - (iv) with a false description of their sender or carrier.

Submersible and supporting apparatus regulations

56. (1) The Governor in Council may make regulations in respect of submersible or supporting apparatus—

- (a) operated within St Helena waters; or
- (b) launched or operated from, or comprising, a St Helena ship.

(2) In this section—

“apparatus” includes a ship, vehicle or hovercraft, a structure, a diving plant or equipment and any other form of equipment;

“submersible apparatus” means apparatus used, or designed for use, in supporting human life on or under the bed of waters or elsewhere under the surface of waters; and

“supporting apparatus” means apparatus used, or designed for use, in connection with the operation of submersible apparatus.

Special provisions

Dangers to navigation regulations

57. The Governor in Council may make regulations with respect to a person who is in charge of a station for wireless telegraphy that is capable of receiving the signal specified in safety regulations relating to dangers to navigation.

Assistance at sea

Duty of ship to assist the other in case of collision

58. (1) This section applies to—

- (a) St Helena ships; and
- (b) foreign ships in St Helena waters.

(2) If ships collide, the master of each ship must, if and in so far as the master can do so without danger to the ship under the master’s control, the ship’s crew and any passengers—

- (a) render to the other ship, the ship’s master, crew and any passengers such assistance as may be practicable, and as may be necessary to save them from any danger caused by the collision;
- (b) stay by the other ship until the master has ascertained that the ship has no need of further assistance; and
- (c) give to the master of the other ship the name of the ship under the master’s control and also the names of the ports from which the ship sailed and to which the ship is bound.

(3) The master who fails, without reasonable excuse, to comply with subsection (2) commits an offence.

Penalty: A fine of £20,000 or imprisonment for 2 years, or both on summary conviction and on indictment, an unlimited fine or imprisonment for 2 years, or both.

Duty to assist persons in danger and to respond to distress calls

- 59. (1)** This section applies to—
- (a) St Helena ships; and
 - (b) foreign ships in St Helena waters.

(2) If a ship at sea receives a signal from any source that another ship or aircraft is in distress, the master must, unless the master considers it unreasonable or unnecessary in the special circumstances of the case, ensure that the ship proceeds with all speed to the assistance of the ship or aircraft in distress, informing the ship or aircraft, if possible, that ship at sea is proceeding to the ship or aircraft in distress to offer assistance.

(3) The master who fails to comply with subsection (2) commits an offence.
Penalty: A fine of £20,000 or imprisonment for 2 years, or both on summary conviction and on indictment, an unlimited fine or imprisonment for 2 years, or both.

- (4)** It is not an offence under subsection (3) if the master can prove that the master—
- (a) was unable to comply with subsection (2) in the special circumstances of the case;
 - (b) is released from the obligation under subsection (2)—
 - (i) by virtue of being informed by the persons in distress that assistance is no longer required; or
 - (ii) by virtue of being informed by the master of any ship that has reached the persons in distress that assistance is no longer required.

Unsafe ships

Dangerously unsafe ships regulations

60. (1) The Governor in Council may make regulations in respect of dangerously unsafe ships in St Helena waters.

- (2)** Regulations made under subsection (1) may provide—
- (a) for an inspector to detain a dangerously unsafe ship;
 - (b) the basis upon which an inspector may determine that a ship is dangerously unsafe and must be detained;
 - (c) the requirement that an inspector may only detain a dangerously unsafe ship on notice to the master or owner of the ship;
 - (d) the requirement that an inspector must specify the reasons for why, in the opinion of the inspector, the inspector concludes that a ship is dangerously unsafe;
 - (e) that the inspector may only detain a dangerously unsafe ship by serving notice on the master or owner of the ship specifying the reasons why the inspector thinks that the ship is dangerously unsafe
 - (f) that a notice served under paragraph (e) must contain the terms that must be complied with until the ship is released;
 - (g) that a ship must comply with the terms in a notice issued in accordance with paragraph (f);
 - (h) that a person may appeal the decision of an inspector in respect of the inspector's reasons for detention of a ship or the requirements in the notice issued in respect of the detained ship; and
 - (i) that an appeal under paragraph (h) may be initiated by an application for arbitration.
- (3)** For the purpose of the regulations made under this section, a ship is dangerously

unsafe if, having regard to the nature of the service for which the ship is being used or is intended to be used and for matters relevant to the ship's safety, the ship is—

- (a) unfit to go to sea without serious danger to human life; or
- (b) remain at sea without serious danger to human life.

Master liable for unsafe operation of ships

61. A master must ensure that a ship in St Helena waters is operated in a safe manner and a master who fails to comply with this section commits an offence.

Penalty: A fine of £20,000 or imprisonment for 2 years, or both on summary conviction and on indictment, an unlimited fine or imprisonment for 2 years, or both.

Temporary exclusion zones

Temporary exclusion zone regulations

62. (1) The Governor in Council may make regulations providing for the procedure to be applied if a ship, structure or other thing in St Helena waters or in St Helena's Exclusive Economic Zone is wrecked, damaged or in distress.

(2) Regulations under subsection (1) may provide for the Governor to identify a specified area to which access is prohibited or restricted.

Offences in connection with passenger ships

Offences in connection with passenger ships

63. (1) This section applies in respect of a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate issued under or recognised by the safety regulations.

(2) A person commits an offence, in relation to a ship to which this section applies, if the person—

- (a) while being drunk and disorderly and for being drunk and disorderly the person is refused admission onto the ship by the ship's owner or a seafarer and having had the person's fare returned or tendered to the person (if applicable), persists in attempting to enter the ship;
- (b) while being drunk and disorderly and for being drunk and disorderly the person is requested to leave the ship by the ship's owner or a seafarer at a place in St Helena at which the person can conveniently leave the ship and having had the person's fare returned or tendered to the person (if applicable), does not comply with the request to leave the ship;
- (c) while on board the ship and after having been warned by the master or a seafarer in respect thereof, molests or continues to molest any passenger;
- (d) on account of the ship being full the person is refused admission onto the ship by the ship's owner or a seafarer and having had the person's fare returned or tendered to the person (if applicable), persists in attempting to enter the ship;
- (e) having gone on board the ship at a place and on account of the ship being full the person is requested to leave the ship before the ship has left the place by the ship's owner or a seafarer and having had the person's fare returned or tendered

- (f) to the person (if applicable), does not comply with the request to leave the ship; on arriving on the ship at a point to which the person has paid the person's fare the person knowingly and intentionally refuses or neglects to leave the ship; and
- (g) while on board the ship and when requested, by the master or other seafarer, to show the person's ticket or other receipt, if any, showing the payment of the person's fare, as is usually given to persons travelling by and paying their fare for the ship, fails to show such ticket or other receipt.

Penalty: A fine of £500.

(3) A person's liability in respect of an offence under subsection (2) shall not prejudice the recovery of any fare payable by the person.

(4) A person commits an offence if, while on board any ship to which this section applies the intentionally does or causes to be done anything in such a manner as to—

- (a) obstruct or damage any part of the machinery or equipment of the ship; or
- (b) obstruct, impede or molest the crew, or any of member of the crew, in the navigation or management of the ship, or otherwise in the execution of the crew member's duty on or about the ship.

Penalty: A fine of £500.

(5) The master or other seafarer to which this section applies, and all persons called by the master or other seafarer to the master's or other seafarer's assistance, may, without any warrant, detain any person and deliver that person to a constable —

- (a) who commits an offence under subsection (2) or (3); or
- (b) whose name and address are unknown to the master or seafarer.

(6) A person commits an offence under subsection (2) or (3) if when asked by the master, or a seafarer, to provide the person's name and address, the person refuses to give the person's name and address, or the person gives a false name or address.

Penalty: A fine of £250.

Stowaways

64. (1) A person must not go to sea or attempt to go to sea on a St Helena ship without the consent of the ship's master or of another person authorised to give such consent.

(2) A person who contravenes subsection (1) commits an offence.

Penalty: A fine of £1,000.

(3) A court in St Helena has the jurisdiction to hear an offence under this section if the offence occurred on a St Helena ship, whether or not—

- (a) the offence was committed outside St Helena; or
- (b) the person who is alleged to have committed the offence is not from St Helena.

Unauthorised presence on board ship

65. (1) This section applies to—

- (a) a St Helena ship; or
- (b) a ship registered in any other country that is in St Helena waters.

- (2) A person, who is not authorised by law, must not—
- (a) go on board a ship without the consent of the ship's master or of another person authorised to give consent; or
 - (b) remain on board a ship after being requested to leave by the ship's master, a police officer or a customs officer.

(3) A person who contravenes subsection (2) commits an offence.

Penalty: A fine of £5,000.

Master may put person under restraint

66. The master of a St Helena ship may put a person on board the ship under restraint if it appears to the master to be necessary or expedient and the person may be kept under restraint for as long as the master considers it necessary and expedient to do so in the circumstances—

- (a) in the interest of safety; or
- (b) for the preservation of good order or discipline on board the ship.

Unauthorised persons: offences relating to safety

67. If a person goes to sea on a ship without the consent of the ship's master or of another person authorised to give consent, section 42 and 43 applies as if the person were a seafarer.

Return to be furnished by masters of ships as to passengers

68. The Governor in Council may make regulations—
- (a) to specify the manner in which information in respect of a return is to be provided;
 - (b) to specify to whom information under paragraph (a) is to be provided; and
 - (c) to require the master to make a return in respect of the ship's passengers for a ship carrying passengers to or from St Helena.

Returns of births and deaths in ships, etc.

69. (1) The Governor in Council may make regulations to require the master of a St Helena ship to make a return of any birth or death of a person occurring on the ship outside St Helena.

(2) The Governor in Council may make regulations to require the master of a ship that is not a St Helena ship which calls at St Helena in the course of or at the end of a voyage to make a return of a birth or death which occurred on the ship during the voyage of the ship to St Helena.

(3) A return made under subsection (2) may only be made in respect of the birth or death of a British citizen, a British Overseas Territories citizen or a British Overseas citizen.

(4) In this section “British citizen”, “British Overseas Territories citizen” and “British Overseas citizen” have the same meanings as in the British Nationality Act 1981 of the United Kingdom.

PART 6 PREVENTION OF POLLUTION

Chapter 1 Pollution Generally

Prevention of pollution from ships regulations

70. (1) This section applies if any of the following extend to St Helena; or are extended to St Helena by an order made under section 128(1) of the Merchant Shipping Act, 1995—

- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) that constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973;
- (b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil that constitutes attachment 2 to the final act previously mentioned;
- (c) the Protocol relating to the Convention that constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978;
- (d) the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (including the Final Act of the Conference and the attached resolutions) signed in London on 30th November 1990; and
- (e) any international agreement not mentioned in paragraphs (a) to (d) that relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships.

(2) In subsection (1)(e) the reference to an agreement includes an agreement that provides for the modification of another agreement, including the modification of an agreement mentioned in subsection (1)(a) to (c).

(3) This section also applies if there is extended to St Helena any provision made by Her Majesty by Order in Council to give effect in the United Kingdom to any provision of the United Nations Convention on the Law of the Sea 1982 for the protection and preservation of the marine environment from pollution by matter from ships.

(4) The Governor in Council may make regulations to give effect to the Convention, Protocol, international agreement or provision.

(5) Regulations made under subsection (4) may provide that a contravention of the regulations is an offence punishable by a fine of £250,000, by imprisonment for 5 years or by both.

Transfers between ships in St Helena waters regulations

71. (1) The Governor in Council may make regulations in respect of the transfer of cargo, stores, bunker fuel or ballast between ships while within St Helena waters.

- (2) Regulations made under subsection (1) may make provisions to prevent—
- (a) pollution;
 - (b) danger to health or to navigation; or
 - (c) hazards to the environment or to natural resources.

Chapter 2

Waste reception facilities

Use of waste reception facilities regulations

72. (1) The Governor in Council may make regulations in respect of the use of waste reception facilities for the reception of waste from ships.

(2) Regulations made under subsection (1) must take into account the need to give effect to any provision that is contained in any international agreement mentioned in section 70 in so far as the international agreement relates to the use of waste reception facilities.

(3) Regulations made under this section may also require the master in specified circumstances to deposit waste carried by the ship, or specified waste, in a waste reception facility.

Chapter 3

Oil Pollution

General provisions

Discharge or escape of oil from ships

73. (1) The master must ensure that oil is not discharged or does not escape from a ship into St Helena waters.

(2) The master in St Helena waters must immediately report to the Harbour Master any discharge or escape of oil from the ship of oil into St Helena waters.

(3) The master to or from which oil is being transferred must ensure that oil is not discharged or does not escape into St Helena waters.

(4) The occupier of a place to or from which oil is being transferred from or to a ship must ensure that oil is not discharged or does not escape into St Helena waters.

(5) A master who fails to comply with subsection (1), (2) or (3) and a person who fails to comply with subsection (4) commits an offence.

Penalty: A fine of £20,000 on summary conviction and on indictment, an unlimited fine.

(6) The Harbour Master may detain a ship if the Harbour Master has reasonable grounds to believe that the master is committing or has committed an offence under this section.

(7) In this section—
“oil” includes a mixture containing oil; and
“transfer” means transfer in bulk.

Restrictions on transfer of oil at night

74. (1) A master must not, without the approval of the Harbour Master, transfer oil to or from a ship in St Helena waters between sunset and sunrise.

(2) The occupier of a place on land must not, without the approval of the Harbour Master, transfer oil to or from a ship in St Helena waters between sunset and sunrise.

(3) A master who fails to comply with subsection (1) and a person who fails to comply with subsection (2) commits an offence.

Penalty: A fine of £5,000.

(4) In this section—

“oil” includes a mixture containing oil;

“place on land” includes—

(a) anything resting on the bed or shore of St Helena waters; and

(b) anything afloat (other than a ship) anchored or attached to the bed or shore of St Helena waters; and

“transfer” means transfer in bulk.

Defence of person charged with offence under section 73 or 74

75. (1) It shall be a defence for a person charged with an offence under section 73 or 74 to prove—

(a) that oil was discharged from a ship for the purpose of—

(i) securing the safety of a ship;

(ii) preventing damage to a ship or cargo; or

(iii) saving life,

unless the court making the determination as to the person’s guilt is satisfied that the discharge of oil was not necessary for the purpose specified at subparagraph (i), (ii), or (iii) or was not a reasonable step to take in the circumstances;

(b) that oil escaped in consequence of damage to the ship and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or where the escape of oil could not be prevented, for stopping or reducing, the escape of oil; or

(c) that oil escaped by reason of leakage, that neither the leakage nor any delay in discovering the leakage was due to any want of reasonable care, and that as soon as practicable after the escape of oil was discovered all reasonable steps were taken for stopping or reducing the escape of oil.

(2) In this section “oil” includes a mixture containing oil.

Shipping casualties

Directions in respect of shipping casualties

76. (1) The Governor may give a direction under this section in respect of a ship if in the Governor’s opinion—

- (a) an accident has occurred to or on the ship;
 - (b) the accident under paragraph (a) has created a risk to safety or a risk of pollution by a hazardous substance; and
 - (c) the direction is necessary to remove or reduce the risk under paragraph (b).
- (2) The direction under subsection (1)—
- (a) may be given orally and must as soon as is practicable thereafter be confirmed in writing;
 - (b) may be given to—
 - (i) the owner of the ship;
 - (ii) a person in possession of the ship;
 - (iii) the master;
 - (iv) the owner of a hazardous substance on the ship;
 - (v) a person in charge of salvage operations in possession of the ship;
 - (vi) a person who is the servant or agent of a person in charge of salvage operations in possession of the ship and who is in charge of the salvage operation; and
 - (vii) the harbour authority or the Harbour Master where the ship is in, or has been directed to move into, waters which are regulated or managed by a harbour authority; and
 - (c) may require the person to whom the direction is given—
 - (i) to take or refrain from taking any specified action in relation to—
 - (aa) the ship;
 - (bb) anything which is or was on the ship;
 - (cc) anything which forms or formed part of the ship;
 - (dd) anything which is or was being towed by the ship; and
 - (ee) a person on the ship; and
 - (ii) in particular, to ensure—
 - (aa) that a ship or other thing is moved or not moved;
 - (bb) that a ship or other thing is moved or not moved to or from a specified place or area or over a specified route;
 - (cc) that cargo is or is not unloaded or discharged;
 - (dd) that a substance is or is not unloaded or discharged;
 - (ee) that specified salvage measures are taken or not taken; and
 - (ff) that a person is put ashore or on board a ship.

Direction following accident: person in control of land

77. (1) The Governor may give a direction under this section in respect of a ship if in the Governor's opinion—

- (a) an accident has occurred to or on the ship;
 - (b) the accident under paragraph (a) has created a risk to safety or a risk of pollution by a hazardous substance; and
 - (c) the direction is necessary to remove or reduce the risk under paragraph (b).
- (2) For the purpose of this section—
- (a) a person is in charge of land or premises if the person is wholly or partly able to control the use made of the land or premises; and
 - (b) “**coastal**” means adjacent to or accessible from St Helena waters over which the public is permitted to navigate.

- (3) The direction under subsection (1)—
- (a) must be given in writing and where it is not reasonably practicable to give the direction in writing, must as soon as is reasonably practicable thereafter be confirmed in writing;
- (b) may be given to a person in charge of coastal land or premises;
- (c) may require the person to whom the direction is given, to grant access or facilities to or in relation to the ship or any person or thing which is or was on the ship; and
- (d) in particular, may require a person to—
 - (i) permit persons to land;
 - (ii) make facilities available for the undertaking of repairs or other works; and
 - (iii) make facilities available for the landing, storage and disposal of cargo or of other specified thing.

Other directions and orders

78. (1) The Governor may give a direction in respect of a ship if in the Governor's opinion the direction is necessary for the purpose of—

- (a) securing the safety of the ship or of other ships;
- (b) securing the safety of persons or property; and
- (c) preventing or reducing pollution.

(2) The direction under subsection (1)—

- (a) may be given to—
 - (i) the owner of the ship;
 - (ii) a person in possession of the ship; and
 - (iii) the master; and
- (b) may require the person to whom the direction is given to ensure that—
 - (i) the ship is moved or not moved from a specified place or area in St Helena waters;
 - (ii) the ship is moved or not moved to a specified place or area in St Helena waters;
 - (iii) the ship is moved or not moved over a specified route in St Helena waters; or
 - (iv) the ship is removed from St Helena waters.

(3) The Governor may by Order prescribe a substance to be a hazardous substance.

Action in lieu of direction

79. (1) Subject to subsection (2) the Governor—

- (a) may take such action as appears to the Governor necessary or expedient for the purpose for which the direction is given; and
- (b) in particular, may—
 - (i) authorise a person to enter land or make use of facilities;
 - (ii) do or authorise a person to do anything which the Governor could require a person to do by a direction;
 - (iii) authorise a person to assume control of a ship; and
 - (iv) make arrangements or authorise the making of arrangements for the

sinking or destruction of a ship.

- (2) Subsection (1) applies where the Governor—
- (a) thinks that circumstances exist which would entitle the Governor to give a direction under section 76, 77 or 78 but that the giving of a direction would not be likely to achieve a sufficient result; and
 - (b) has given a direction under section 76, 77 or 78 but in the Governor's opinion the direction has not achieved a sufficient result.

Enforcement

- 80.** (1) A person to whom a direction is given under section 76, 77 or 78—
- (a) must comply with the direction; and
 - (b) must try to comply with the direction in a manner which avoids risk to human life.

(2) It is a defence for a person charged with an offence under subsection (3)(a) to prove—

- (a) that the person tried as hard as the person could to comply with the direction given to the person; or
- (b) that the person reasonably believed that compliance with the direction would involve a serious risk to human life.

(3) A person commits an offence—

- (a) if the person contravenes subsection (1); or
- (b) if the person intentionally obstructs a person who is—
 - (i) acting on behalf of the Governor in connection with the giving of a direction under section 76, 77 or 78;
 - (ii) complying with a direction under section 76, 77 or 78; or
 - (iii) acting by virtue of section 79.

Penalty: A fine of £20,000 on summary conviction and on indictment, an unlimited fine.

Variation, revocation and issue of direction

81. (1) A direction given under section 76, 77 or 78 must be varied or revoked as soon as is reasonably practicable if the Governor thinks that the direction is wholly or partly no longer necessary for the purpose for which the direction was given.

(2) Consideration must be given to representations made by a person to the Governor regarding the variation or revocation of a direction where the person making representations is the subject of the direction made by the Governor under section 76, 77 or 78.

(3) Before a direction is given to a person under section 77 in respect of land or premises, unless the Governor thinks that it is not reasonably practicable—

- (a) the person must be given an opportunity to make representations to the Governor; and
- (b) consideration must be given to the representations made under paragraph (a).

Unreasonable loss and damage

82. (1) Subject to subsection (2) the Governor, in the manner prescribed, must pay compensation to any person who—

- (a) suffered loss or damage as a result of the remedial action (whether the action was taken by the person or someone else); and
- (b) applies, in the manner prescribed, to the Governor for compensation.

(2) Subsection (1) applies where action taken in accordance with a direction under section 76, 77 or 78 or by virtue of section 79 (“remedial action”)—

- (a) was not reasonably necessary for the purpose for which the direction was given; or
- (b) caused loss or damage which could not be justified by reference for the purpose for which the direction was given.

(3) In considering what is reasonably necessary or justifiable for the purpose of subsection (2) account shall be taken of—

- (a) the extent of the risk to safety or threat of pollution which the direction was intended to address;
- (b) the likelihood of the remedial action being effective; and
- (c) the extent of the loss or damage caused by the remedial action.

Expenses

83. (1) This section applies where—

- (a) a direction is given to a person in respect of a ship under section 77; or
- (b) the Governor relies on section 79 to take or authorise action in respect of a ship in lieu of a direction under section 77.

(2) The person to whom a direction is given is entitled to recover the costs of the person’s compliance with the direction from the owner of the ship.

(3) A person in charge of coastal land or premises is entitled to recover from the owner of the ship costs incurred by the person as a result of action taken by virtue of section 79 in relation to that land or premises.

(4) The Governor, in the manner prescribed, may make payments to a person on account of sums recoverable by that person under subsection (2) or (3).

(5) The Governor, in the manner prescribed, is entitled to recover from the owner of the ship—

- (a) costs incurred in connection with the giving of a direction;
- (b) costs incurred in connection with action taken under section 79; and
- (c) costs incurred under subsection (4).

(6) A right under subsection (2), (3) or (5) permits the recovery of costs only in so far as the costs are not recoverable—

- (a) under another law;
- (b) by virtue of an agreement; or
- (c) under the law relating to salvage.

(7) The Governor in Council may by regulation prescribe the manner in which and the procedure by which, pursuant to this section—

- (a) an application may be made for costs;
- (b) costs may be awarded; and
- (c) payments may be made.

Ships to which section 76, 77 and 78 applies

84. (1) A direction under section 76 or 77, in so far—

- (a) as the direction relates to a risk of pollution, may have effect in respect of a ship only if the ship—
 - (i) is a St Helena ship; or
 - (ii) is in St Helena waters or an area of the sea specified pursuant to section 70; and
- (b) as the direction relates to a risk to safety, may have effect in respect of a ship only if the ship is in St Helena waters and—
 - (i) the ship is not a qualifying foreign ship; or
 - (ii) the ship is a qualifying foreign ship which in the Governor's opinion is exercising neither the right of innocent passage nor the right of transit passage through straits used for international navigation.

(2) A direction under section 78 may have effect in respect of a ship only if the ship is in St Helena waters and—

- (a) the ship is not a qualifying foreign ship; or
- (b) the ship is a qualifying foreign ship which in the Governor's opinion is exercising neither the right of innocent passage nor the right of transit passage through straits used for international navigation.

(3) A direction may not be given under section 78 (2)(b)(iv) in respect of a St Helena ship.

(4) The Governor may by Order provide that a direction under section 76 or 77, in so far as the direction relates to a risk of pollution, may have effect in respect of a ship which—

- (a) is not a St Helena ship; and
- (b) is not in St Helena waters or an area of the sea specified in accordance with section 70.

(5) An Order under this subsection (4)—

- (a) may be expressed to apply generally or only in specified circumstances;
- (b) may make different provision for different circumstances;
- (c) may provide for section 76 to 83 and subsection (1) to (4) and subsection (6) to have effect in cases to which the Order applies with specified modifications; and
- (d) may contain transitional or consequential provisions.

(6) A direction may not be given under section 76(2)(b)(i) to (iv) or (c)(i) in respect of—

- (a) a ship of Her Majesty's Navy; or
- (b) a Government ship.

Enforcement

Oil records

- 85. (1)** The Governor in Council may make regulations to require—
- (a) oil record books to be carried in specified St Helena ships; and
 - (b) the master of a St Helena ship under paragraph (a) to record specified information in oil record books.

(2) The Governor in Council may make regulations to require records to be kept of the transfer of oil to and from ships while in St Helena waters.

Enforcement of Conventions relating to oil pollution

86. (1) The Governor may appoint a person to go on board a Convention ship in St Helena waters and require the production of any oil record book required to be carried by the ship in accordance with the Convention for inspection and enforcement purposes.

(2) In this section—

“the Convention” means a Convention—

- (a) that was accepted by Her Majesty’s Government in the United Kingdom in so far as the Convention relates to the prevention of pollution of the sea by oil; and
- (b) that was extended to St Helena;

“Convention ship” means a ship registered in a country that is a party to the Convention or a territory of such a country.

Miscellaneous and supplementary

Exemptions

87. (1) The Governor may exempt a ship or a class of ships from being subject to any provisions of this Chapter, absolutely or subject to conditions.

(2) The Governor may exempt a discharge of oil or of a mixture containing oil from being subject to any provisions of this Chapter, absolutely or subject to conditions.

PART 7 AIDS TO NAVIGATION

Establishment and management of aids to navigation

88. The Governor or an agency of Government designated by the Governor must establish within the coastal areas of St Helena aids to navigation necessary to facilitate safe navigation of St Helena waters.

Nautical publications, charts and other information

89. (1) The Governor in Council may make regulations to specify charts, directions or information necessary or expedient for the safe operation of ships.

(2) Regulations made under subsection (1) may require St Helena ships or a specified description of ships to carry and use specified charts, copies of directions or information at all times or on specified voyages.

(3) The Harbour Master may—

- (a) publish information on aids to navigation that are within the coastal areas of St Helena; and
- (b) declare any published information and any other publications, to be approved nautical publications.

(4) In legal proceedings, the production of an approved nautical publication authenticated by the Harbour Master is evidence of the matters appearing in it.

Offences relating to aids to navigation

90. (1) A person must not wilfully, negligently or without lawful authority—

- (a) damage, destroy or allow a ship to foul an aid to navigation;
- (b) do anything that causes the view of an aid to navigation to be obstructed in a manner that lessens the efficiency of the aid to navigation; or
- (c) interfere with an aid to navigation in a way that hinders the effective use of the aid to navigation.

(2) A person must not trespass on, or without lawful excuse be in or on, an aid to navigation, or on land upon which an aid to navigation is situated.

(3) A person who contravenes subsection (1) or (2) commits an offence.

Penalty: A fine of £2,500.

(4) A court that convicts a person of an offence under this section may, in addition to imposing a fine, order the person to pay to the Governor or to the agency responsible for the aid any expenses of making good damage caused by the offence.

Detention of ships

91. The Harbour Master, or the agency responsible for an aid to navigation under section 88, may detain a ship that has damaged, destroyed or fouled an aid to navigation, until the cost of repairing or replacing the aid to navigation or rendering the aid to navigation effective again is paid or secured.

Fire or lights detrimental to navigation

92. (1) A person must not show a light, including light from a fire, in a place or manner that misleads or is likely to mislead ships navigating in the coastal areas of St Helena and a person who contravenes this subsection commits an offence.

Penalty: A fine of £5,000.

(2) The Harbour Master may—

- (a) by notice require a person to extinguish the fire or light immediately or within a specified time;
- (b) serve a notice on the person requiring the person to extinguish the fire or light

- immediately or within a specified time; and
- (c) cause the fire or light to be extinguished if the person served with a notice under paragraph (a) fails to comply with the notice.

(3) A person authorised by the Harbour Master may enter the place where the fire or light is situated and extinguish it.

- (4) A person must not hinder or obstruct a person acting in accordance with subsection (2) or (3) and a person who contravenes this subsection commits an offence.

Penalty: A fine of £2,500.

PART 8 WRECK

Administration

Functions of Governor as to wreck

93. (1) The Governor has the general superintendence of matters relating to a wreck.
- (2) The Governor may, by notice in the Gazette, appoint a person to be the receiver of wreck.
- (3) The receiver is entitled to receive the expenses properly incurred by the receiver in the discharge of the receiver's functions.
- (4) The Governor may determine any dispute as to the amount payable to the receiver in respect of expenses and any such determination is final.

Ships in distress

Ships in distress

94. (1) This section applies if a ship is wrecked, stranded, or in distress in St Helena waters.
- (2) In respect of a ship to which subsection (1) applies a receiver must—
- (a) immediately proceed to the location of the ship which is wrecked, stranded, or in distress;
 - (b) take command of the persons present; and
 - (c) assign duties and give directions to each person as the receiver thinks fit to preserve the ship and the lives of shipwrecked persons.
- (3) Notwithstanding subsection (2) the receiver must not interfere with the relationship between the master and crew of the ship in respect of the management of the ship unless requested to do so by the ship's master.

(4) A person must not intentionally disobey a direction of the receiver and a person who contravenes this subsection commits an offence.

Penalty: A fine of £2,500.

(5) The receiver may, in order to preserve shipwrecked persons or the ship, the ship's cargo and equipment, require—

- (a) a person to assist the receiver;
- (b) the master near at hand to give assistance with the master's crew, or ship; and
- (c) a person to provide the use of any vehicle near at hand.

(6) A person must not refuse, without reasonable excuse, to comply with a requirement under subsection (5) and a person who contravenes this subsection commits an offence.

Penalty: A fine of £2,500.

(7) A person may pass and repass over adjoining land without being subject to interruption by the land's owner or occupier and deposit on the land cargo or other article recovered from a ship in order to—

- (a) render assistance to the ship;
- (b) save the lives of shipwrecked persons; or
- (c) save the cargo or equipment of the ship.

(8) The right to pass and repass under subsection (7) is a right of passage with or without vehicles, but a right of passage is not conferred by this section if there is an equally convenient public road.

(9) Damage sustained by an owner or occupier of land as a result of the exercise of the rights conferred by this section is a charge on the ship, cargo or articles in respect of or by which the damage is caused.

(10) The owner or occupier of land must not—

- (a) impede or hinder a person in the exercise of the rights conferred by this section;
- (b) impede or hinder the deposit on the land of cargo or other article recovered from the ship; or
- (c) prevent or attempt to prevent cargo or other articles recovered from the ship from remaining deposited on the land for a reasonable time until the cargo or other articles can be removed to a safe place.

(11) A person who contravenes subsection (10) commits an offence.

Penalty: A fine of £2,500.

Liability for damage in case of plundered ship

95. The Governor in Council may make regulations to govern the payment of compensation if any part of the cargo or equipment of a ship that is wrecked, stranded, or in distress in St Helena waters is plundered, damaged or destroyed by persons in circumstances in which the persons commit the offence of riot.

Dealing with wreck

Wreck regulations

96. (1) The Governor in Council may make regulation to provide for the course of action to be taken if a person finds or takes possession of wreck in St Helena waters or finds or takes possession of wreck elsewhere and brings the wreck within St Helena waters.

- (2)** Regulations made under subsection (1) may provide for—
- (a)* notice to be given to the receiver;
 - (b)* the course of action the receiver must take;
 - (c)* the delivery of wreck to the receiver;
 - (d)* the giving of notices by the receiver;
 - (e)* the claims that may be made in respect of wreck;
 - (f)* the sale of wreck by the receiver;
 - (g)* the disposal of the proceeds from the sale of wreck; and
 - (h)* the fees to be paid to the receiver.

(3) The Government is entitled to all unclaimed wreck found in St Helena or in St Helena waters.

Offences in respect of wreck

Wreck offences

- 97. (1)** A person must not take into a foreign port and sell—
- (a)* a ship stranded, derelict or otherwise in distress found in St Helena waters;
 - (b)* a part of the cargo or equipment of, or anything belonging to, such a ship; or
 - (c)* wreck found within St Helena waters.

(2) A person, other than the receiver, or a person lawfully acting by command of the receiver, must not without the permission of the master, board or attempt to board the ship that is wrecked, stranded or in distress in St Helena waters.

- (3)** A person must not impede or hinder or attempt to impede or hinder the saving of—
- (a)* a ship stranded or in danger of being stranded, or otherwise in distress, on or near St Helena waters;
 - (b)* a part of the cargo or equipment of a ship under paragraph *(a)*; or
 - (c)* any wreck.

- (4)** A person must not—
- (a)* conceal a wreck; or
 - (b)* deface or obliterate a mark on a ship.

- (5)** A person must not wrongfully carry away or remove—
- (a)* any part of a ship stranded or in danger of being stranded, or otherwise in distress, in St Helena waters;
 - (b)* a part of the cargo or equipment of a ship under paragraph *(a)*; or
 - (c)* any wreck.

(6) A person who contravenes subsection (2) commits an offence.
Penalty: A fine of £2,500.

(7) A person who contravenes subsection (1), (3), (4) or (5) commits an offence.
Penalty: A fine of £5,000 or imprisonment for 5 years, or both.

Powers of entry, etc.

98. (1) A receiver may apply to a Justice of the Peace for a search warrant if the receiver reasonably believes that—

- (a) wreck is being concealed by or is in the possession of a person who is not the owner of the wreck; or
- (b) wreck is being otherwise improperly dealt with.

(2) If a search warrant is granted in accordance with subsection (1), the receiver may—

- (a) enter a house, or other place, wherever situated, or a ship; and
- (b) search for, seize and detain any wreck found there.

(3) The receiver may act in compliance with subsection (2) with assistance and may use force to gain entry if necessary.

Removal of dangerous wrecks

Powers of Harbour Master in respect of dangerous wrecks

99. (1) This section applies if a ship is sunk, stranded or abandoned in St Helena waters.

(2) If the Harbour Master believes that a ship to which subsection (1) applies is, or is likely to become, an obstruction or danger to navigation the Harbour Master may—

- (a) take possession of, and raise, remove or destroy the whole or any part of the ship;
- (b) light or buoy the ship or part of the ship until the ship is raised, removed or destroyed;
- (c) raise or remove the ship or part of the ship; and
- (d) be reimbursed, out of the proceeds of the sale, for the expenses incurred prior to and in respect of the sale.

(3) The Harbour Master must hold any surplus of the proceeds of a sale on trust for a person entitled to the surplus for one year and, if the surplus is not claimed within that year, must pay the surplus into the Consolidated Fund.

(4) A ship or part of the ship must not be sold until at least seven days' notice of the intended sale is given by a means that, in the opinion of the Harbour Master, is likely to bring the notice to the attention of those with an interest in the ship.

(5) At any time before the ship or any part of the ship is sold, the ship's owner is entitled to claim and remove the ship on payment of any expenses incurred or to be incurred by the Harbour Master.

(6) If the proceeds of sale are insufficient to reimburse the expenses incurred by the Harbour Master prior to and in respect of the sale, the outstanding amount is a debt due to the

Government from the owner of the ship.

PART 9 ENFORCEMENT OFFICERS AND THEIR POWERS

Enforcement Officers

Appointment of a person to administer the Ordinance

100. (1) The Governor may, by notice in the Gazette—

- (a) appoint a person to be a superintendent;
- (b) appoint a person to be an inspector; and
- (c) appoint a person to be a surveyor.

(2) A person appointed as a surveyor may be appointed either as a ship surveyor or as an engineer surveyor or as both.

Powers and functions

Functions of inspector

101. (1) An inspector must report to the Governor regarding—

- (a) the nature and causes of an accident or damage that a ship has or is alleged to have sustained or caused;
- (b) whether a requirement, restriction or prohibition imposed by or under this Ordinance is complied with or contravened;
- (c) whether the hull and machinery of a ship are sufficient and in good condition; and
- (d) what measures have been taken to prevent the escape of oil or mixtures containing oil.

(2) The Governor in Council may make regulations to specify the powers of an inspector to carry out the inspector's functions which may include—

- (a) the power to enter premises or ships in specified circumstances, with equipment and accompanied by other persons;
- (b) the power to make an examination or an investigation;
- (c) the power to direct that the premises or ship or any part of them or anything in them be left undisturbed for as long as is reasonably necessary for the purpose of an examination or investigation;
- (d) the power to take measurements and photographs and make recordings in relation to an examination or an investigation;
- (e) the power to take samples of articles or substances found in any premises or ship and of the atmosphere in or in the vicinity of them;
- (f) the power to require the production of a book or document that by virtue of this Ordinance are required to be kept;
- (g) the power to require a person to afford to the inspector facilities and assistance;
- (h) the procedure to be followed in connection with the taking of samples; and
- (i) the way in which samples under paragraph (h) are to be dealt with.

Powers to require production of ships' documents

- 102. (1)** A customs officer or a superintendent may in respect of a St Helena ship—
- (a) require the ship's owner, master, or seafarer to produce an official logbook or other documents relating to the crew or a member of the ship's crew that is in the possession of the crew or under the control of the crew;
 - (b) take copies of or extracts from the ship's official logbook or other documents;
 - (c) require the master to produce a list of the persons on board the ship;
 - (d) muster the ship's crew; and
 - (e) require the master to appear and give an explanation concerning the ship or the ship's crew or the official logbook or documents produced or required to be produced.

- (2)** In accordance with subsection (1) a person, when required, must—
- (a) produce a logbook or a document;
 - (b) allow a logbook or a document to be inspected or copied;
 - (c) muster the crew or impede the muster; and
 - (d) must give an explanation concerning the ship or the ship's crew or the official logbook or documents produced or required to be produced.

(3) If, in accordance with subsection (1), a person is required by a customs officer or a superintendent to comply with this section, the person must not knowingly mislead or deceive the officer or the superintendent.

(4) A person who contravenes subsection (2) or (3) commits an offence.
Penalty: A fine of £2,500.

Powers to inspect ships and their equipment, etc.

103. (1) To ensure that this Ordinance and the terms of approvals, licences, consents, directions or exemptions given under this Ordinance are complied with, a surveyor or superintendent may go on board a ship in St Helena waters and inspect—

- (a) the ship and the ship's equipment or any part of the ship, and any articles on board the ship; and
- (b) any document carried on the ship in pursuance of this Ordinance.

(2) If the ship is a St Helena ship, a proper officer may exercise the powers conferred by this section outside St Helena waters.

(3) A surveyor, superintendent or proper officer exercising powers under this section must not unnecessarily detain or delay a ship, but may, if the surveyor, superintendent or proper officer considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of the ship's hull or machinery.

(4) A person must not obstruct a surveyor, superintendent or proper officer in the exercise of the surveyor, superintendent or proper officer's powers under this section.

(5) A person who contravenes subsection (4) commits an offence.
Penalty: A fine of £20,000 or imprisonment for 2 years, or both on summary conviction and on indictment, an unlimited fine or imprisonment for 2 years, or both.

Improvement notices and prohibition notices

Improvement notices

104. (1) An inspector may serve an improvement notice on a person if the inspector has reasonable grounds to believe that a person is contravening a relevant statutory provision in circumstances that make it likely that the contravention will continue or be repeated.

(2) An improvement notice must—

- (a)* specify the provision in respect of which the inspector has reasonable grounds to believe; and
- (b)* require the person to remedy the contravention before a specified date.

(3) A person must not fail to comply with a requirement imposed by an improvement notice and a person who contravenes this subsection commits an offence.

Penalty: A fine of £20,000 or imprisonment for 2 years, or both on summary conviction and on indictment, an unlimited fine or imprisonment for 2 years, or both.

(4) In this section “**relevant statutory provision**” means any of the following sections and regulations having effect under any of those sections:

- (a)* section 33 - obligation of shipowners as to seaworthiness;
- (b)* section 35 - provisions and water complaints regulations;
- (c)* section 38 - manning regulations;
- (d)* section 39 - crew’s English knowledge regulations;
- (e)* section 56 - submersible and supporting apparatus regulations; and
- (f)* section 73 - discharge or escape of oil from ships.

Prohibition notices

105. (1) An inspector may serve a prohibition notice on a person if the inspector believes that a relevant activity that is taking place on board a ship under the control of the person involves a risk of a serious injury to a person or serious pollution of St Helena waters.

(2) A prohibition notice must—

- (a)* state that the inspector is of the belief;
- (b)* specify the activity which the inspector believes gives rise to the risk; and
- (c)* specify any course of action required to be taken.

(3) A prohibition notice under subsection (2) must also direct that the activity must cease and that the ship must not go to sea unless any required course of action is taken.

(4) A direction contained in a prohibition notice takes effect on the date specified in the direction, which may be immediately.

(5) A person must not fail to comply with a prohibition notice and a person who contravenes this subsection commits an offence.

Penalty: A fine of £20,000 or imprisonment for 2 years, or both on summary conviction and on indictment, an unlimited fine or imprisonment for 2 years, or both.

(6) In this section—

“**relevant activity**” means an activity in respect of which a relevant statutory provision applies;

and

“**relevant statutory provision**” means a provision set out in section 104(4).

Arbitration regulations

106. (1) The Governor in Council may make regulations to specify the course of action to be taken if a question arises as to whether—

- (a) the belief of an inspector specified in an improvement notice under section 104 or a prohibition notice under section 105 had a valid basis; or
- (b) a requirement included in such a notice was reasonable.

(2) Regulations made under subsection (1) may provide for the question to be referred to an arbitrator for a decision.

PART 10 ACCIDENT INVESTIGATIONS AND INQUIRIES

Marine accident investigations

Investigation of marine accidents regulations

107. The Governor in Council may make regulations to provide for the investigation of accidents involving ships which may—

- (a) impose a requirement to report an accident involving a ship;
- (b) prohibit, pending investigation, access to or interference with a ship involved in an accident;
- (c) specify the persons who are to carry out an investigation involving a ship;
- (d) specify the procedure to be followed to investigate an accident involving a ship; and
- (e) provide for the submission to and the publication by the Governor of a report following an investigation involving a ship.

Inquiries into and reports on deaths and serious injuries

Inquiries into serious injury, deaths of crew members and others

108. (1) The Governor in Council may make regulations to prescribe the procedure to be followed if—

- (a) the master of or a person employed on a St Helena ship is seriously injured or dies outside St Helena; or
- (b) any other person is seriously injured or dies on a St Helena ship.

(2) Regulations made under subsection (1) may provide for an inquiry into the cause of the death to be held by a specified person in St Helena or at the next port where the ship calls after the death.

(3) Regulations made under this section may also provide for the course of action to be taken if a person—

- (a) may have died on a St Helena ship involved in an accident; or
- (b) having been lost from a St Helena ship may have died as a result of being lost.

(4) The person conducting an inquiry must, following the conclusion of the inquiry, report to the Governor and may make recommendations.

PART 11 LEGAL PROCEEDINGS

Offences by a company

109. (1) This section applies if an offence under this Ordinance is committed by a company.

(2) Where a company commits an offence under this Ordinance, and it is proved that the offence was committed with the consent or connivance of, or was attributable to wilful default on the part of an officer concerned in the management of the company, the officer commits the same offence and is liable to the same penalty as the company.

(3) In this section, “officer” includes—

- (a) a director, secretary, partner, or other similar officer of the company;
- (b) a person purporting to act as a director, secretary, partner or other similar officer of the company;
- (c) a member or council member of the company, if the affairs of the company are managed by its members or council members; and
- (d) the master of a ship that is owned or operated by a company.

Accessories and abettors

110. A person who knowingly or wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Ordinance may be dealt with, tried and punished as a principal offender.

Jurisdiction

Jurisdiction in respect of offences

111. (1) To confer jurisdiction on a court, an offence under this Ordinance is to be taken to have been committed in a place in St Helena where the offender may for the time being be.

(2) For the same purpose, any matter of complaint under this Ordinance is to be taken to have arisen in a place in St Helena where the person complained against may for the time being be.

Jurisdiction in case of offences on board ship

112.(1) Subsection (3) applies if a person who has St Helena status and who is in St Helena, is charged with having committed an offence under this Ordinance—

- (a) on board a St Helena ship whilst the St Helena ship was on the high seas or in a foreign port or harbour; or
- (b) on board a foreign ship to which the person does not belong.

(2) Subsection (3) also applies if a person who does not have St Helena status and is in St Helena, is charged with having committed an offence on board a St Helena ship whilst the St Helena ship was on the high seas.

(3) A court has jurisdiction to try an offence in relation to subsection (1) and (2) as if the offence had been committed on board a St Helena ship within the limits of the court's ordinary jurisdiction.

Offences committed by St Helena seafarers

113.(1) An act in respect of property or a person done in or at a place (ashore or afloat) outside St Helena by the master of, or seafarer on, a St Helena ship which, if done in St Helena, would be an offence under the law of St Helena—

- (a) is an offence under that law; and
- (b) is to be treated for the purpose of jurisdiction and trial, as if the act had been done within the Admiralty jurisdiction of the Supreme Court.

(2) Subsection (1) also applies in respect of a person who had been employed in accordance with subsection (1) within the period of 3 months expiring at the time when the act was done.

(3) This section applies to omissions as they apply to acts.

Return of offenders

Return of offenders regulations

114. (1) The Governor in Council may make regulations to prescribe the powers of a proper officer if a complaint is made to the proper officer in respect of—

- (a) any offence against property or persons was committed at a place (ashore or afloat) outside St Helena by a person who at the time when the offence was committed, or within 3 months before that time, was the master of, or a seafarer on, a St Helena ship; or
- (b) any offence on the high seas was committed by the master of, or a seafarer on, a St Helena ship.

(2) Regulations made under subsection (1) may give the proper officer power—

- (a) to inquire into the case upon oath;
- (b) to take steps to place the alleged offender under restraint; and
- (c) to send the offender in safe custody to St Helena for proceedings to be taken against the offender.

Detention of ship and distress on ship

Detention of ship regulations

115. (1) The Governor in Council may make regulations to provide for the procedure to be followed in respect of a ship detained under this Ordinance.

(2) Regulations made under subsection (1) may provide that the ship may be detained by—

- (a) an inspector;
- (b) a customs officer;
- (c) a proper officer; and
- (d) the Harbour Master.

(3) Regulations made under this section may also provide for a notice of detention to be served on a master and for the notice to contain directions with which the master is required to comply.

Enforcement of fines, costs and wage payments

116. (1) A court may direct distress to be levied on a ship and the ship's equipment if an amount outstanding remains unpaid in respect of—

- (a) a fine imposed by a court in proceedings against the owner or master for an offence under this Ordinance; and
- (b) any costs or expenses ordered by the court to be paid by the owner or master are not paid, within the period specified by the court.

(2) A court that made an order under subsection (1) may direct distress to be levied on the ship and the ship's equipment in respect of the amount outstanding if—

- (a) the court made an order directing payment to be made for wages, fines or other sums of money to a seafarer;
- (b) the person directed to pay is the master or owner of the ship; and
- (c) the money directed to be paid is not paid in accordance with the order.

Special evidential provisions

Admissibility in evidence of certain documents

117. (1) The Governor in Council may make regulations in respect of the admissibility as evidence in the course of legal proceedings—

- (a) of a deposition previously made by a person at a place outside St Helena in respect of the same subject matter if it is proved that that person cannot be found in St Helena; and
- (b) of documents, including copies thereof, that are in the custody of the Registrar or are open to public inspection.

(2) Regulations made under subsection (1) may provide that the following documents are open to public inspection—

- (a) documents purporting to be submissions to or decisions by superintendents or proper officers;
- (b) the official logbook of a ship;
- (c) crew agreements, lists of crews and notices given of additions to or changes in crew agreements and lists of crews; and
- (d) returns or reports under section 70.

Service of documents

Service of documents

118. (1) A document authorised or required to be served on a person may be served on the person by—

- (a) delivering the document to the person;
- (b) leaving the document at the person's proper address; or
- (c) sending the document by post to the person at the person's proper address.

(2) A document required to be served on the master may be served, if there is a master, by leaving the document for the master on board the ship with a person appearing to be in command or charge of the ship.

(3) If there is no master, the document may be served on—

- (a) the ship's owner;
- (b) an agent of the ship's owner; or
- (c) by leaving a copy of the document firmly fixed to the mast of the ship.

(4) A document authorised or required to be served on any person may—

- (a) in the case of a body corporate, be served on its secretary; or
- (b) in the case of a partnership, be served on a partner or a person having the control or management of the partnership business.

(5) A notice authorised or required to be served on the Governor may be served by post.

(6) A notice authorised to be given to an inspector may be given by delivering the notice to the inspector or by leaving the notice at, or sending the notice by post to, the inspector's office.

(7) A document authorised or required to be served on the registered owner of a St Helena ship is to be treated as duly served on the owner if served in a manner specified in the registration regulations.

(8) In this section the proper address of a person is the person's last known address, except that—

- (a) in the case of a body corporate or the secretary of a body corporate the proper address is the address of the registered or principal office of the body; and
- (b) in the case of a partnership or a person having the control or management of the partnership business, the proper address is the principal office of the partnership.

(9) In subsection (8), the principal office of a company registered outside St Helena or of a partnership carrying on business outside St Helena is its principal office in St Helena.

(10) If the person to be served with a notice has specified an address in St Helena, other than the person's proper address, as the one at which the person or someone on the person's behalf will accept notices of the same description as that notice and the specified address is to be treated as the person's proper address.

(11) If the owner of a ship is a company or other corporate body and the company or

other corporate body cannot be served in St Helena with any document required under this Ordinance to be served on the owner of a ship, the document required to be served under this Ordinance may be served on the master and, if served in the foregoing manner, is considered to have been served on the owner of the ship.

- (12) A person may—
 - (a) board a ship for the purpose of serving a direction under section 76, 77 or 78;
 - (b) enter land or premises for the purpose of serving a direction under section 76, 77 or 78.

PART 12

GENERAL PROVISIONS

Administration

119. (1) The Governor has the general superintendence of all matters relating to shipping and seafarers.

(2) The Governor may exempt a ship from a specified requirement of this Ordinance or regulations made under the Ordinance on such terms as the Governor may specify.

(3) The Governor may dispense with the observance of a specified requirement in respect of a ship if satisfied that—

- (a) the requirement was substantially complied with or that compliance with the specified requirement is unnecessary; and
- (b) the course of action taken, or provision made as respects the subject-matter of the requirement, is as effective as, or more effective than, compliance with the requirement.

Returns, etc. to Governor

120. (1) The Governor may require a superintendent to make and send to the Governor returns or reports on a matter relating to St Helena ships or seafarers on St Helena ships.

(2) The Governor may require a superintendent to produce to the Governor logbooks and other documents that are delivered to the superintendents under this Ordinance.

(3) The Governor may require a surveyor of ships to make returns to the Governor with respect to—

- (a) the build, dimensions, draught, burden, speed and room for fuel of ships surveyed by the surveyor; and
- (b) the nature and particulars of machinery and equipment of the ships.

(4) A surveyor, the owner, master and engineer of a ship being surveyed—

- (a) must provide the surveyor with information or assistance requested by the surveyor required to comply with the requirements of subsection (3); and
- (b) who contravenes paragraph (a) commits an offence.

Penalty: A fine of £2,500.

Application of Ordinance to certain structures

121. The Governor in Council may make regulations to provide for a thing designed or adapted for use at sea is to be treated as a ship for the purpose of this Ordinance.

Proceedings on forfeiture of a ship

122. The Governor in Council may make regulations to prescribe the procedure to be followed if a ship or a share in a ship may be forfeited under this Ordinance, which may—

- (a) provide for a person to take possession of the ship or the share in the ship;
- (b) provide for adjudication before the Supreme Court; and
- (c) provide for a ship or a share in a ship to be forfeited to the Government.

Notices and forms

123. (1) The Governor may publish notices to regulate navigation in St Helena waters.

(2) A person must not contravene a notice published under subsection (1) and a person who contravenes this subsection commits an offence.

Penalty: A fine of £1,500.

(3) The Governor in Council may make regulations in respect of the forms, book, instruments, notices or papers required under this Ordinance.

Regulations – general provisions

124. Regulations made under this Ordinance—

- (a) may make different provisions for different classes or descriptions of ships and for different circumstances;
- (b) may provide for exemptions and dispensations from specified requirements of the regulations, subject to any conditions the Governor or any other specified person may think fit to impose;
- (c) may make transitional, incidental or supplementary provision;
- (d) may authorise investigations and confer powers of inspection on specified persons;
- (e) may create offences punishable by a fine not exceeding £50,000 or by imprisonment for a term not exceeding 6 months or, or by both;
- (f) may provide for the approval of forms or other matters by the Governor or by any other specified person;
- (g) may provide for the discharge of specified functions by a specified authority or person;
- (h) may provide for any of the provisions of the regulations to extend to places outside St Helena;
- (i) may provide for the regulations to apply to a non-St Helena ship and to the master of and a person employed on such a ship;
- (j) may provide for the payment of fees and charges by a person that may be enforced as a debt;
- (k) may provide for the award of costs against any other person that may be enforced as a debt;
- (l) may provide for the award of compensation payable by any other person that may be enforced as a debt;

- (m) may provide for the award of compensation payable by the Government that is payable out of the Consolidated Fund without further appropriation;
- (n) may provide for the award of costs against the Government payable out of the Consolidated Fund without further appropriation; and
- (o) may include provisions necessary or convenient to give effect to this Ordinance, that are additional to those provided for by any other provision of this Ordinance.

SCHEDULE
Private Law Provisions for St Helena
(Section 14)

General

General

1. (1) Subject to any rights and powers appearing from the register to be vested in any other person, the registered owner of a ship, or of a share in a ship, has the power to dispose of the ship or of the share in the ship, provided the disposal is made in accordance with this Schedule and the registration regulations.

(2) Sub-paragraph (1) does not imply that interests arising under contract or other equitable interests cannot subsist in relation to a ship or a share in a ship; and such interests may be enforced by or against owners and mortgagees of ships in respect of their interest in the ship or share in the same manner as in respect of any other personal property.

(3) The registered owner of a ship or of a share in a ship has power to give effectual receipts for any money paid or advanced as consideration on any disposal of the ship or share.

Transfers, etc. of St Helena ships

Transfers, etc. of St Helena ships

2. (1) A transfer of a registered ship, or a share in such a ship, must be effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in the ship ceasing to have a St Helena connection.

(2) If any such ship or share is transferred in accordance with sub-paragraph (1), the transferee must not be registered as owner of the ship or share unless—

- (a) the transferee has made the prescribed application to the Registrar; and
- (b) the Registrar is satisfied that the ship retains a St Helena connection and that the Registrar would not refuse to register the ship.

(3) If an application under sub-paragraph (2) is granted by the Registrar, the Registrar must register the bill of sale in the prescribed manner.

(4) Bills of sale must be registered in the order in which the bills of sale are produced to the Registrar for the purpose of registration.

Registration of transfer

3. (1) Where a registered ship, or a share in a registered ship, is transmitted to a person by a lawful means other than a transfer under paragraph 2 and the ship continues to have a St Helena connection, that person must not be registered as owner of the ship or share unless—

- (a) the person has made the prescribed application to the Registrar; and
- (b) the Registrar is satisfied that the ship retains a St Helena connection and that the Registrar would not refuse to register the ship.

(2) If an application under sub-paragraph (1) is granted by the Registrar, the Registrar must cause the applicant's name to be registered as owner of the ship or share.

Supreme Court may order sale

4. (1) If property in a St Helena ship, or a share in a St Helena ship, is transmitted to a person by a lawful means other than a transfer under paragraph 2 and as a result of the transmission the ship no longer has a St Helena connection, the Supreme Court may, on application by or on behalf of the person, order a sale of the property transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, must be paid to the person or otherwise as the Court directs.

(2) The Court may require any evidence in support of the application the Court thinks requisite and may make the order on any terms and conditions the Court considers just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) Every such application must be made within the period of 28 days beginning with the date of the occurrence of the event on which the transmission has taken place, or within such further time (not exceeding one year) as the Court may allow.

(4) The ship or share transmitted shall be liable to forfeiture if—

- (a) such an application is not made within the time allowed by or under sub-paragraph (3); or
- (b) the Court refuses an order for sale.

Name to be included in order for sale

5. (1) If a court (whether under paragraph 4 or otherwise) orders the sale of a St Helena ship, or a share in a St Helena ship, the order of the court must contain a declaration vesting in some named person the right to transfer the ship or share.

(2) A person named pursuant to subsection (1) is entitled to transfer the ship or the share in the St Helena ship in the same manner and to the same extent as if the person were the registered owner of the ship or the share.

(3) The Registrar must deal with any application relating to the transfer of the ship or the share made by the person named pursuant to subsection (1) as if the person were the registered owner.

Court may prohibit dealing in ship

6. (1) The Supreme Court may, if the Supreme Court thinks fit (without prejudice to the exercise of any other power), on the application of an interested person, make an order prohibiting for a specified time any dealing with a registered ship or share in a registered ship.

(2) The Court may make the order on any terms or conditions the Court thinks just, or may refuse to make the order, or may discharge the order when made (with or without costs) and generally may act in the case as the justice of the case requires.

(3) The order, when a copy is served on the Registrar, is binding on the Registrar whether or not the Registrar was made a party to the proceedings.

Mortgages of St Helena ships

Mortgages of St Helena ships

7. (1) A St Helena ship, or share in a St Helena ship, may be made a security for the repayment of a loan or the discharge of any other obligation.

(2) The instrument creating any such security (referred to in the following provisions of this Schedule as a “mortgage”) must be in the form prescribed by or approved under the registration regulations.

(3) If a mortgage executed in accordance with sub-paragraph (2) is produced to the Registrar, the Registrar must register the mortgage in the prescribed manner.

(4) Mortgages must be registered in the order in which the mortgages are produced to the Registrar for the purpose of registration.

Priority of registered mortgages

Priority of registered mortgages

8. (1) If two or more mortgages are registered in respect of the same ship or share, the priority of the mortgagees between themselves must, subject to sub-paragraph (2), be determined by the order in which the mortgages were registered (and not by reference to any other matter).

(2) The registration regulations may provide for the giving to the Registrar by intending mortgagees of “priority notices” in a form prescribed by or approved under the regulations which, when recorded in the register, determine the priority of the interest to which the notice relates.

Registered mortgagee's power of sale

Registered mortgagee's power of sale

9. (1) Subject to sub-paragraph (2), every registered mortgagee has power, if the mortgage money or any part of the mortgage money is due, to sell the ship or share in respect of which the registered mortgagee is registered, and to give effectual receipts for the purchase money.

(2) If two or more mortgagees are registered in respect of the same ship or share, a subsequent mortgagee must not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Protection of registered mortgagees

Protection of registered mortgagees

- 10.** If a ship or a share in a ship is subject to a registered mortgage, then—
- (a) except so far as is necessary for making the ship or the share available as security for the mortgage debt, the mortgagee must not by reason of the mortgage be treated as owner of the ship or the share; and
 - (b) the mortgagor must be treated as not having ceased to be owner of the ship or share.

Transfer of registered mortgage

Transfer of registered mortgage

11. (1) A registered mortgage may be transferred by an instrument made in the form prescribed by or approved under the registration regulations.

(2) If any such instrument is produced to the Registrar, the Registrar must register the transferee in the prescribed manner.

Transmission of registered mortgage by operation of law

12. If the interest of a mortgagee in a registered mortgage is transmitted to a person by a lawful means other than by a transfer under paragraph 11, the Registrar must, on production of the prescribed evidence, cause the name of that person to be entered in the register as mortgagee of the ship or share in question.

Discharge of registered mortgage

Discharge of registered mortgage

13. If a registered mortgage is discharged, the Registrar must, on production of the mortgage deed and such evidence of the discharge of the mortgage as may be prescribed, cause an entry to be made in the register to the effect that the mortgage is discharged.

Definitions

Definitions

- 14.** In this Schedule—
“**mortgage**” must be construed in accordance with paragraph 7(2);
“**prescribed**” means prescribed in the registration regulations; and
“**registered mortgage**” means a mortgage registered under paragraph 7(3).

MERCHANT SHIPPING ORDINANCE, 2021

MERCHANT SHIPPING (SAFETY AND HEALTH) (LOAD LINES) REGULATIONS, 2021

(Sections 55 and 124(o))

TABLE OF CONTENTS

1. Citation
2. Interpretation
3. Application
4. Electronic communication
5. Maritime Authority
6. Exemptions
7. Equivalents
8. Assignment of freeboards
9. General compliance
10. Repairs, alterations and modifications
11. Zones and areas
12. Submersion
13. Force majeure
14. Initial, renewal and annual surveys
15. Issue of Convention certificate
16. Issue or endorsement of International Load Line Certificate by another Government and on behalf of other Contracting Government
17. Form of Convention certificate
18. Duration and validity of an International Load Line Certificate
19. Extension of periods of validity of an International Load Line Certificate
20. Duration and validity of an International Load Line Exemption Certificate
21. Maintenance of conditions after survey
22. Procedure to be adopted when a ship is deficient
23. Cancellation of International Load Line Certificates
24. Surrender of Convention certificates
25. Acceptance of Convention certificates
26. Authorisation of removal etc., of appropriate marks
27. Record of conditions of assignment
28. Prohibition on proceeding to sea
29. Control of a foreign ship holding a valid Convention certificate

- 30. Powers of officers exercising control
- 31. Detention
- 32. Arbitration
- 33. Compensation for unjustified detention
- 34. Offences

PART I PRELIMINARY

Citation

1. These Regulations may be cited as the Merchant Shipping (Safety and Health) (Load Lines) Regulations, 2021.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—

“**alteration**”, in relation to a ship, includes deterioration;

“**Annex I**”, “**Annex II**”, and “**Annex III**” mean Annex I, Annex II and Annex III respectively of the Convention;

“**annual survey**” means a survey of a ship required under Article 14(1)(c);

“**appropriate load line**” means the line directed to be marked on a ship indicating the maximum depth to which a ship may be loaded in a particular zone or area and seasonal period (as defined in Annex II) and which is calculated in accordance with Annex 1;

“**appropriate marks**” means the appropriate load lines, the deck-line and the load line mark;

“**Article**” means an Article of the Convention;

“**conditions of assignment**” means the conditions relating to construction, arrangement and stability with which a ship must be in compliance in order to be assigned freeboards;

“**Contracting Government**” means the Government of a State which is a party to the Convention or to the Protocol;

“**Convention**” means the International Convention on Load Lines 1966;

“**Convention certificate**” means an International Load Line Certificate or an International Load Line Exemption Certificate;

“**Convention country**” means a country or territory which is either—

- (a) a country the Government of which is party to the Convention or to the Protocol, or
- (b) a territory to which the Convention or the Protocol extends whether or not it is subject to the amendments or reservations to either instrument;

“**deck-line**” has the meaning given in Regulation 4 of Annex I;

“**existing ship**” has the meaning given in Article 2(7);

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

“**freeboard**” has the meaning given by Regulation 3(8) of Annex I;

“**IMO**” means the International Maritime Organization;

“**International Load Line Certificate**” means an International Load Line Certificate issued under the Convention;

“**International Load Line Exemption Certificate**” means an International Load Line Exemption Certificate issued under the Convention;

“**international voyage**” has the meaning given in Article 2(4);

“**length**” has the meaning given in Article 2(8);

“load line” means the line marked on a ship indicating the maximum depth to which a ship may be loaded;

“load line mark” has the meaning given in Regulation 5 of Annex I;

“Maritime Authority” means the person appointed in accordance with section 2A of the Ordinance;

“MCA” means the United Kingdom’s Maritime and Coastguard Agency, an executive agency of the United Kingdom’s Secretary of State for Transport;

“pleasure vessel” means;

- (a) any vessel which at the time it is being used is –
 - (i) in the case of a vessel wholly owned by –
 - (aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
 - (bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and
 - (ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or
- (b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in (a) or (b) no other payments are made by or on behalf of users of the vessel, other than by the owner; and in this definition “immediate family” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the relative’s spouse or civil partner, and “relative” means brother, sister, ancestor or lineal descendant;

“Protocol” means the means the Protocol of 1988 to the Convention;

“renewal survey” means a survey of a ship required under regulation 14;

“Secretary of State” means the United Kingdom’s Secretary of State for Transport; and

“valid” in the context of an International Load Line Certificate or an International Load Line Exemption Certificate, means in force.

(2) In these Regulations a reference to an Article, an Annex or a Regulation in an Annex is, unless otherwise stated, a reference to an Article, Annex or Regulation in an Annex in or to the Convention.

Application

3. (1) The provisions as contained in the Convention, as modified by the Protocol, apply for purposes of and in accordance with these Regulations to—

- (a) a St Helena ship engaged on an international voyage; and
- (b) a foreign ship or a ship that is not a St Helena ship while the ship is within the waters of St Helena and engaged on an international voyage.

(2) These Regulations do not apply to—

- (a) a ship of war;
- (b) a new ship of less than 24 metres in length;

- (c) an existing ship of less than 150 gross tons;
- (d) a pleasure vessel;
- (e) a fishing vessel;
- (f) a ship solely navigating—
 - (i) the Great Lakes of North America and the River St. Lawrence as far east as a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island, and, on the north side of Anticosti Island, the meridian of longitude 63 degrees W;
 - (ii) the Caspian Sea; or
 - (iii) the Plate, Parana and Uruguay Rivers as far east as a rhumb line drawn between Punta Rasa (Cabo San Antonio), Argentina, and Punta del Este, Uruguay; or
- (g) a foreign ship or a ship that is not a St Helena ship—
 - (i) which was not subject to the provisions of the Convention at the time of the ship's departure on any voyage; and
 - (ii) whose presence within St Helena's waters is solely on account of any deviation from its intended voyage due to stress of weather or any other cause of force majeure.

(3) In this regulation **“fishing vessel”** has the meaning provided in Article 2(5).

Electronic communication

4. (1) A requirement in these Regulations that a notice must be in writing or that a certificate must be issued is satisfied where the text contained in the notice or certificate is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

(2) A certificate issued in accordance with sub-regulation (1) must also be in compliance with the requirements for electronic certificates established by the IMO.

Maritime Authority

5. (1) In performing the functions conferred on it by these Regulations, the Maritime Authority must act in accordance with the relevant provisions of the RO Code..

(2) In this regulation **“RO Code”** means the Code for Recognised Organisations as adopted by the Marine Environment Protection Committee of the IMO by resolution MEPC. 237(65) on 17th May, 2013.

Exemptions

6. (1) Subject to sub-regulation (2) the Maritime Authority may exempt from the application of these Regulations—

- (a) a ship engaged on an international voyage between neighbouring ports if the ship remains on the voyage and the Maritime Authority and the government of the States in which the ports are situated are satisfied that the sheltered nature or conditions of the voyage between the ports make it unreasonable or impracticable to apply the provisions of these Regulations;

- (b) a ship which embodies features of a novel kind if research into the development of the features and the incorporation of the features in a ship engaged on an international voyage may be seriously impeded if the ship is required to be in compliance with all the requirements of these Regulations; and
- (c) any ship which does not normally engage on international voyages but is, in exceptional circumstances, required to undertake a single international voyage.

(2) An exemption under sub-regulation (1) may be granted subject to the safety requirements as the Maritime Authority considers fit to ensure the overall safety of a ship.

(3) Where an exemption under sub-regulation (1) is granted subject to a safety requirement, the exemption ceases to have effect if a ship to which the exemption is granted is not in compliance with the safety requirement.

(4) The particulars of any exemption granted pursuant to sub-regulation (1) together with the reasons for the grant of the exemption must be forwarded by the Maritime Authority to the MCA for forward transmission to the IMO.

Equivalents

7. (1) The Maritime Authority may authorise any fitting, material, appliance or apparatus to be fitted in a ship, or allow other provisions to be made in a ship, if satisfied by trial or otherwise that the fitting, material, appliance, apparatus or provision is at least as effective as that required by the Convention requirements and an authorisation of the Maritime Authority pursuant to this sub-regulation must, before the authorisation is granted, be approved by the Council Committee charged with responsibility for maritime matters.

(2) The particulars of any approval granted pursuant to sub-regulation (1) together with a report on any trials made must be forwarded by the Maritime Authority to the MCA for forward transmission to the IMO.

Assignment of freeboards

8. (1) Freeboards must be assigned to a ship by the Maritime Authority in accordance with the requirements of these Regulations and the Convention.

- (2) Further to sub-regulation (1) the Maritime Authority must—
 - (a) determine the particulars of the freeboards to be assigned to a ship;
 - (b) determine which of the load lines described in Annex I to the Convention are to be marked on the sides of the ship in accordance with the requirements of the Annex;
 - (c) determine the position where the appropriate marks are to be marked in accordance with paragraph (b); and
 - (d) complete and maintain a record of the conditions of assignment.

(2) The Maritime Authority may assign a freeboard greater than the minimum freeboard prescribed by Chapter III of Annex 1 to the Convention.

General compliance

9. (1) Subject to sub-regulation (2) and (3), the requirements of Annex I to the

Convention must be satisfied in respect of a ship.

(2) If a reduction in freeboard is required by an existing ship, all of the requirements under these Regulations applicable to new ships must be satisfied in respect of the existing ship.

(3) The requirements in Annex I to the Convention which are applicable to a new ship engaged on international voyages as the requirements applied immediately before 1st January 2005 must be satisfied in respect of a new ship constructed on or after 21st July 1968 and before 1st January 2005.

Repairs, alterations and modifications

10. Article 10 applies to a ship which undergoes repairs, alterations, modifications and any related outfitting.

Zones and areas

11. The requirements in the zones and areas described in Annex II of the Convention which are applicable to a ship must be satisfied in respect of the ship.

Submersion

12. The requirements of paragraph (1) of Article 12 must be satisfied in respect of a ship.

Force majeure

13. Regarding the application of these Regulations, any deviation or delay caused by any ship owing to stress of weather or any other cause of force majeure must be given due regard by the Maritime Authority.

Initial, renewal and annual surveys

14. (1) The surveys specified in Article 14 must be performed in respect of a St Helena ship.

(2) For the purpose of paragraph (1)(b) of Article 14 (intervals for renewal surveys), a renewal survey must be undertaken in respect of a St Helena ship at intervals not exceeding five years.

(3) Upon the satisfactory annual survey of a St Helena ship, in accordance with Article 14(2), the Convention certificate must be endorsed by Maritime Authority.

Issue of Convention certificate

15. Upon the satisfactory completion of an initial or renewal survey of a St Helena ship and upon payment of any fee due to be paid in respect of same, a Convention certificate in respect of the St Helena ship must be issued by the Maritime Authority.

Issue or endorsement of International Load Line Certificate by another Government and

on behalf of other Contracting Government

16. (1) The Maritime Authority may, in respect of a ship, make a request to a Contracting Government that—

- (a) a St Helena ship be surveyed; and
- (b) an International Load Line Certificate in accordance with the requirements of the Convention in respect of the St Helena ship, if the Contracting Government is satisfied that the St Helena ship complies with the applicable Convention requirements, be issued, the issue be authorised, or be endorsed by the Contracting Government.

(2) Where an International Load Line Certificate is issued pursuant to sub-regulation (1), the Maritime Authority is to be considered as the Assigning Authority for the purposes of the Convention in respect of the issued International Load Line Certificate.

(3) If requested to by a Contracting Government, the Maritime Authority—

- (a) may cause a survey to be carried out in respect of a ship; and
- (b) subject to the payment of any fee due to be paid in respect of the ship and if satisfied that the ship complies with the applicable Convention requirements must issue or endorse an International Load Line Certificate in respect of the ship for which the request is made.

(4) An International Load Line Certificate issued pursuant to sub-regulation (3) must contain a statement that the International Load Line Certificate is issued at the request of the Contracting Government making the request and that the International Load Line Certificate has the same effect as a certificate issued by the Contracting Government making the request.

(5) As soon as is practicable, a copy of the following, issued by the Maritime Authority pursuant to a request made by a Contracting Government in accordance with sub-regulation (3) must be forwarded by the Maritime Authority to the Contracting Government—

- (a) the International Load Line Certificate;
- (b) the survey report used for calculating the freeboard; and
- (c) a copy of the calculations used in respect of the freeboard.

(6) An International Load Line Certificate must not be issued by the Maritime Authority in respect of a ship which—

- (a) is registered in a country the government of which is not a Contracting Government; or
- (b) is not registered in a country whose government is not a Contracting Government but is entitled to fly the flag of the country.

Form of Convention certificate

17. A Convention certificate must be in the form prescribed by Annex III of the Convention.

Duration and validity of an International Load Line Certificate

18. (1) Subject to paragraph (2) of Article 19, the duration of the validity of an International Load Line Certificate is for the period as the Maritime Authority specifies in the

certificate, not exceeding a period of five years, beginning with the date of completion of the initial or renewal survey.

(2) An International Load Line Certificate issued in respect of a St Helena ship ceases to be valid where—

- (a) the circumstances listed in paragraph (9) of Article 19 exist in respect of a St Helena ship; or
- (b) the ship for which the International Load Line Certificate is issued ceases to be a St Helena ship.

Extension of periods of validity of an International Load Line Certificate

19. (1) Where a request is made to the Maritime Authority in writing, the Maritime Authority may extend the period of validity of an International Load Line Certificate beyond the expiry date of the International Load Line Certificate in the circumstances set out in, and in accordance with, paragraphs (3) to (6) of Article 19.

(2) If an extension is granted pursuant to sub-regulation (1), the International Load Line Certificate in respect of which the extension relates must be endorsed with the extension by the Maritime Authority.

Duration and validity of an International Load Line Exemption Certificate

20. (1) The duration of an International Load Line Exemption Certificate issued in respect of a ship to which regulation 6(1)(a) or 6(1)(b) applies, is valid for the period as specified in the certificate, not exceeding five years beginning with the date of completion of the initial survey or most recent renewal survey, whichever is applicable.

(2) The duration of the validity of an International Load Line Exemption Certificate issued in respect of a ship to which regulation 6(1)(c) applies, is limited to the single voyage for which International Load Line Exemption Certificate is issued.

(3) Paragraphs (2) and (9) of Article 19 apply in relation to an International Load Line Exemption Certificate as the paragraphs apply in relation to an International Load Line Certificate.

Maintenance of conditions after survey

21. The owner and master must ensure that after completion of a survey required under these Regulations, no material alteration is made to the ship, the structure of the ship, the ship's equipment, arrangements, material, or scantlings for which the survey was completed without the approval of the Maritime Authority which issued the Convention certificate.

Procedure to be adopted when a ship is deficient

22. (1) The Maritime Authority may consider the condition of a St Helena ship to determine whether the St Helena ship meets the following specifications—

- (a) that the condition of the St Helena ship or the equipment of the St Helena ship substantially corresponds with—
 - (i) the requirements applicable to the St Helena ship under Annex I to the

- Convention; or
- (ii) a Convention Certificate issued in respect of the St Helena ship; or
- (b) that the St Helena ship is fit to proceed to sea without presenting an unreasonable threat of harm to human life or the marine environment.

(2) If the Maritime Authority determines that a St Helena does not meet the specifications detailed in sub-regulation (1) the Maritime Authority—

- (a) must give notice in writing to the owner or master of the St Helena ship stipulating the corrective action which in the opinion of the Maritime Authority is required to be taken in respect of the St Helena ship; and
- (b) may suspend the validity of a Convention certificate issued in respect of the St Helena ship until the corrective action stipulated in accordance with paragraph (a) is taken.

(3) If the Maritime Authority suspends the validity of a Certificate under sub-regulation (2)(b) notice of the suspension, in writing must, immediately upon the suspension of the Certificate, be given by the Maritime Authority—

- (a) to the owner of the St Helena ship; and
- (b) where the ship is in a port outside St Helena, to the appropriate maritime authority of the State in which the port is situated.

(4) The owner of a St Helena ship, upon receipt of notice issued pursuant to sub-regulation (3), must notify the master of the St Helena ship to which the suspension pertains, of the suspension.

Cancellation of International Load Line Certificates

23. (1) The Maritime Authority may cancel an International Load Line Certificate issued in respect of a St Helena ship where the Maritime Authority is satisfied that—

- (a) the information upon which the issue of the International Load Line Certificate is based is false or erroneous;
- (b) the information upon which the assignment of freeboards to the St Helena ship is based is incorrect in a material particular; or
- (c) the St Helena ship ceases to be in compliance with the conditions of assignment relating to the St Helena ship.

(2) Subject to sub-regulation (3) an International Load Line Certificate must not be cancelled unless—

- (a) the owner of the St Helena ship to which the International Load Line Certificate pertains, in writing specifying the basis upon which the cancellation is proposed, is notified by the Maritime Authority of the proposed cancellation; and
- (b) the owner of the St Helena ship to which paragraph (a) applies is given a reasonable opportunity to make representations to the Maritime Authority regarding the notification to the owner of the St Helena ship under paragraph (a) and the Maritime Authority had considered the representations.

(3) The Maritime Authority is not required to comply with sub-regulation (3)(b) if in the discretion of the Maritime Authority, the Maritime Authority is satisfied that urgent safety considerations require immediate cancellation of the International Load Line Certificate.

Surrender of Convention certificates

24. The Maritime Authority may direct any Convention certificate issued under these Regulations which has expired, ceased to be valid, or been cancelled, to be surrendered to the Maritime Authority.

Acceptance of Convention certificates

25. A valid Convention certificate must be accepted by the Maritime Authority if the Convention certificate is issued—

- (a) by a Contracting Government in respect of a foreign ship; or
- (b) in respect of a St Helena ship by another Contracting Government under regulation 16.

Authorisation of removal etc., of appropriate marks

26. Where appropriate marks are made on a ship the owner and master must ensure—

- (a) that the marks remain on the ship; and
- (b) that the marks are not concealed, removed, altered, defaced, or obliterated except pursuant to the authority of the Maritime Authority.

Record of conditions of assignment

27. (1) A record containing the conditions of assignment required by the Maritime Authority must be provided to the ship by the Maritime Authority and be—

- (a) retained on board the ship at all times; and
- (b) available, on request, for inspection by an authorised person.

(2) A ship is not in compliance with the conditions of assignment for the purpose of these Regulations if the record under sub-regulation (1) is not on board and available for inspection.

Prohibition on proceeding to sea

28. (1) Subject to sub-regulation (2), a ship must not be permitted by the owner or master of the ship to proceed, or attempt to proceed, to sea unless—

- (a) the ship has been surveyed in accordance with regulation 14;
- (b) the ship is marked with the appropriate marks where required;
- (c) the ship has a valid Convention certificate;
- (d) the ship complies with the conditions of assignment applicable to the ship; and
- (e) the information required under Regulation 10 of Annex I to the Convention is provided by the owner of the ship to the master.

(2) Sub-regulation (1) does not apply to a foreign ship in respect of which a valid Convention certificate is produced.

Control of a foreign ship holding a valid Convention certificate

29. (1) A foreign ship with a valid Convention certificate is subject to the control of officers authorised by the Maritime Authority when the ship is in a St Helena port.

(2) In respect of a ship purporting to have a valid Convention certificate when the ship is in a St Helena Port an officer under sub-regulation (1) may, exercise control that is reasonable and practicable for the purpose of verifying whether there is on board the ship a valid Convention certificate relating to the ship.

(3) Where there is a valid International Load Line Convention certificate on board a ship the control of an officer under sub-regulation (1) is limited to that necessary for the purpose of determining that any conditions stipulated in the International Load Line Convention certificate are complied with and that—

- (a) the ship is not loaded beyond the limits allowed by the International Load Line Convention certificate;
- (b) the position of the load line of the ship corresponds with the International Load Line Convention certificate; and
- (c) none of the matters set out in Article 19(9)(a), (b) and (d) apply to the ship so as to cause the ship to be manifestly unfit to proceed to sea without danger to human life.

(4) Control exercised by an officer authorised under sub-regulation (1) making a determination pursuant to sub-regulation 3(c) must only be exercised so far as necessary to ensure that a ship does not proceed to sea until the ship can proceed to sea without danger to the passengers or crew of the ship.

(5) If control exercised under this regulation gives rise to intervention of any kind, the Maritime Authority must immediately inform the ship's flag administration or diplomatic representative of the ship's flag State in writing of the intervention and of all the circumstances in which the intervention was considered necessary.

Powers of officers exercising control

30. For the purpose of regulation 29 an officer has the powers detailed in section 102 and 103 of the Merchant Shipping Ordinance, 2021.

Detention

31. (1) A ship which, in contravention of regulation 29, proceeds or attempts to proceed to sea without being surveyed and marked may be detained until the ship has been surveyed and marked.

(2) A ship which is not in compliance with the conditions of assignment applicable to the ship and does not retain on board the record issued by the Maritime Authority detailing the conditions of assignment, may be detained until the ship complies.

(3) A ship which is loaded so as to submerge the load line may be detained until the ship is no longer loaded so that the load line is submerged.

Arbitration

32. (1) If an applicant is dissatisfied for any reason with—

- (a) the outcome of a survey carried out in respect of a St Helena ship under these Regulations; or

(b) a detention notice issued under regulation 31, that person may serve a written notice on the Maritime Authority within 21 days of receiving the outcome of the survey or the detention notice, requesting that the matter be referred to an arbitrator for arbitration.

(2) An arbitrator referred to in sub-regulation (1) shall be appointed by agreement between the parties.

(3) In default of agreement between the parties, the arbitrator is such person as may be appointed by the Governor following a request 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) a person who holds a certificate of competency as a Class 1 Deck Officer or Class 1 Marine Engineer Officer, or a certificate of competency which is equivalent to such a certificate;
- (b) a naval architect;
- (c) a qualified person,
- (d) a person with experience of shipping matters; or
- (e) a Member of the Chartered Institute of Arbitrators.

(5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 101(2) of the Merchant Shipping Ordinance, 2021 (Powers of inspectors in relation to premises and ships).

(6) In the case of a dispute in relation to a survey, the arbitrator may—

- (a) make any decision or reach any opinion that the surveyor had the power to make or reach; and
 - (b) issue or cancel any certificate that could have been issued or cancelled,
- under these Regulations.

(7) In the case of a dispute in relation to a detention notice the arbitrator shall—

- (a) have regard in coming to a decision to any other matters not specified in the detention notice which appear to be relevant to whether or not the ship was in breach of a requirement of these regulations; and
- (b) include in the decision a finding whether there was or was not a valid basis for the detention of the ship.

(8) The rules for arbitration set out in MCA Merchant Shipping Notice M1613 apply unless alternative arrangements are agreed between the applicant and the Governor before the commencement of arbitration proceedings.

(9) In this regulation—

“applicant” means –

- (a) a person who makes an application for a survey required by these regulations; or
- (b) an owner or master of a ship in respect of which a detention notice is issued under regulation 31;

“the parties” means the applicant and the Maritime Authority or another person responsible for the survey or the issue of the detention notice, and “party” is to be construed

accordingly; and
“**qualified person**” legal practitioner with rights of audience in the St Helena Supreme Court with no less than seven years’ post-qualification experience.

Compensation for unjustified detention

33. (1) If on a reference to an arbitrator under regulation 32 relating to a detention notice, the arbitrator decides that the owner has proved—

- (a) that the matter complained of did not constitute a valid basis for the detaining officer’s opinion; and
 - (b) that there were no reasonable grounds for the issue of the detention notice,
- the arbitrator shall award the owner such compensation in respect of any loss suffered in consequence of the detention of the ship as the arbitrator thinks fit.

(2) Any compensation awarded under this regulation is payable by the Maritime Authority and is enforceable as a debt.

Offences

34. (1) A contravention of regulation 9, 11, 14, 21, 28 or 29 is considered to be a contravention by the owner and the master and an owner or a master who contravenes regulation 9, 11, 14, 21, 28 or 29 commits an offence.

Penalty: On summary conviction a fine of £10,000 and on indictment a fine of £25,000.

(2) A contravention of regulation 12 is considered to be a contravention by the owner and the master and an owner or a master who contravenes regulation 12 commits an offence.

Penalty: On summary conviction a fine of £10,000 and to the additional fine in the amount calculated in accordance with sub-regulation (3) as the court thinks fit, having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention and on indictment a fine of £25,000.

(3) An additional fine imposed under sub-regulation (2) is £2,000 for each complete centimetre by which the appropriate load line on each side of the ship is submerged.

(4) In proceedings for an offence under sub-regulation (2) it is a defence for the person charged to prove the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or other circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled.

(5) A contravention of regulation 26 is considered to be a contravention by the owner and the master and an owner or a master who contravenes regulation 26 commits an offence.

Penalty: On summary conviction a fine of £10,000.

(6) In proceedings for an offence under sub-regulation (5) it is a defence for the person charged to show that the person had reasonable excuse for the contravention.

(7) A person commits an offence if the person—

- (a) intentionally alters a certificate issued in accordance with these Regulations;
- (b) falsely makes a certificate and passes the certificate off as issued pursuant to these Regulations;

- (c) knowingly or recklessly furnishes false information in connection with a survey required by these Regulations;
- (d) with intent to deceive, uses, lends, or allows to be used by another, a certificate issued in accordance with these Regulations; or
- (e) fail to surrender as directed a certificate required to be surrendered under regulation 24.

Penalty: On summary conviction a fine of £10,000 and on indictment a fine of £25,000 or imprisonment for 6 months, or both.

MERCHANT SHIPPING ORDINANCE, 2021

MERCHANT SHIPPING (SAFETY OF NAVIGATION) REGULATIONS, 2021

(Section 54)

TABLE OF CONTENTS

1. Citation
2. Interpretation
3. General Application
4. Construction of references in SOLAS to Administrations etc, Flag States and Contracting Governments
5. Conferral of functions on the St Helena Government
6. Discretionary functions of the Maritime Authority
7. Application of Regulations 8. Requirements of Chapter V
9. Ships' manning
10. Responsibility to maintain Chapter V equipment
11. Operational limitations
12. Masters' discretion
13. Misuse of distress signals
14. Exemptions and equivalents: Chapter V
15. Construction of references to vessels in the International Regulations
16. Prevention of collisions
17. Signals of distress
18. Exemptions etc from the International Regulations
19. Offences and penalties
20. Defences
21. Power to detain

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 routing);
- (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.

MERCHANT SHIPPING ORDINANCE, 2021

MERCHANT SHIPPING (ACCIDENT REPORTING AND INVESTIGATION) REGULATIONS, 2021

(Section 107)

TABLE OF CONTENTS

1. Citation
2. Interpretation
3. Electronic communication
4. Appointment of Investigator
5. Accident
6. Application
7. Duty to report accidents and serious injuries
8. Preservation of evidence
9. Action following notification of an accident
10. Subsequent or reopened investigations
11. Notification of commencement of investigation
12. Notification to other States
13. Objective of a marine safety investigation
14. Conduct of a marine safety investigation
15. Evidence of seafarers
16. Co-operation with other States
17. Completion of investigation and draft marine safety investigation report
18. Final marine safety investigation reports
19. Publication of marine safety investigation reports
20. Response to recommendations in a marine safety investigation report
21. Publication of reports other than marine safety investigations reports
22. General recommendations
23. Prohibition on disclosure of information
24. Extension of time
25. Service of documents

26. Offences and penalties

Citation

1. These Regulations may be cited as the Merchant Shipping (Accident Reporting and Investigation) Regulations, 2021.

Interpretation

2. (1) In these Regulations, unless the context otherwise requires—
- “accident”** means—
- (a) a marine casualty;
 - (b) a marine incident; or
 - (c) a very serious marine casualty;
- “Casualty Investigation Code”** means the Code of the International Standards and Recommended Practices for a Marine Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) adopted by the IMO by Resolution MSC.255(84) on 16th May 2008;
- “draft report”** means a draft Maritime Safety Investigation Report prepared in accordance with regulation 17(2);
- “final report”** means a Maritime Safety Investigation Report prepared in accordance with regulation 18(1);
- “foreign ship”** means a ship which is not a St Helena ship;
- “IMO”** means the International Maritime Organisation; and
- “IMO guidelines on the fair treatment of seafarers”** means the Guidelines on fair treatment of seafarers in the event of a maritime accident adopted by the IMO by Resolution A.987(24);
- “incapacitation”** means a person’s inability to undertake the person’s full range of normal activities;
- “investigator”** means a person appointed under regulation 4(1) or (2);
- “marine casualty”** means an event or sequence of events that has resulted in any of the following and has occurred directly by or in connection with the operation of a ship involving—
- (a) the death of, or serious injury to, a person;
 - (b) the loss of a person from a ship;
 - (c) the loss, presumed loss or abandonment of a ship;
 - (d) material damage to a ship;
 - (e) the stranding or disabling of a ship, or the involvement of a ship in a collision;
 - (f) material damage to marine infrastructure external to a ship, that could seriously endanger the safety of the ship, another ship, or any individual;
 - (g) severe damage to the environment, or the potential for severe damage to the environment, brought about by damage to a ship or ships;
- “marine incident”** means an event, or sequence of events, other than a marine casualty, which has occurred directly in connection with the operations of a ship that endangered, or, if not corrected, would endanger—
- (a) the safety of a ship, its crew or passengers or any other person; or
 - (b) the environment;
- “marine safety investigation”** means—
- (a) an investigation into an accident involving a ship; or

- (b) an investigation or inquiry into an accident conducted under these Regulations with the objective of preventing future accidents;

“marine safety investigation authority” means an authority in a State, other than St Helena, responsible for investigating accidents in accordance with the Casualty Investigation Code;

“marine safety record” means any of the following types of records, including those in electronic form, collected for a marine safety investigation—

- (a) a statement taken for the purpose of a marine safety investigation;
- (b) a communication between persons pertaining to the operation of a ship involved in an accident;
- (c) medical or private information regarding persons involved in the marine casualty or marine incident;
- (d) a record of the analysis of information or evidential material acquired in the course of a marine safety investigation; and
- (e) information from a voyage data recorder;

“Maritime Authority” means the person appointed in accordance with section 2A;

“material damage”, in relation to a marine casualty, means—

- (a) damage that—
 - (i) significantly affects the structural integrity, performance or operational characteristics of marine infrastructure or a ship; and
 - (ii) requires major repair or replacement of a major component or components;or
- (b) destruction of the marine infrastructure or ship.

“seafarer” means any person who is employed or engaged or works in any capacity on board a ship;

“senior surviving officer” means the senior surviving officer in the deck department; and if there is no surviving officer in the deck department, then whoever is the senior surviving officer between—

- (a) the senior surviving engineer officer; or
- (b) the senior surviving electro-technical officer;

“serious injury” means an injury which is sustained by a person, resulting in—

- (a) incapacitation; or
- (b) the person being unable to function normally for more than 72 hours, commencing within seven days from the date when the injury was suffered;

“severe damage to the environment” means damage to the environment which, as evaluated by St Helena or State affected, or a Flag State, produces a major deleterious effect upon the environment;

“ship’s boat” includes a life-raft, painting punt and any boat normally carried by a ship;

“State” includes a territory;

“substantially interested State” means a State—

- (a) which is the flag State of a ship involved in an accident;
- (b) which is the coastal State involved in an accident;
- (c) whose environment was severely or significantly damaged by an accident (including the environment of its waters and territories recognised under international law);
- (d) where the consequences of an accident caused, or threatened, serious harm to the State or to artificial islands, installations, or structures over which it is entitled to exercise jurisdiction;
- (e) where, as a result of an accident, the lives of nationals of the State are lost or the nationals of the State received serious injuries;

- (f) that has important information at its disposal that the Maritime Authority considers useful to a marine safety investigation; or
- (g) that for some other reason establishes an interest that is considered significant by the Maritime Authority;

“UK Chief Inspector of Marine Accidents” means the United Kingdom Chief Inspector of Marine Accidents, and any Deputy Chief Inspector, appointed by the United Kingdom Secretary of State under section 267(1) of the Merchant Shipping Act 1995; and

“UK inspector of marine accidents” means a United Kingdom inspector of marine accidents appointed by the United Kingdom Secretary of State under section 267(1) of the Merchant Shipping Act 1995

“very serious marine casualty” means a marine casualty involving—

- (i) the total loss of a ship;
- (ii) loss of life; or
- (iii) severe damage to the environment; and

“voyage data recorder” means the electronic or mechanical equipment which may be installed on a ship to record key navigational and control information.

(2) Where a ship is operated or managed by a person other than by the owner (whether on behalf of the owner or some other person, or on the person’s own behalf, including a bareboat charterer), a reference in these Regulations to the owner includes a reference to that person.

Electronic communication

3. A requirement in these Regulations that a notice must be in writing or that a certificate must be issued is satisfied where the text contained in such notice or certificate is—

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

Appointment of Investigator

4. (1) For the purpose of conducting a marine safety investigation or to assist with conducting a marine safety investigation, the Governor in Council may in writing, on the advice of the Maritime Authority, appoint—

- (a) an investigator; or
- (b) a person with special qualifications or experience in the investigation of an accident involving a ship.

(2) If no appointment is made in respect of a person conducting a marine safety investigation under sub-regulation (1) the Governor in Council may in writing, to conduct a marine safety investigation, appoint—

- (a) the UK Chief Inspector of Marine Accidents; or
- (b) a UK inspector of marine accidents.

(3) An appointment made pursuant to sub-regulation (1) or (2) must be published by Notice in the *Gazette* and must be for a specified period of time which must be included in the Notice.

(4) In exercising the power to appoint a person to investigate a particular accident, the

Maritime Authority must—

- (a) take account of Chapters 15.2 and 15.3 and 16.1 of the Casualty Investigation Code; and
- (b) be satisfied that a person appointed is—
 - (i) suitably qualified and knowledgeable in matters relating to the accident which is subject to the investigation;
 - (ii) impartial and objective; and
 - (iii) capable of acting without direction or interference from any person who maybe affected by the outcome of the marine safety investigation.

(5) A person who has or who has had any previous connection with any person or ship which may be involved in an investigation where the connection creates a potential or actual conflict of interest must not be appointed by the Maritime Authority in respect of the investigation.

(6) A person appointed as an investigator must agree in writing to act in accordance with the Casualty Investigation Code.

Accident

5. An accident does not include a deliberate act or omission with the intention to cause harm to the safety of a ship, an individual or the environment.

Application

6. (1) Subject to sub-regulation (2), these Regulations apply to an accident involving or occurring on board—

- (a) a St Helena ship, wherever the ship may be;
- (b) any other ship within St Helena's waters; or
- (c) any ship where, as a result of the accident—
 - (i) a person with St Helena status lost the person's life or suffered serious injuries; or
 - (ii) in the opinion of the Maritime Authority the substantial interests of St Helena are involved.

(2) These Regulations do not apply to an accident involving or occurring on board—

- (a) a warship;
- (b) a ship that is not propelled by mechanical means;
- (c) a ship that is wooden and of traditional build which is not primarily propelled by mechanical means, including a dhow or junk which is made of wood and provided with sails; or
- (d) a fishing vessel of less than 15 metres length overall.

Duty to report accidents and serious injuries

7. (1) The Maritime Authority must be notified of the occurrence of an accident as soon as is practicable and by the quickest means available by—

- (a) the master;
- (b) if the master has not survived, the senior surviving officer;
- (c) the owner, unless the master or senior surviving officer has reported the accident

- in accordance with paragraph (a) or (b);
- (d) in the case of an accident within or adjacent to the limits of any port or harbour in St Helena, the Harbour Master; or
- (e) the Harbour Master in the case of an accident—
 - (i) in St Helena's waters; or
 - (ii) involving a St Helena ship wherever it may be and the Harbour Master is informed of the accident.

(2) A person making a notification in accordance with sub-regulation (1) must, in so far as is practicable, include the following information—

- (a) the name of the ship and the flag State of the ship;
- (b) the IMO ship identification number;
- (c) the nature or type of the ship or ships involved;
- (d) the date and time of the accident;
- (e) the latitude and longitude or geographical position at which the accident occurred;
- (f) the number of people killed or seriously injured;
- (g) the consequences of the accident to individuals, property and the environment; and
- (h) the identification of any other ship involved.

(3) In addition to making a notification in accordance with sub-regulation (1) and (2), a person specified in sub-regulation (1) must, where applicable and so far as is reasonably practicable, ensure that—

- (a) the circumstances of every accident are examined; and
- (b) a report giving the findings of such examination, stating any measures taken or proposed to be taken to prevent a recurrence, is provided to the Maritime Authority as soon as is practicable.

(4) A person providing information in a notification under sub-regulation (1) or a report under sub-regulation (3) must ensure that the information provided is accurate to the best of the person's ability and knowledge.

(5) Unless an accident involves any event specified in sub-regulation (6), this regulation does not apply in relation to—

- (a) a pleasure vessel;
- (b) a recreational craft which is hired on a bareboat basis; or
- (c) any other craft or boat, other than one carrying passengers, which is in commercial use in a harbour and is less than 8 metres overall in length.

(6) An event to which sub-regulation (5) refers is—

- (a) an explosion;
- (b) a fire;
- (c) a death;
- (d) a serious injury;
- (e) the capsizing of a power-driven craft or boat; or
- (f) an event causing severe damage to the environment.

(7) In sub-regulation (5), "hired on a bareboat basis" means hired without a professional master, skipper, or crew.

Preservation of evidence

8. (1) This regulation applies in respect of an accident which must be reported to the Maritime Authority under regulation 7.

(2) Following an accident, a person specified in sub-regulation (3) must, where applicable and so far as is practicable, ensure that a document or record specified in sub-regulation (4) relating to the ship or the accident is kept, and that no alteration is made to any recording or entry in the document or record.

(3) A person to whom sub-regulation (2) refers is—

- (a)** the master;
- (b)** if the master has not survived, the senior surviving officer;
- (c)** the owner, unless the master or senior surviving officer has taken the action in question; or
- (d)** the Harbour Master.

(4) A document or record to which sub-regulation (2) refers is—

- (a)** a chart;
- (b)** a logbook;
- (c)** recorded information relating to the period preceding, during and after an accident, including information from a voyage data recorder and a video recorder; and
- (d)** any other document or record which might reasonably be considered relevant to the accident.

(5) Following an accident, a person specified in sub-regulation (3) must also ensure that—

- (a)** all information from a voyage data recorder or recording system relating to the circumstances of an accident is saved and preserved, in particular by taking steps, where necessary, to prevent the information from being overwritten; and
- (b)** any other equipment which might reasonably be considered relevant to the investigation of the accident is so far as practicable left undisturbed.

(6) The obligations under sub-regulation (2) and (5) continue until—

- (a)** published notification is received from the Maritime Authority that no marine safety investigation is to take place or that the investigation is completed;
- (b)** 30 days have passed since the Maritime Authority received the report referred to in regulation 7(1) and no notice is published by the Maritime Authority that a decision was made to investigate the matter; or
- (c)** the Maritime Authority or an investigator gives written notification that the obligations are no longer required.

(7) The Maritime Authority or an investigator may, pending investigation, prohibit persons from gaining access to, or interfering with, any ship, ship's boat or other equipment involved in an accident.

(8) Following an accident, the Maritime Authority may, if it is considered reasonably necessary for the collection or preservation of evidence in connection with any marine safety investigation, require the master or, if the master has not survived, the senior surviving officer and the owner to ensure that a ship is accessible to an investigator engaged in the investigation of the accident, until the process of collecting or preserving evidence is completed to the

satisfaction of the Maritime Authority.

(9) A ship must not be required to remain in St Helena's waters by the Maritime Authority in accordance with sub-regulation (8) any longer than is necessary for the collection or preservation, as the case may be, of the evidence and must take all reasonable steps to ensure that such evidence is collected or preserved expeditiously.

(10) No requirement under sub-regulation (8) may be imposed in respect of a ship unless the Maritime Authority has reasonable grounds for believing that if the ship leaves St Helena's waters, access to—

- (a) the ship;
- (b) a member of the crew of a ship; or
- (c) any evidence on board relating to the investigation,

may subsequently be denied to a person appointed for the purpose of conducting a marine safety investigation.

Action following notification of an accident

9. (1) Where notification is made pursuant to regulation 7(1) or a report is provided pursuant to regulation 7(3) the Maritime Authority—

- (a) must ensure that a marine safety investigation is conducted in relation to—
 - (i) an accident that is a very serious marine casualty; or
 - (ii) an accident other than a very serious marine casualty if the Maritime Authority is satisfied that a marine safety investigation may provide information that can be used to prevent accidents in the future; and
- (b) may arrange that a marine safety investigation be conducted in relation to any other accident.

(2) The Maritime Authority may request such information as the Maritime Authority considers necessary concerning an accident and any remedial action taken as a result from—

- (a) the master;
- (b) if the master has not survived, the senior surviving officer;
- (c) the owner;
- (d) the Harbour Master; or
- (e) any other person that the Maritime Authority has reasonable grounds to believe holds relevant information.

(3) In making a decision under sub-regulation (1)(b), consideration must be given by the Maritime Authority of the following—

- (a) the seriousness of the accident;
- (b) the type of vessel and or cargo involved; and
- (c) the potential for the findings of a marine safety investigation to lead to the prevention of future accidents.

(4) The Maritime Authority may decide not to carry out a marine safety investigation in respect of an accident if satisfied that—

- (a) any loss of life resulted solely from suicide or natural causes; or
- (b) any serious injury resulted solely from attempted suicide.

(5) In circumstances where sub-regulation (4) applies, the Maritime Authority may

discontinue any marine safety investigation which has already been commenced in respect of the accident.

(6) The Maritime Authority must arrange for a marine safety investigation to be conducted as promptly as is practicable after an accident occurs, and in any event no later than two months after the accident is notified to the Maritime Authority.

(7) For the purposes of making a decision under this regulation, the powers of inspectors in relation to premises and ships prescribed in the Merchant Shipping Ordinance, 2021 apply.

- (8) A person who is requested to provide information under sub-regulation (2) must—
- (a) comply with the request unless providing the information would be contrary to any enactment or rule of law; and
 - (b) ensure that the information provided is accurate to the best of the person's ability and knowledge.

Subsequent or reopened investigations

10. (1) Where a decision is made by the Maritime Authority not to arrange that a marine safety investigation be conducted, the Maritime Authority may at any time subsequent to the time specified in which the conduct of a marine safety investigation must be arranged, arrange the conduct of a marine safety investigation if satisfied that there is a good reason in the interests of future safety to do so.

(2) The Maritime Authority may arrange to have a completed marine safety investigation recommenced if, following the completion of the marine safety investigation, new and important evidence is discovered which in the opinion of the Maritime Authority could have a material effect on any safety recommendations made.

(3) A completed marine safety investigation may be recommenced either in whole or in part and a recommenced investigation is subject to the provisions of these Regulations.

Notification of commencement of investigation

11. (1) Where a marine safety investigation is being conducted in respect of a ship involved in an accident, the following persons must be notified by the Maritime Authority of the commencement of the investigation—

- (a) the master;
- (b) if the master has not survived, the senior surviving officer;
- (c) the owner; and
- (d) the Harbour Master.

(2) Under the circumstances specified in sub-regulation (1), a person specified in sub-regulation (1) must be provided with the following information by the Maritime Authority—

- (a) details of the marine casualty or marine incident under investigation;
- (b) the time and place at which the marine safety investigation will commence;
- (c) the name and contact details of the investigator;
- (d) the relevant details of the legislation under which the marine safety investigation is being conducted;

- (e) the rights and obligations of a person subject to the marine safety investigation; and
- (f) the rights and obligations of the person conducting the marine safety investigation.

(3) As soon as is reasonably practical and in such manner as the Maritime Authority considers suitable, public notice of the commencement of a marine safety investigation must be issued by the Maritime Authority.

(4) A public notice given under sub-regulation (3) may include an invitation to any person, who considers that the person is in possession of relevant evidence, to present the relevant evidence to an investigator in the manner and within the time specified in the notice.

Notification to other States

12. (1) If the Maritime Authority is notified that a St Helena ship is involved in an accident on the high seas or in an exclusive economic zone of a State other than St Helena, the marine safety investigation authority of any substantially interested State must be informed that a St Helena ship is involved in the accident by the Maritime Authority as soon as is reasonably practicable.

(2) If the Maritime Authority is notified that a foreign ship is involved in an accident in St Helena or in St Helena's waters, the marine safety investigation authority of any substantially interested State must be informed that a foreign ship is involved in the accident by the Maritime Authority as soon as is reasonably practicable.

(3) A notification under sub-regulation (1) or (2) must, so far as is practicable, include—

- (a) the information set out in the regulation 11(2); and
- (b) the name and contact details of the Maritime Authority and any investigator appointed to investigate the accident.

Objective of a marine safety investigation

13. (1) A marine safety investigation must have the prevention of future accidents through the ascertainment of the causes and circumstances of an accident as the sole objective of the marine safety investigation.

(2) It is not the purpose of a maritime safety investigation to determine liability nor, except so far as is necessary to achieve its objective to apportion blame.

(3) A marine safety investigation must be conducted in accordance with the regulations taking into account the principles of investigation set out in Chapter 16 of the Casualty Investigation Code.

- (4) A marine safety investigation must include but is not limited to—
- (a) the collection and analysis of evidence;
 - (b) the identification of causal factors; and
 - (c) where appropriate, the making of safety recommendations.

Conduct of a marine safety investigation

14. (1) A marine safety investigation must be conducted at the time and place and in the manner that the Maritime Authority considers is most conducive to achieving the objective specified in regulation 13.

(2) If in the opinion of the Maritime Authority the following are relevant to the circumstances of the accident or to future safety a marine safety investigation may extend to cover, but need not be limited to—

- (a)** all events and circumstances preceding the accident together with subsequent events and circumstances;
- (b)** issues involving salvage and pollution connected with the accident; and
- (c)** the conduct of search and rescue operations.

(3) The Maritime Authority may decide to discontinue any marine safety investigation, other than a marine safety investigation in relation to a very serious marine casualty, at any time and must publish the reasons for the decision.

(4) An investigator assigned to carry out a marine safety investigation has the power to require production of ship's documents, to inspect a ship and the equipment of a ship and the power of an inspector in relation to premises and ships as prescribed in the Merchant Shipping Ordinance, 2021.

(5) Any document, record or information specified in regulation 8, properly required by an investigator to be produced for the purpose of a marine safety investigation, whether on board the ship involved or otherwise, may be retained by the investigator until the marine safety investigation is completed.

(6) An investigator may record a witness interview of any person who is assisting a marine safety investigation in any manner that the investigator considers reasonable.

(7) Subject to the conditions specified in sub-regulation (8) being satisfied, any person who is not a professional legal adviser acting solely on behalf of a person required to attend at a witness interview before an investigator, who—

- (a)** is allowed by an investigator to be present; or
- (b)** is nominated to be present by a person required to attend,

may at any time be excluded from being present by the investigator, with the agreement of the Maritime Authority for the purpose of a marine safety investigation.

(8) The conditions to be satisfied in respect of sub-regulation (7) are—

- (a)** that both the investigator and Maritime Authority have substantial reason to believe that a person's presence would hamper the marine safety investigation with the result that the objective in regulation 13 is likely to be hindered and future safety endangered; and
- (b)** that the Maritime Authority is satisfied, having regard to all the circumstances, that it is proper to exclude a person from being present for the purpose of the marine safety investigation.

(9) Where a person nominated to be present is excluded in accordance with sub-regulation (7), the person required to attend is entitled to nominate another person to be present at the witness interview in place of the excluded person and sub-regulation (7) applies to the other person.

(10) A person required to attend before an investigator must be allowed the reasonable expenses of attending, payable by the person and in the manner prescribed.

Evidence of seafarers

15. (1) An investigator conducting a marine safety investigation into an accident must consider the provisions of the IMO guidelines on the fair treatment of seafarers.

(2) Where an investigator requires a seafarer to provide evidence, the evidence must be taken from the seafarer at the earliest practical opportunity.

(3) After a seafarer has provided evidence to an investigator, the seafarer must be allowed to return to the seafarer's ship or be repatriated at the earliest possible opportunity.

(4) A seafarer from whom evidence is sought—

(a) must be informed of the nature and basis of the marine safety investigation; and

(b) must be informed of, and allowed access to legal advice, regarding—

(i) any potential risk of self-incrimination in any proceedings subsequent to the marine safety investigation;

(ii) any right not to self-incriminate or to remain silent; and

(iii) the protections afforded to the seafarer to prevent the evidence being used against the seafarer if the seafarer provides the evidence to the marine safety investigation.

Co-operation with other States

16. (1) Where a marine safety investigation authority of a substantially interested State is notified of an accident under regulation 12, the Maritime Authority must, so far as practicable, seek to carry out the investigation in cooperation with the marine safety investigation authority or other relevant agency of that State.

(2) A marine safety investigation authority of a substantially interested State must be allowed to participate in a marine safety investigation conducted under these regulations to the extent determined by agreement between the marine safety investigation authority and the Maritime Authority or, in default of agreement, in such manner as the Maritime Authority considers fit.

(3) Where a marine safety investigation authority of a substantially interested State is participating in a marine safety investigation, the Maritime Authority and the marine safety investigation authority must agree in respect of the marine safety investigation, in the shortest possible time before the participation of the marine safety investigation authority commences—

(a) if the marine safety investigation authority or the Maritime Authority should lead the marine safety investigation, and

(b) the procedures to be adopted for the purpose of the marine safety investigation.

(4) For the purpose of this regulation a marine safety investigation authority of a substantially interested State—

(a) has the powers and duties of an investigator under these Regulations in relation to

- witnesses and evidence involved in a marine safety investigation; and
- (b) if St Helena is the lead investigating State, any representations that the marine safety investigation authority of the substantially interested State may make to the Maritime Authority must be taken into consideration for the purposes of the marine safety investigation.

(5) Where a substantially interested State is allowed to participate in a marine safety investigation and no agreement in accordance with Chapter 7 of the Casualty Investigation Code is reached, the Maritime Authority and the other substantially interested States must—

- (a) arrange for the conduct of parallel marine safety investigations; and
- (b) exchange evidence and information with each other for the purposes, as far as possible, of reaching shared conclusions.

(6) The Harbour Master may delegate the whole or any part of a marine safety investigation to the marine safety investigation authority of a substantially interested State by mutual agreement with that State.

(7) Where a marine safety investigation authority of a substantially interested State is conducting a marine safety investigation into an accident—

- (a) involving a St Helena ship; or
- (b) a foreign ship whilst in St Helena or in St Helena's waters,

the Maritime Authority and an investigator must cooperate with the marine safety investigation authority of the substantially interested State so far as is practicable.

(8) If the Maritime Authority is satisfied that it is in the interest of St Helena to assist in a marine safety investigation in which a St Helena ship is not involved and which relates to an accident occurring outside St Helena's waters, the Maritime Authority may comply with the request from the other State to assist in the marine safety investigation in which a St Helena ship is not involved and which relates to an accident occurring outside St Helena's waters.

(9) The costs of any assistance provided by the Maritime Authority under sub-regulation (8) must first be agreed in writing between the Maritime Authority and the requesting State before assistance is provided.

Completion of investigation and draft marine safety investigation report

17. (1) Every effort must be made by the Maritime Authority to ensure that a marine safety investigation is completed in the shortest possible time and in any event within 12 months of the date of the accident being notified to the Maritime Authority.

(2) Upon completion of a marine safety investigation—

- (a) a draft marine safety investigation report must be prepared by the Maritime Authority; or
- (b) the preparation of a draft marine safety investigation report by the appointed investigator must be arranged by the Maritime Authority.

(3) A draft report must contain—

- (a) a summary outlining the basic facts of the accident and stating whether any death, injury or pollution occurred as a result;
- (b) the identity of the flag State, owners, operators, and the company, if any, as

- identified in the safety management certificate, and the classification society;
- (c) where relevant, the details of the dimensions and engines of any ship involved, together with a description of the crew, work routine and other matters, such as time served on the ship;
- (d) a narrative detailing the circumstances of the accident;
- (e) analysis and comment on the causal factors including any mechanical, human and organizational factors;
- (f) a discussion of the marine safety investigation's findings, including the identification of safety issues, and the marine safety investigation's conclusions; and
- (g) where appropriate, recommendations with a view to preventing future marine casualties and marine incidents addressed to those persons who, in the opinion of the investigators, are most fitted to implement them.

(4) If the Maritime Authority is satisfied that a marine safety investigation will not have the potential to lead to the prevention of future accidents then, except in the case of an investigation conducted into a very serious marine casualty, a simplified report may be published in such manner as the Maritime Authority considers fit.

- (5) A copy of the draft report must be served by the Maritime Authority on—
- (a) the Harbour Master;
 - (b) any person who could be adversely affected by the draft report;
 - (c) if the person to whom paragraph (b) refers is deceased, such person as appears to the Maritime Authority at the time it is proposed to serve notice in accordance with this sub-regulation, best able to represent the interests and reputation of the deceased person in the matter; and
 - (d) the marine safety investigation authority of a substantially interested State if the marine safety investigation authority requests a copy and has agreed in writing with the Maritime Authority to comply with the provisions of Chapter 13 of the Casualty Investigation Code.

(6) The draft report must be accompanied by a notice informing the person or State upon whom the draft report is served of the person's or the State's right to make representations relating to the facts or analysis contained in the draft report to the Maritime Authority.

(7) The representations referred to in sub-regulation (6) must be in writing and must be served on the Maritime Authority within 30 days of service of the draft report or within such further period as may be allowed under regulation 24.

(8) Where an inquest must be held following an accident which was subject to a marine safety investigation, a draft report may be made available by the Maritime Authority to the person in St Helena charged as prescribed in an Ordinance in St Helena with performing the functions of the coroner.

Final marine safety investigation reports

18. (1) If no representations are received by the Maritime Authority within the period specified in regulation 17(7)—

- (a) a final marine safety investigation report must be prepared by the Maritime Authority; or

- (b) the preparation of a final marine safety investigation report by the appointed investigator must be arranged by the Maritime Authority.
- (2) If any representations are made in response to service of a draft report—
 - (a) the representations and whether any amendments are required to be made to the draft report must be considered by the Maritime Authority;
 - (b) where the acceptance or rejection of representations made by a substantially interested State has a direct impact on the interests of the substantially interested State, the substantially interested State must be informed by the Maritime Authority of the manner in which the representations are to be addressed; and
 - (c) a final report must be prepared by the Maritime Authority.
- (3) The final report must contain the matters specified in regulation 17(3).

Publication of marine safety investigation reports

- 19. (1) The final report must be submitted by the Maritime Authority to—
 - (a) the Minister charged with responsibility for Maritime matters;
 - (b) the Governor;
 - (c) the Harbour Master;
 - (d) any other person who is served with a notice in accordance with regulation 17(5);
 - (e) any person to whom recommendations have been addressed in the final report;
 - (f) in a case to which sub-regulation (3) applies, the IMO; and
 - (g) any other person the Maritime Authority considers may find the report useful or of interest.
- (2) The final report must otherwise be made available to the public in such manner as the Maritime Authority considers appropriate.
- (3) The cases are where the marine safety investigation relates to –
 - (a) a very serious marine casualty; or
 - (b) an accident other than a very serious marine casualty, where the Maritime Authority is of the opinion that the final report contains information which may prevent or lessen the seriousness of accidents in the future.

Response to recommendations in a marine safety investigation report

- 20. (1) This regulation applies where a recommendation in a final report is addressed to a particular person.
- (2) A person to whom a recommendation is addressed must –
 - (a) as soon as is reasonably practical, consider the recommendation;
 - (b) within 30 days following receipt of the recommendation, send to the Maritime Authority—
 - (i) details of the measures, if any, that the person is taking to implement the recommendation, and the timetable for securing the implementation; or
 - (ii) an explanation as to why no measures are being taken to implement the recommendation; and
 - (c) give notice to the Maritime Authority if at any time any information provided in accordance with sub-regulation (2)(b)(i) concerning the measures the person is

taking or the timetable for securing the implementation of the measures is rendered inaccurate by any change of circumstances.

Publication of reports other than marine safety investigations reports

21. (1) The Maritime Authority may from time to time publish collective short reports of accidents which have not been the subject of a report published under regulation 20.

(2) The Maritime Authority may submit a report to the Minister charged with responsibility for maritime matters or the Governor on any matter arising from the Maritime Authority's analysis of marine accident investigations.

General recommendations

22. (1) The Maritime Authority may at any time make recommendations in respect of the prevention of future accidents.

(2) Where a recommendation made in accordance with sub-regulation (1) includes an action to be performed, the action recommended must be addressed to the person who in the opinion of the Maritime Authority, is most fitted to implement the action and the person must be notified by the Maritime Authority if the action that the person is required to perform.

(3) A recommendation made in accordance with sub-regulation (1) must be made publicly available by the Maritime Authority if the Maritime Authority considers that the publication is in the interests of safety or preventing pollution.

(4) A person to whom a recommendation is addressed must—

(a) as soon as is reasonably practical, consider the recommendation;

(b) within 30 days following receipt of the recommendation, send to the Maritime Authority—

(i) details of the measures, if any, that the person is taking to implement the recommendation, and the timetable for securing the implementation; or

(ii) an explanation as to why no measures are being taken to implement the recommendation; and

(c) give notice to the Maritime Authority if at any time any information provided to the Maritime Authority in accordance with sub-regulation (4)(b)(i) concerning the measures the person is taking or the timetable for securing the implementation of the measures is rendered inaccurate by any change of circumstances.

(5) Subject to sub-regulation (7) and (8), annually or at such other intervals as the Maritime Authority considers fit, information in respect of the matters, including any explanation, mentioned in sub-regulation (4)(b) and (c) and regulation 20(2)(b) and (c) must be made publicly available by the Maritime Authority.

(6) The Minister charged with responsibility for maritime matters and the Governor must be informed by the Maritime Authority of the matters specified in sub-regulation (5).

(7) Information under sub-regulation (5) must not be published by the Maritime Authority—

(a) unless notification of the information to be published is sent to all persons

- mentioned in the information;
- (b) the Maritime Authority has considered any representations relating to the information which are made in accordance with sub-regulation (8) by or on behalf of any person notified pursuant to paragraph (a); and
- (c) the information is amended pursuant to any consideration made in accordance with paragraph (b) in such manner as the Maritime Authority considers fit.

(8) Any representations made in accordance with sub-regulation (7) must be in writing and must be served on the Maritime Authority within 30 days of receipt of the notification made in accordance with sub-regulation (7)(a) or within such further period as may be allowed under regulation 24.

Prohibition on disclosure of information

23. (1) A Court may make an order for the use or disclosure, for a purpose other than that in respect of a marine safety investigation, of—

- (a) the names, addresses or other details of any person who has given evidence to an investigator;
- (b) a marine safety record; or
- (c) a draft report.

(2) Unless a Court makes an order pursuant to sub-regulation (1), a person must not use or disclose for any purpose other than a marine safety investigation the information specified in sub-regulation (1).

(3) A person who gives a declaration or statement to an investigator in the course of a marine safety investigation may make available a copy of the person's statement or declaration to another person as the person considers fit.

(4) Any independent technical analysis commissioned by the Maritime Authority and opinions expressed in such analysis may be made publicly available by the Maritime Authority and if considered appropriate for publication by the Maritime Authority.

(5) Subject to sub-regulation (6), no order may be made under sub-regulation (1) unless the Court is satisfied, having regard to the views of the Maritime Authority, that the interests of justice in disclosure outweigh any prejudice, or likely prejudice, to—

- (a) the marine safety investigation into the accident to which the document or record relates;
- (b) any future accident marine safety investigation undertaken in St Helena; or
- (c) relations between St Helena and any other State, or international organisation.

(6) This regulation is without prejudice to any enactment or rule of law which authorises or requires the withholding of any document or record or part of the document or record on the ground that disclosure of it would be injurious or contrary to the public interest.

(7) Any copy of information relevant to an accident obtained from a voyage recorder or from any other recording system, including a voice recording, a video recording and any other electric or magnetic recording and any transcript made from such information or recordings may be provided at the discretion of the Maritime Authority to the police or other official investigatory authority.

(8) Except where disclosure is ordered by a Court or made to a person's advisers where disclosure is necessary in order to enable the person to make representations to the Maritime Authority under regulation 17, a person must not disclose, or permit to be disclosed, any information—

- (a) which is furnished to the person in accordance with regulation 17; or
- (b) which has otherwise been furnished to the person by or on behalf of the Maritime Authority or an investigator in advance of the publication of a report and whose confidentiality is protected by sub-regulation (1).

(9) Where the disclosure of information is made to an adviser in accordance with sub-regulation (8)(b), the adviser must not disclose the information or permit the information to be disclosed.

(10) A marine safety record obtained in pursuance of the exercise of an investigator's powers under these Regulations is inadmissible in any judicial proceedings whose purpose or one of whose purposes is to attribute or apportion liability or blame unless a Court, having regard to the factors mentioned in sub-regulation (5), determines otherwise.

(11) For the purpose of these Regulations, where any investigator is required to attend judicial proceedings, the investigator cannot be required to provide—

- (a) opinion evidence or analysis of information provided to the investigator; or
- (b) information obtained in accordance with an investigator's powers under these Regulations,

where the purpose or one of the purposes of those proceedings is to attribute or apportion liability or blame unless a Court, having regard to all the factors mentioned in sub-regulation (5), determines otherwise.

(12) In this regulation "judicial proceedings" includes any civil or criminal proceedings before any court, or person having by law the power to hear, receive and examine evidence on oath.

Extension of time

24. (1) The Maritime Authority may extend any period prescribed in these Regulations, if the Maritime Authority considers that there is a good reason to extend the period having regard to the requirements in regulation 17(1) for a report of a marine safety investigation to be made available in the shortest time possible.

(2) The powers under this regulation may be exercised notwithstanding that the prescribed period has expired.

Service of documents

25. Any notice or other document required or authorised by these Regulations to be served on or given to any person may be served or given—

- (a) by delivering the notice or other document to the person;
- (b) by leaving the notice or other document at the person's usual or last-known residence or place of business, whether in St Helena or elsewhere;
- (c) by sending the notice or other document to the person by post at the person's

- address; or
- (d) by sending the notice or other document to the person by facsimile, or other means which produces a document containing a text of the notice or other document, or by electronic mail in which event the notice or other document is regarded as having been served when the notice or other document is sent.

Offences and penalties

- 26. (1)** A person commits an offence if the person—
- (a) being a person specified in regulation 7(1), fails without reasonable cause to report an accident as required by regulation 7(1);
- (b) being a person mentioned in regulation 7(1), fails without reasonable cause to provide information as required by regulation 7(3); or
- (c) falsely claims to have any additional information or new evidence pertaining to any accident.

Penalty: a fine of £50,000

(2) A person who fails without reasonable cause to comply with any requirement, duty, or prohibition in regulation 8(2), (3), (7) or (8), commits an offence.

Penalty: a fine of £ 50,000

(3) A person who without reasonable cause discloses or permits to be disclosed any information in contravention of regulation 23(2), (8) or (9), commits an offence.

Penalty: a fine of £ 50,000

MERCHANT SHIPPING ORDINANCE, 2021

MERCHANT SHIPPING (SAFETY OF LIFE AT SEA) REGULATIONS, 2021

(Sections 55 and 124(o))

TABLE OF CONTENTS

1. Citation
2. Application
3. Interpretation

PART I PRELIMINARY

4. Reference to date of construction etc.

PART II IMPLEMENTATION OF THE SAFETY OF LIFE AT SEA CONVENTION AND CODES

5. Construction of references in SOLAS to Administrations etc., flag States and Contracting Governments
6. Discretionary functions of the Maritime Authority
7. Conflicts between these Regulations and SOLAS
8. Verification of compliance

PART III
GENERAL APPLICATION AND GENERAL PROVISIONS

- 9. General application
- 10. Guidance
- 11. Approval of equipment by an Administration
- 12. Exemptions - general
- 13. Equivalents - general

PART IV
CONSTRUCTION OF SHIPS: STRUCTURE, SUBDIVISION AND STABILITY,
MACHINERY AND ELECTRICAL INSTALLATIONS
(SOLAS: CHAPTER II-1)

- 14. Application of Part IV
- 15. Requirements of Chapter II-1
- 16. Requirements of Chapter II-1: ships that undergo repairs
- 17. Structural, mechanical and electrical requirements for ships
- 18. Logbooks
- 19. Exemptions from Chapter II-1
- 20. Alternative design and arrangements: Chapter II-1

PART V
CONSTRUCTION OF SHIPS: FIRE PROTECTION, FIRE DETECTION AND FIRE
EXTINCTION
(SOLAS: CHAPTER II-2)

- 21. Application of Part V
- 22. Requirements of Chapter II-2
- 23. Requirements of Chapter II-2: ships that undergo repairs
- 24. Fire control plans
- 25. Exemptions from Chapter II-2
- 26. Alternative design and arrangements: Chapter II-2

PART VI
LIFE-SAVING APPLIANCES AND ARRANGEMENTS
(SOLAS: CHAPTER III)

- 27. Application of Part VI
- 28. Requirements of Chapter III
- 29. Approval of life-saving appliances and arrangements.
- 30. Language of emergency instructions on passenger ships
- 31. Recording of musters and drills
- 32. Lifesaving requirements on cargo ships of 300GT but less than 500GT
- 33. Exemption from information collection requirements for passenger ships
- 34. Exemptions from Chapter III
- 35. Alternative design and arrangements: Chapter III

PART VII
RADIOCOMMUNICATIONS

(SOLAS: CHAPTER IV)

- 36. Application of Part VII
- 37. Radio communications: functional requirements
- 38. Requirements of Chapter IV
- 39. Duty to maintain radio communication equipment
- 40. Effect of malfunction of radio communication equipment on seaworthiness
- 41. Conferral of functions on the St Helena Government
- 42. Exemptions from Chapter IV

PART VIII
CARRIAGE OF CARGOES AND DANGEROUS GOODS
(SOLAS: CHAPTER VI)

- 43. Application of Part VIII
- 44. Exemption for cargo ships of less than 500 GT
- 45. Cargo information
- 46. Carriage of documentation
- 47. General requirements for the carriage of cargoes
- 48. Additional requirements for solid bulk cargoes
- 49. Additional requirements for the carriage of grain.

PART IX
CARRIAGE OF DANGEROUS GOODS
(SOLAS: CHAPTER VII)

- 50. Carriage of dangerous goods in packaged form
- 51. Carriage of dangerous goods in solid form in bulk
- 52. Construction and equipment of ships carrying dangerous liquid chemicals in bulk
- 53. Construction and equipment of ships carrying liquefied gases in bulk
- 54. Special requirements for the carriage of INF cargo on board ships

PART X
NUCLEAR SHIPS
(SOLAS: CHAPTER VIII)

- 55. Application of Part X
- 56. Reactor installations
- 57. Safety assessment of nuclear ships
- 58. Operating manual for nuclear ships
- 59. Casualties involving nuclear ships

PART XI
MANAGEMENT FOR THE SAFE OPERATION OF SHIPS
(SOLAS: CHAPTER IX)

- 60. Application of Part XI
- 61. Safety management requirements

PART XII
SPECIAL MEASURES TO ENHANCE MARITIME SAFETY
(SOLAS: CHAPTER XI-1)

- 62. Ship identification number
- 63. Registered owner identification number
- 64. Continuous synopsis record
- 65. Atmosphere testing instrument for enclosed spaces

PART XIII
ADDITIONAL SAFETY MEASURES FOR BULK CARRIERS
(SOLAS: CHAPTER XII)

- 65. Application of Part XIII
- 66. Additional requirements for bulk carriers

PART XIV
SAFETY MEASURES FOR SHIPS OPERATING IN POLAR WATERS
(SOLAS: CHAPTER XIV)

- 67. Application of Part XIV
- 68. Requirements for ships operating in Polar waters
- 69. Alternative design and arrangements: ships in Polar waters

PART XV
SURVEY AND CERTIFICATION

- 70. Application of Part XV General Surveys
- 71. Surveys of passenger ships
- 72. Surveys of life saving appliances and other equipment of cargo ships
- 73. Surveys of radio installations of cargo ships
- 74. Surveys of structure, machinery and equipment of cargo ships
- 75. Surveys of chemical tankers, gas carriers and ships engaged in the carriage of INF cargo
- 76. Surveys of nuclear ships
- 77. Enhanced surveys of bulk carriers and oil tankers
- 78. Responsibilities after a survey
- 79. Procedure to be adopted when a ship is deficient Certification
- 80. Issue of certificates etc. to St Helena ships engaged on international voyages
- 81. Form and content of Convention Certificates
- 82. Duration and validity of Convention Certificates
- 83. Issue and duration of Exemption Certificates
- 84. Extension of certificates and other provisions
- 85. Documents of compliance – carriage of dangerous goods
- 86. Certification and verification for safety management system
- 87. Issue and endorsement of Convention Certificates or ISM documents by another Party
- 88. Requests made by other Parties
- 89. Cancellation of Convention Certificates or ISM documents
- 90. Availability of Convention Certificates or ISM documents
- 91. Acceptance of Convention Certificates or ISM documents
- 92. Prohibition on proceeding to sea without the appropriate documentation
- 93. Limit on the number of passengers on passenger ships
- 94. Qualification of Passenger Ship Safety Certificates

PART XVI

ENFORCEMENT

- 95. Inspection and control of ships
- 96. Detention
- 97. Offences and penalties
- 98. Defence

PART XVII TRANSITIONAL PROVISIONS

- 99. Convention Certificates and documents etc. issued prior to the entry into force of these Regulations

SCHEDULE ONE: LIST OF SOLAS CODES

PART I PRELIMINARY

Citation

- 1. These Regulations may be cited as the Merchant Shipping (Safety of Life at Sea) Regulations 2021.

Purpose and application

- 2. (1) The purpose of these Regulation are—
 - (a) to secure the safety of St Helena ships;
 - (b) to secure the health and safety of persons on St Helena Ships;
 - (c) to secure the safety of other ships while those ships are within St Helena waters; and
 - (d) to secure the health and safety of persons on ships under paragraph (c).
- (2) For purposes of giving effect to the purpose in sub-regulation (1), the provisions as contained in the International Convention for the Safety of Life at Sea 1974, (except for Chapters V, X and XI-2), and the Protocols of 1978 and 1988 of SOLAS and any Code or other instrument made under SOLAS, including such Codes listed at Schedule One to these Regulations, apply in accordance with these Regulations.

Interpretation

- 3. (1) In these Regulations—
 - “**BCH Code**” means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk as adopted by the Maritime Safety Committee of the IMO by resolution MSC.4(48) on 17 June 1983;
 - “**Cargo Ship Safety Certificate**” means a Convention Certificate specified to be a Cargo Ship Safety Certificate issued under regulation 80(2)(c);
 - “**Cargo Ship Safety Construction Certificate**” means a Convention Certificate specified to be a Cargo Ship Safety Construction Certificate issued under regulation 80(2)(c);
 - “**Cargo Ship Safety Radio Certificate**” means a Convention Certificate specified to be a Cargo Ship Safety Radio Certificate issued under regulation 80(2)(b);

“Convention Certificate” means a certificate listed in regulation 80 issued in accordance with SOLAS;

“Convention ship” means—

- (a) a St Helena ship engaged on international voyages wherever the St Helena ship may be; and
- (b) a foreign ship engaged on an international voyage while the ship is within St Helena waters;

“CSS Code” means the Code of Safe Practice for Cargo Stowage and Securing as adopted by the IMO by resolution A.714(17) on 6 November 1991;

“Document of Compliance” means a document specified to be a Document of Compliance issued under regulation 86;

“equipment” includes equipment, appliances, arrangements, fittings, apparatus, or material;

“Exemption Certificate” means a certificate specified to be an Exemption Certificate issued pursuant to regulation 83;

“flag State”, in relation to a ship means the State in which the ship is registered or, if unregistered, whose flag the ship is entitled to fly;

“foreign ship” means a ship which is not a St Helena ship;

“GT” means gross tonnage ascertained under in the manner prescribed in Regulations in accordance with the International Convention on Tonnage Measurement of Ships, 1969 done at London on 23 June 1969;

“IGC Code” means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk as adopted by the Maritime Safety Committee of the IMO by resolution MSC.370(93) on 22 May 2014;

“IMO” means the International Maritime Organization;

“IMO guidelines” means guidelines adopted by resolution of the Maritime Safety Committee or Marine Environment Protection Committee of the IMO under SOLAS that provide guidance on SOLAS and the Codes;

“IMSBC Code” means the International Maritime Solid Bulk Cargoes Code as adopted by the Maritime Safety Committee of the IMO by resolution MSC.268(85) on 4 December 2008;

“in bulk” means loaded directly into the cargo spaces of a ship without any intermediate form of containment;

“INF Code” means the International Code for the Safe Carriage of Packaged Irradiated Nuclear Fuel, Plutonium and High-Level Radioactive Wastes on Board Ships as adopted by the Maritime Safety Committee of the IMO by resolution MSC.88(71) on 27 May 1999;

“Interim Document of Compliance” means a document specified to be an Interim Document of Compliance issued under regulation 86;

“Interim Safety Management Certificate” means a document specified to be an Interim Safety Management Certificate issued under regulation 86;

“International Certificate of Fitness for the Carriage of Dangerous Chemicals” means a Convention Certificate specified to be an International Certificate of Fitness for the Carriage of Dangerous Chemicals issued under regulation 80(2)(g);

“International Certificate of Fitness for the Carriage of INF Cargo” means a Convention Certificate specified to be an International Certificate of Fitness for the Carriage of INF Cargo issued under regulation 80(2)(i);

“International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk” means a Convention Certificate specified to be an International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk issued under regulation 80(2)(h);

“International Grain Code” means the International Code for the Safe Carriage of Grain in

Bulk as adopted by the Maritime Safety Committee of the IMO by resolution MSC.23(59) on 23 May 1991;

“international voyage” means a voyage between a port in a Party (other than St Helena) and a port in any other State or territory (whether a Party or not) which is outside St Helena;

“ISM Code” means the International Safety Management Code as adopted by the IMO by resolution A.741(18) on 4 November 1993;

“ISM document” means a Document of Compliance, an Interim Document of Compliance, a Safety Management Certificate, or an Interim Safety Management Certificate;

“logbook” means the logbook required to be maintained in accordance with the Merchant Shipping Ordinance, 2021;

“Maritime Authority” means the person appointed in accordance with section 2A;

“MCA” means the Maritime and Coastguard Agency, an Executive Agency of the United Kingdom’s Department of Transport;

“Merchant Shipping Notice” means a Notice described as such, issued by the MCA;

“mile” means an international nautical mile of 1852 metres;

“Nuclear Cargo Ship Safety Certificate” means a Convention Certificate specified to be a Nuclear Cargo Ship Safety Certificate issued under regulation 80(2)(f);

“Nuclear Passenger Ship Safety Certificate” means a Convention Certificate specified to be a Nuclear Passenger Ship Safety Certificate issued under regulation 80(2)(e);

“owner” in relation to a ship, includes—

(a) the registered owner or, in the absence of registration, the person owning the ship; and

(b) any other person (such as the ship manager, agent, or bareboat charterer) who has agreed in writing to assume responsibility for the operation of the ship, including (where applicable) all the duties imposed by the ISM Code;

“Party” means a State which is a Party to SOLAS or a territory to which SOLAS is extended;

“passenger” means any person carried on a ship except—

(a) a person employed or engaged in any capacity on the business of the ship;

(b) a person on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed, or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer (if any) could have prevented or forestalled,

(c) a child of under one year of age;

“Passenger Ship Safety Certificate” means a Convention Certificate specified to be a Passenger Ship Safety Certificate issued under regulation 80(2)(a);

“passenger ship” means a ship carrying more than 12 passengers;

“pleasure vessel” means—

(a) any vessel which at the time the vessel is being used is—

(i) in the case of a vessel wholly owned by—

(aa) an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(bb) a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time the vessel is being used, is used only

for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in (a) or (b) no other payments are made by or on behalf of users of the vessel, other than by the owner; and in this definition “immediate family” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the relative’s spouse or civil partner, and “relative” means brother, sister, ancestor or lineal descendant;

“**Polar Code**” means the International Code for Ships Operating in Polar Waters as adopted by the Marine Environment Committee of the IMO by resolution MEPC.264(68) on 15 May 2015;

“**Polar Ship Certificate**” means a Convention Certificate specified to be a Polar Ship Certificate issued under regulation 80(2)(d);

“**prescribed fee**” means the relevant fee prescribed for surveyors and certificates;

“**radio installations**” means any radio equipment other than radio navigational equipment on board a ship or provided in relation to the ship’s life-saving appliances;

“**RO Code**” means the Code for Recognized Organizations (RO Code) as adopted by the Marine Environment Protection Committee of the IMO by resolution MEPC.237(65) on 17 May 2013;

“**safety assessment**” means a safety assessment of a nuclear ship prepared in accordance with regulation 57;

“**Safety Management Certificate**” means a document specified to be a Safety Management Certificate issued under regulation 86(5);

“**sea-going**” means going beyond the limits of “St Helena’s baseline for establishing St Helena’s territorial waters but does not apply to ships solely operating in internal waters;

“**shipper**” means a person who, whether as principal or agent for another, consigns for carriage by sea dangerous goods or marine pollutants;

“**State**” includes a territory; and

“**TDC Code**” means the Code of Safe Practice for Ships Carrying Timber Deck Cargoes, 2011 as adopted by the IMO by resolution A.1048(27) on 30 November 2011.

(2) A word or expression used in these Regulations relating to SOLAS or a Code has the same meaning as the word or expression has in SOLAS or the Code, unless expressly otherwise provided.

(3) Any provision in these Regulations or in SOLAS that requires that an approval, exemption, equivalent, direction, notice or similar matter must be in writing, or a certificate be issued, is satisfied where the text of the approval, exemption, equivalent, direction, notice or certificate is—

- (a) transmitted by electronic means;
- (b) received in legible form;
- (c) capable of being used for subsequent reference; and
- (d) in the case of certificates, complies with all requirements for electronic certificates established by the IMO.

(4) In these Regulations—

- (a) a reference to a Chapter is a reference to a Chapter of SOLAS;
- (b) a reference to a numbered regulation in the format “Chapter number (in roman numerals) or regulation number (in Arabic numerals)” is, unless otherwise stated, a reference to the regulation of that number in the Chapter of SOLAS; and

- (c) a reference to a regulation is a reference to a regulation in these Regulations.

(5) Any reference in these Regulations to the following includes a reference to any document amending a publication which is considered by the Maritime Authority to be relevant from time to time—

- (a) a Merchant Shipping Notice;
- (b) guidance; or
- (c) IMO guidelines.

Reference to date of construction etc

4. Any reference in these Regulations to the date of construction of a ship is to be construed in accordance with the meaning given in the relevant Chapter of SOLAS.

PART II IMPLEMENTATION OF THE SAFETY OF LIFE AT SEA CONVENTION AND CODES

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

5. In applying any provision of SOLAS or of any Code or other instrument made under SOLAS in accordance with these Regulations, unless the context indicates otherwise the following applies as specified 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—

- (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 authority 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 or St Helena’s waters, the Minister charged with responsibility for maritime matters on behalf of the Government of St Helena; and
 - (ii) in relation to any other State or the waters of any other State, the Government of that State if the State is a Party.

Discretionary functions of the Maritime Authority

6. Where a function is conferred on the Maritime Authority as the Administration by SOLAS, in exercising that function, regard to any provision of the following which is relevant to the function must be had by the Maritime Authority—

- (a) guidance issued or adopted in accordance with regulation 10;
- (b) a Code; and
- (c) IMO guidelines.

Conflicts between these Regulations and SOLAS

7. Where any conflict arises between these Regulations and SOLAS or the Codes, SOLAS or the Codes take precedence.

Verification of compliance

8. The conduct of an audit by the IMO in accordance with Chapter XIII to verify the Government's compliance with and implementation of SOLAS must be facilitated by the Minister charged with responsibility for maritime matters on behalf of the Government of St Helena.

PART III GENERAL APPLICATION AND GENERAL PROVISION

General application

9. (1) Subject to sub-regulations (2) to (6) and the specific application provisions in each Part, these Regulations apply to Convention ships.

- (2) These Regulations do not apply to—
- (a) a warship;
 - (b) high speed craft;
 - (c) a ship not propelled by mechanical means;
 - (d) a ship of primitive build;
 - (e) a pleasure vessel; or
 - (f) a fishing vessel.

(3) These Regulations do not apply to ships solely navigating the Great Lakes of North America and the River St Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

(4) Where these Regulations do not apply to a ship at the time of the ship's departure, the Regulations must not subsequently apply to the ship on account of any deviation from the ship's intended voyage due to stress of weather or any other force majeure.

(5) A person who is on board a ship by reason of force majeure or in consequence of the obligation on the master to carry shipwrecked persons must not be considered for the purpose of ascertaining the application to a ship of any provision of SOLAS.

Guidance

10. (1) The Maritime Authority may from time to time—
- (a) issue guidance in relation to these Regulations, SOLAS or a Code, whether described as a Merchant Shipping Notice, a Marine Guidance Note, or by any other description; and
 - (b) adopt guidance in relation to these Regulations, SOLAS or a Code, whether described as a Merchant Shipping Notice, a Marine Guidance Note or by any other description, which is issued by the MCA, subject to such modifications as are necessary to enable the guidance's application to St Helena.
- (2) Any person who exercises or performs a power or duty under these Regulations

must have regard to any guidance issued or adopted under sub-regulation (1) which relates to the power or duty.

(3) Any guidance issued or adopted under this regulation, or any modification to, or replacement of, that guidance, must be published by the Maritime Authority and in the manner considered appropriate by the Maritime Authority.

Approval of equipment by an Administration

11. (1) This regulation applies where SOLAS refers to any equipment requiring the approval of the Administration.

(2) Where this regulation applies, any equipment placed on board—

- (a) a St Helena ship must be of a type that is approved by the Maritime Authority; and
- (b) a foreign ship must be of a type approved by the Administration of the ship's flag State.

(3) For the purpose of sub-regulation (2)(a), equipment will be approved if—

- (a) subject to sub-regulation (4), the equipment is of a type which is approved by the Maritime Authority and is included in a list of type approved equipment maintained by the Maritime Authority and published in the manner the Maritime Authority considers appropriate; or
- (b) the equipment does not fall within a type approved under sub-regulation (a) but is, subject to sub-regulation (4), approved specifically by the Maritime Authority.

(4) The Maritime Authority must be satisfied that equipment complies with SOLAS and any Code which is applicable to the equipment and the type, size and date of construction of the ship on which the equipment is to be placed before approving—

- (a) a type of equipment under sub-regulation (3)(a); or
- (b) an individual piece of equipment under sub-regulation (3)(c).

(5) When considering whether to grant approval, regard must be had by the Maritime Authority to any relevant—

- (a) IMO guidelines; and
- (b) guidance issued or adopted by the Maritime Authority.

(6) Any approval given under this regulation must—

- (a) be in writing;
- (b) specify the date on which the approval takes effect;
- (c) specify the date (if any) on which the approval expires; and
- (d) specify the terms (if any) on which the approval is granted.

(7) The Maritime Authority may on giving reasonable notice cancel or alter the terms of any approval.

(8) Equipment marked with an expiry date ceases to be approved for the purpose of these Regulations on the expiry date.

Exemptions – general

- 12. (1)** Subject to sub-regulation (2), the Maritime Authority may exempt from—
- (a) any of these Regulations, a ship which is not normally engaged on international voyages but is, in exceptional circumstances, required to undertake a single international voyage ship; and
 - (b) any of the provisions of Chapters II-1, II-2, III and IV as applied by these Regulations, a ship which embodies features of a novel kind if the application of the Regulations might seriously impede research into the development of the features and the incorporation of the features in a ship engaged on an international voyage.
- (2)** The Maritime Authority may only grant an exemption—
- (a) under sub-regulation (1)(a) if satisfied that the ship complies with safety requirements that are in the opinion of the Maritime Authority adequate for the voyage which is to be undertaken by the ship; and
 - (b) under sub-regulation (1)(b), if satisfied that the ship complies with safety requirements that are in the opinion of the Maritime Authority adequate for the service for which the ship is intended and are such as to—
 - (i) ensure the overall safety of the ship; and
 - (ii) are acceptable to the Parties to be visited by the ship.
- (3)** Any exemption granted under these Regulations—
- (a) must be recorded in writing; and
 - (b) may on, reasonable notice being given by the Maritime Authority, as the case may be, be altered or cancelled.
- (4)** No exemption may be granted under these Regulations in respect of a nuclear ship.
- (5)** Where the Maritime Authority grants an exemption under sub-regulation (1)(b), the details of the exemption must be communicated to the IMO by the Maritime Authority.

Equivalents - general

- 13. (1)** Subject to sub-regulation (2), any equipment may be fitted in a St Helena ship as an alternative to equipment that complies with these Regulations if—
- (a) the owner or master of the ship has made an application to the Maritime Authority for permission to fit the equipment to the ship;
 - (b) a surveyor—
 - (i) is satisfied that the equipment is at least as effective as that required by these Regulations; and
 - (ii) has endorsed the application to the Maritime Authority to that effect;
 - (c) the equipment is fitted to the ship in accordance with any conditions or limitations set out in the approval and is used and operated in accordance with any such conditions or limitations; and
 - (d) the Maritime Authority has approved the alternative equipment.
- (2)** Where the Maritime Authority permits an equivalency, the details of the equivalency must be communicated to the IMO by the Maritime Authority.

PART IV

CONSTRUCTION OF SHIPS: STRUCTURE, SUBDIVISION AND STABILITY,

MACHINERY AND ELECTRICAL INSTALLATIONS (SOLAS: CHAPTER II-1)

Application of Part IV

14. (1) This Part applies to Convention ships, subject to the provisions of Regulations II-1/1 (Application) and II-1/56 (Application: ships using low-flashpoint fuels).

(2) This Part does not apply to cargo ships of less than 500 GT.

Requirements of Chapter II-1

15. A ship to which this Part applies must comply with the provisions of Chapter II-1 that are applicable to the ship's type, size and date of construction.

Requirements of Chapter II-1: ships that undergo repairs

16. Where a ship undergoes repair, alteration, modification or outfitting the provisions of Regulation II-1/1.3 apply.

Structural, mechanical and electrical requirements for ships

17. (1) For the purpose of Regulations II-1/3-1 and II-1/3-10.3 (Structural, mechanical and electrical requirements for ships and goal-based ship construction standards for bulk carriers and oil tankers), the structural, mechanical and electrical requirements are the requirements specified in sub-regulation (2).

(2) The requirements must be the classification society rules of one of the recognized organisations listed below that are applicable to the ship's type, size and date of construction—

- (a)* Lloyd's Register;
- (b)* Bureau Veritas Marine and Offshore SAS
- (c)* Det Norske Veritas GL AS;
- (d)* American Bureau of Shipping;
- (e)* RINA Services S.p.A; or
- (f)* Nippon Kaiji Kyokai (ClassNK).

Logbooks

18. For the purpose of Regulation II-1/22.13, II-1/22.14.1 and II-1/22.16 (Prevention and control of water ingress etc), the required information must be recorded in the ship's logbook.

Exemptions from Chapter II-1

19. Where the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements of Chapter II-1 unreasonable or unnecessary, the Maritime Authority may exempt from those requirements individual St Helena ships or classes of St Helena ships which in the course of their voyage do not proceed more than 20 miles from the nearest land.

Alternative design and arrangements: Chapter II-1

20. (1) Where the conditions in Regulation II-1/55 (Alternative design and arrangements) are met, the Maritime Authority may, in accordance with that Regulation, approve alternative designs and arrangements for machinery, electrical installations and low-flashpoint fuel storage and distribution systems to those required by this Part.

(2) A copy of the documentation, as approved by the Maritime Authority, indicating that the alternative design and arrangements comply with Regulation II-1/55 must be carried on board the ship.

(3) Where any assumption or operational restriction that was stipulated in the alternative design and arrangements is changed, an engineering analysis must be carried out under the changed condition and must be approved by the Maritime Authority.

(4) Where the Maritime Authority accepts alternative methodologies, particulars of the methodologies must be communicated to the IMO by the Maritime Authority in accordance with—

- (a)* sub-regulation (1); or
- (b)* Regulation II-1/4.2 (Subdivision and stability: general).

PART V

CONSTRUCTION OF SHIPS: FIRE PROTECTION, FIRE DETECTION AND FIRE EXTINCTION (SOLAS CHAPTER II-2)

Application of Part V

21. (1) This Part applies to Convention ships, subject to the provisions of Regulation II-2/1 (Application).

(2) This Part does not apply to cargo ships of less than 500 GT.

Requirements of Chapter II-2

22. A ship to which this Part applies must comply with provisions of Chapter II-2 that are applicable to the ship's type, size and date of construction.

Requirements of Chapter II-2: ships that undergo repairs

23. Where a ship undergoes repair, alteration, modification or outfitting the provisions of Regulation II-2/1.3 apply.

Fire control plans

24. (1) A fire control plan required by Regulation II-2/15.2.4.1 (Fire control plans) in respect of a St Helena ship must be in English.

- (2)** A fire control plan carried on a foreign ship while in St Helena waters must be—
 - (a)* in the working language of the ship's personnel; and
 - (b)* if that language is not English or French, a translation of the plan into English or French must be available.

Exemptions from Chapter II-2

25. Where the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements of Chapter II-2 unreasonable or unnecessary, the Maritime Authority may exempt from those requirements individual St Helena ships or classes of St Helena ships which in the course of their voyage do not proceed more than 20 miles from the nearest land.

Alternative design and arrangements: Chapter II-2

26. (1) Where the conditions in Regulation II-2/17 (Alternative design and arrangements) are met, the Maritime Authority may, in accordance with that Regulation, approve alternative designs and arrangements for fire safety to those required by this Part in accordance with that Regulation.

(2) A copy of the documentation, as approved by the Maritime Authority, indicating that the alternative design and arrangements comply with Regulation II-2/17 must be carried on board the ship.

(3) Where the Maritime Authority approves alternative designs and arrangements for fire safety under sub-regulation (1), information concerning the approved alternative design and arrangements must be communicated to the IMO by the Maritime Authority.

(4) Where any assumption or operational restriction that was stipulated in the alternative design and arrangements is changed, an engineering analysis must be carried out under the changed condition and must be approved by the Maritime Authority.

PART VI

LIFE-SAVING APPLIANCES AND ARRANGEMENTS (SOLAS: CHAPTER III)

Application of Part VI

27. (1) This Part applies to Convention ships, subject to the provisions of Regulation III/1 (Application).

(2) This Part, except for regulation 32, does not apply to cargo ships of less than 500 GT.

Requirements of Chapter III

28. A ship to which this Part applies must comply with the provisions of Chapter III that are applicable to the ship's type, size and date of construction.

Approval of life-saving appliances and arrangements.

29. (1) Where Chapter III provides that lifesaving appliance and arrangements must be approved by the Maritime Authority, life-saving appliances and arrangements for a ship must not be approved by the Maritime Authority unless the Maritime Authority ensures that the life-saving appliances and arrangements—

- (a) are tested in accordance with the relevant recommendations of the IMO to confirm that the life-saving appliances and arrangements comply with the requirements of Chapter III and the LSA Code; or
- (b) have successfully undergone, to the satisfaction of the Maritime Authority, tests which are substantially equivalent to those specified in such recommendations.

(2) In giving approval to life-saving appliances and arrangements under sub-regulation (1), the Maritime Authority may include any condition on the basis of which the approval will continue or will be withdrawn.

(3) Life-saving appliances are required to be subjected by the Maritime Authority to such production tests as are necessary to ensure that the life-saving appliances are manufactured to the same standards as the approved prototype.

(4) Where the Maritime Authority approves new and novel inflatable life raft arrangements under this regulation, the Maritime Authority may allow for extended service intervals different from those required by Regulation III/20.8.1 provided the conditions prescribed in Regulation III/20.8.3 and III/20.8.4 are met.

(5) The IMO must be notified by the Maritime Authority of any permitted extension of life raft service intervals.

Language of emergency instructions on passenger ships

30. For the purpose of Regulation III/8.2, emergency instructions required to be provided in St Helena passenger ships must be in English.

Recording of musters and drills

31. (1) For the purpose of Regulation III/19.5, the following must be recorded in the ship's logbook—

- (a) the date when musters are held;
- (b) details of abandon ship drills and fire drills, enclosed space entry and rescue drills, drills of other life-saving appliances; and
- (c) on board training.

(2) If a full muster, drill, or training session is not held at the appointed time, an entry must be made in the logbook stating the circumstances and the extent of the muster, drill or training session held.

Lifesaving requirements on cargo ships of 300GT but less than 500GT

32. A cargo ship of between 300 GT and 499 GT must comply with the requirements of the following provisions of Chapter III that are applicable to the ship's type and size—

- (a) Regulation III/6.2.1 (two-way VHF radiotelephone apparatus); and
- (b) Regulation III/6.2.2 (search and rescue locating devices).

Exemption from information collection requirements for passenger ships

33. In respect of St Helena ships that are passenger ships the Maritime Authority may

exempt such ship or ships from the requirements of Regulation III/27.3, if the scheduled voyages of such ships render it impracticable for them to prepare such records.

Exemptions from Chapter III

34. Where the sheltered nature and conditions of the voyage are such as to render the application of any specific requirements of Chapter III unreasonable or unnecessary, the Maritime Authority may exempt from those requirements individual St Helena ships or classes of St Helena ships which in the course of their voyage do not proceed more than 20 miles from the nearest land.

Alternative design and arrangements: Chapter III

35. (1) Life-saving appliances and arrangements may deviate from the requirements of Chapter III, if the Maritime Authority is satisfied that—

- (a) the alternative design and arrangements meet the intent of the requirements concerned;
- (b) provide an equivalent level of safety; and
- (c) an engineering analysis, evaluation and approval of the design and arrangements has been carried out in accordance with Regulation III/38.

(2) A copy of the documentation, as approved by the Maritime Authority, indicating that the alternative design and arrangements comply with Regulation III/38 must be carried on board the ship.

(3) Where an alternative design and arrangements are approved in accordance with this regulation, information must be communicated to the IMO by the Maritime Authority concerning the approved alternative design and arrangements.

(4) Where any assumption or operational restriction that was stipulated in the alternative design and arrangements is changed, an engineering analysis must be carried out under the changed condition and must be approved by the Maritime Authority.

PART VII RADIOCOMMUNICATIONS (SOLAS: CHAPTER IV)

Application of Part VII

36. (1) This Part applies to Convention ships, subject to the provisions of Regulation IV/1.

(2) This Part does not apply to cargo ships of less than 300 GT.

(3) Nothing in this Part must prevent the use by any ship, survival craft or person in distress, of any means at their disposal to attract attention, make known their position and obtain help.

Radiocommunications: functional requirements

37. A ship to which this Part applies, while at sea, must be capable of complying with the functional requirements specified in Regulation IV/4.

Requirements of Chapter IV

38. (1) A ship to which this Part applies must comply with the provisions of Chapter IV that are applicable to—

- (a) the ship's type, size and date of construction; and
- (b) the sea area in which the ship operates.

Duty to maintain radiocommunication equipment

39. All reasonable steps must be taken to maintain the radiocommunication equipment required by this Part in order—

- (a) to provide the availability of the functional requirements specified in regulation 37; and
- (b) to meet the recommended performance standards of such equipment.

Effect of malfunction of radiocommunication equipment on seaworthiness

40. If a ship is capable of performing all distress and safety functions, malfunction of the equipment for providing the general radiocommunications required by this Part must not be considered as making a ship unseaworthy or as a reason for delaying the ship in ports where repair facilities are not readily available.

Conferral of functions on the St Helena Government

41. (1) The duties imposed on the St Helena Government by Chapter IV must be discharged in accordance with this regulation.

(2) The Maritime Authority must perform the functions conferred on the St Helena Government under—

- (a) Regulation IV/5 (Provision of radiocommunication services); and
- (b) Regulation IV/5-1 (Global maritime distress and safety system identities).

Exemptions from Chapter IV

42. (1) The Maritime Authority may grant partial or conditional exemptions to individual ships from the requirements of Regulations IV/7 to IV/11 where—

- (a) such ships comply with the functional requirements specified in Regulation IV/4; and
- (b) the Maritime Authority is satisfied that the exemption will not have an effect on the general efficiency of the service for the safety of all ships.

(2) An exemption may only be granted under sub-regulation (1)—

- (a) if the conditions affecting safety in the waters in which the ship will operate are such as to render the full application of Regulations IV/7 to IV/11 unreasonable or unnecessary; or
- (b) in exceptional circumstances, for a single voyage outside the sea area or sea areas for which the ship is equipped.

(3) The Maritime Authority may exempt from the requirements of Regulations IV/7.1.1 and IV/7.1.2 ships constructed before 1 February 1997 engaged exclusively on voyages within—

- (a) sea area A2;
- (b) sea areas A2 and A3; or
- (c) sea areas A2, A3 and A4,

provided such ships maintain, when practicable, a continuous listening watch on VHF channel 16 kept at the position from which the ship is normally navigated.

(4) As soon as possible after the first of January in each year, a report must be submitted to the IMO by the Maritime Authority showing all exemptions granted under this regulation during the previous calendar year and giving the reasons for granting such exemptions.

PART VIII

CARRIAGE OF CARGOES AND DANGEROUS GOODS

(SOLAS: CHAPTER VI)

Application of Part VIII

43. (1) This Part applies to the carriage of cargoes, except the cargoes specified in sub-regulation (2), which, owing to their particular hazards to ships or persons on board, may require special precautions in Convention Ships.

- (2) The cargoes are—
- (a) liquids in bulk;
 - (b) gases in bulk; and
 - (c) any of the cargoes to which Part IX applies.

Exemption for cargo ships of less than 500 GT

44. The Maritime Authority may exempt a cargo ship of less than 500 GT from any provision of this Part if satisfied that—

- (a) the sheltered nature and conditions of voyage are such as to render the application of any specific requirements of this Part unreasonable or unnecessary; and
- (b) effective measures are in place to ensure the required safety on the ship.

Cargo information

45. (1) A shipper must—

- (a) comply with the requirements imposed on a shipper by Regulation VI/2; and
- (b) provide the master or the master's representative with the information on the cargo required under Regulation VI/2 sufficiently in advance of loading to enable the precautions which may be necessary for proper stowage and safe carriage of the cargo to be put into effect.

(2) The information required under sub-regulation (1)(b) must be confirmed in writing and by appropriate shipping documents prior to loading the cargo on the ship.

- (3) A container is prohibited from being loaded on to a ship if—
- (a) a shipping document submitted under sub-regulation (2) with regard to a packed container does not provide the verified gross mass; and
 - (b) the master, the master's representative or the terminal representative have not obtained the verified gross mass of the packed container.

(4) In this regulation—

“container” means an article of transport equipment—

- (a) of a permanent character and accordingly strong enough to be suitable for repeated use;
- (b) specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading;
- (c) designed to be secured or readily handled, having corner fittings for these purposes; and
- (d) of a size such that the area enclosed by the four outer bottom corners is either—
 - (i) at least 14 sq. m. (150 sq. ft.); or
 - (ii) at least 7 sq. m. (75 sq. ft.) if the container is fitted with top corner fittings; and

“terminal representative” means a person appointed by the terminal or other facility, where the ship is loading or unloading, who has responsibility for operations conducted by that terminal or other facility with regard to the particular ship.

Carriage of documentation

46. (1) Appropriate documentation, relevant to the cargo and the cargo's stowage and securing, which should specify in particular the precautions necessary for the safe carriage of that cargo by sea, must be carried on board a ship to which this Part applies, other than a ship engaged in the carriage of grain.

(2) Such documentation may consist of one or more of the following Codes of Safe Practice—

- (a) the CSS Code;
- (b) the TDC Code; and
- (c) the IMSBC Code.

General requirements for the carriage of cargoes

47. A ship is required, in addition to all other applicable requirements under these Regulations, to comply with the provisions of Chapter VI that are applicable to the ship's type and the nature of the cargo the ship carries.

Additional requirements for solid bulk cargoes

48. (1) A ship which loads, unloads, or carries a solid bulk cargo, other than grain, must, in addition to all other applicable requirements under these Regulations, comply with the requirements of the provisions of—

- (a) Regulation VI/6 (Acceptability for shipment); and
- (b) Regulation VI/7 (Loading, unloading and stowage of solid bulk cargoes).

(2) For the purpose of Regulation VI/6 (Acceptability for shipment), prior to loading

a solid bulk cargo, the master must be in possession of stability information provided under Regulation 10 of Annex I to the International Convention on Load Lines (Information to be supplied to the master) containing comprehensive information on the ship's stability and on the distribution of cargo and ballast for the standard loading conditions.

(3) In this regulation, "the International Convention on Load Lines" means the International Convention on Load Lines 1966, as modified by the 1988 Protocol and as amended by IMO resolutions A.972(24), A.1082(28) and A.1083(28).

Additional requirements for the carriage of grain.

- 49. (1)** A ship is prohibited from carrying grain unless the ship complies with—
- (a) all applicable requirements under these Regulations;
 - (b) the requirements of the International Grain Code; and
 - (c) is issued with a document of authorization as required by that Code.

(2) A ship which is not issued with a document of authorization in accordance with sub-regulation (1) is prohibited from loading grain until the Maritime Authority is satisfied that the ship will comply with the requirements of the International Grain Code in the ship's proposed loaded condition.

PART IX CARRIAGE OF DANGEROUS GOODS (SOLAS: CHAPTER VII)

Carriage of dangerous goods in packaged form

50. (1) This regulation applies to the carriage of dangerous goods in packaged form in Convention ships.

(2) This regulation does not apply to ships' stores and equipment.

(3) The carriage of dangerous goods in packaged form in a ship must comply with the provisions of Part A of Chapter VII.

(4) Detailed instructions on emergency response and medical first aid relevant to incidents involving dangerous goods in packaged form must be issued by the Maritime Authority in accordance with Regulation VII/2.4.

(5) The instructions issued under sub-regulation (4) must be published on the Maritime Authority's website.

Carriage of dangerous goods in solid form in bulk

51. (1) This regulation applies to the carriage of dangerous goods in solid form in bulk in Convention ships.

(2) The carriage of dangerous goods in solid form in bulk in a ship to which this regulation applies must comply with the provisions of Part A-1 of Chapter VII.

(3) Detailed instructions on emergency response and medical first aid relevant to incidents involving dangerous goods in packaged form must be issued by the Maritime Authority in accordance with Regulation VII/7-1.3.

(4) The instructions issued under sub-regulation (3) must be published in the manner that the Maritime Authority considers appropriate.

Construction and equipment of ships carrying dangerous liquid chemicals in bulk

52. (1) This regulation applies to Convention ships which are chemical tankers.

(2) A chemical tanker constructed on or after 1 July 1986 must, in addition to all other applicable requirements under these Regulations, comply with the provisions of Part B of Chapter VII.

(3) A chemical tanker constructed before 1 July 1986 which undergoes repairs, alterations, modifications or outfitting of a major character must, irrespective of the chemical tanker's date of construction, in addition to all other applicable requirements under these Regulations, comply with the provisions of Part B of Chapter VII.

(4) A ship, irrespective of the date of construction, which is converted to a chemical tanker must be treated as a chemical tanker constructed on the date on which such conversion commenced.

Construction and equipment of ships carrying liquefied gases in bulk

53. (1) This regulation applies to Convention ships which are gas carriers.

(2) A gas carrier constructed on or after 1 July 1986 must, in addition to all other applicable requirements under these Regulations, comply with the provisions of Part C of Chapter VII.

(3) A gas carrier constructed before 1 July 1986 which undergoes repairs, alterations, modifications or outfitting of a major character, must, irrespective of the gas carrier's date of construction, in addition to all other applicable requirements under these Regulations, comply with the provisions of Part C of Chapter VII.

(4) A ship, irrespective of the date of construction, which is converted to a gas carrier must be treated as a gas carrier constructed on the date on which such conversion commenced.

Special requirements for the carriage of INF cargo on board ships

54. (1) This regulation applies to Convention ships engaged in the carriage of INF cargo.

(2) This regulation does not apply to naval auxiliaries or other ships owned or operated by a Party and used, for the time being, only on government non-commercial service.

(3) A ship engaged in the carriage of INF cargo must, in addition to all other applicable requirements under these Regulations, comply with the provisions of Part D of Chapter VII.

PART X
NUCLEAR SHIPS
(SOLAS: CHAPTER VIII)

Application of Part X

55. This Part applies to Convention ships which are nuclear ships.

Reactor installations

56. The installation of a reactor on board a nuclear ship must comply with the provisions of—

- (a) Regulation VIII/4 (Approval of reactor installation); and
- (b) Regulation VIII/5 (Suitability of reactor installation for service on board ship).

Safety assessment of nuclear ships

57. (1) A safety assessment must be—

- (a) prepared to permit evaluation of the nuclear power plant and safety of the ship in accordance with Regulation VIII/7 (Safety assessment); and
- (b) submitted to the Maritime Authority for approval.

(2) A safety assessment approved in accordance with sub-regulation (1) –

- (a) must be regularly reviewed and kept up date; and
- (b) if amended, the amended assessment must be notified to the Maritime Authority for approval.

(3) A safety assessment prepared under sub-regulation (1) must be made available sufficiently in advance to a State which the ship intends to visit to enable the State to evaluate the safety of the ship.

Operating manual for nuclear ships

58. (1) An operating manual which complies with the requirements of Regulation VIII/8 (Operating manual) must be prepared and submitted to the Maritime Authority for approval

(2) An operating manual approved in accordance with sub-regulation (1)—

- (a) must be regularly reviewed and kept up date; and
- (b) a copy of the manual must be kept on board the ship.

Casualties involving nuclear ships

59. (1) In the event of an accident involving a nuclear St Helena ship which in the reasonable opinion of the master is likely to lead to an environmental hazard, the master must immediately inform—

- (a) the Maritime Authority; and
- (b) if outside St Helena waters, the competent governmental authority of the State in whose waters the ship may be, or whose waters the ship will approach or enter.

(2) In the event of an accident involving a nuclear foreign ship which in the reasonable opinion of the master is likely to lead to an environmental hazard, the master must immediately inform the Maritime Authority.

PART XI
MANAGEMENT FOR THE SAFE OPERATION OF SHIPS
(SOLAS: CHAPTER IX)

Application of Part XI

60. (1) This Part applies to Convention ships.

(2) For the purpose of this Part, mobile offshore drilling units of 500GT or more are treated as Convention ships.

(3) This Part does not apply to ships owned or operated by a Party and used, for the time being, only in government non-commercial service.

Safety management requirements

61. (1) An owner and a ship must comply with the requirements of Chapter IX.

(2) A ship must not be operated unless the owner holds a Document of Compliance issued in accordance with regulation 85.

PART XII
SPECIAL MEASURES TO ENHANCE MARITIME SAFETY
(SOLAS: CHAPTER XI-1)

Ship identification number

62. (1) This regulation applies to a Convention ship which is—

- (a) a passenger ship of 100 GT or more; and
- (b) a cargo ship of 300 GT or more.

(2) A ship must be provided by the Maritime Authority with an identity number in accordance with Regulation XI-1/3.2.

(3) An identity number provided under sub-regulation (2) must be permanently marked in accordance with Regulation XI-1/3.4.

Registered owner identification number

63. Every owner of a St Helena Convention ship must be provided with an identification number in accordance with Regulation XI-1/3-1 by the Maritime Authority.

Continuous synopsis record

64. (1) This regulation applies to a St Helena Convention ship.

(2) A Continuous Synopsis Record which contains the information required by Regulation XI-1/5 must be issued to every ship in accordance with Regulation XI-1/5 by the Maritime Authority.

(3) The Continuous Synopsis Record issued to a ship must be—

- (a) in English;
- (b) in the format developed by the IMO; and
- (c) maintained in accordance with the relevant IMO guidelines.

(4) Any changes relating to entries referred to in Regulation XI-1/5.3.4 to XI-1/5.3.15 must be recorded by the master in the Continuous Synopsis Record so as to provide updated and current information together with the history of the changes.

(5) In the event of any changes relating to the entries in the Continuous Synopsis Record listed in Regulation XI-1/5.3.4 to XI-1/5.3.15, as soon as is practically possible but not later than three months from the date of the change to St Helena ships either a revised and updated version of the Continuous Synopsis Record or appropriate amendments to the Continuous Synopsis Record must be issued by the Maritime Authority.

(6) In the event of any changes relating to the entries in the Continuous Synopsis Record listed in Regulation XI-1/5.3.4 to XI-1/5.3.15, the Maritime Authority is required to, pending the issue of a revised and updated version of the Continuous Synopsis Record, authorize and require either the owner or the master of the ship to—

- (a) amend the Continuous Synopsis Record to reflect the changes; and
- (b) in such cases, after the Continuous Synopsis Record has been amended, without delay, inform the Maritime Authority accordingly.

(7) No previous entries in the Continuous Synopsis Record must be modified, deleted or, in any way, erased or defaced.

(8) The Continuous Synopsis Record must be left on board when a ship is—

- (a) transferred to another flag State;
- (b) sold to another owner (or is taken over by another bareboat charterer); or
- (c) another owner assumes the responsibility for the operation of the ship.

(9) When a ship is to be transferred to the flag of another State, the owner must notify the Maritime Authority of the name of the flag State to which the ship is to be transferred so as to enable the Maritime Authority to forward to that State a copy of the Continuous Synopsis Record covering the period during which the ship was under the Maritime Authority's jurisdiction.

(10) When a ship is transferred to a Party, as soon as possible after the transfer takes place, a copy of the relevant Continuous Synopsis Record covering the period during which the ship was under Maritime Authority's jurisdiction together with any Continuous Synopsis Records previously issued to the ship by other States must be transmitted, by the Maritime Authority, to the Administration of the new flag State.

(11) When a ship is transferred to St Helena, the Continuous Synopsis Record must be appended, by the Maritime Authority, to the Continuous Synopsis Record that the

Administrations of the ship's previous flag States issued to the ship, so as to provide the continuous history record of the ship.

(12) The Continuous Synopsis Record must be kept on board the ship and must be available for inspection at all times.

Atmosphere testing instrument for enclosed spaces

65. A Convention ship must carry an appropriate portable atmosphere testing instrument or instruments which complies with the provisions of Regulation XI-1/7 (atmosphere testing instrument for enclosed spaces).

PART XIII ADDITIONAL SAFETY MEASURES FOR BULK CARRIERS (SOLAS: CHAPTER XII)

Application of Part XIII

65. This Part applies to a Convention ship which is a bulk carrier.

Additional requirements for bulk carriers

66. A bulk carrier must comply, in addition to all other relevant requirements of these Regulations, with the provisions of Chapter XII that are applicable to the bulk carrier's type, size and date of construction.

PART XIV SAFETY MEASURES FOR SHIPS OPERATING IN POLAR WATERS (SOLAS: CHAPTER XIV)

Application of Part XIV

67. (1) Subject to sub-regulation (2), this Part applies to a St Helena Convention ship operating in Polar waters.

(2) This Part does not apply to ships owned or operated by a Party and used, for the time being, only in government non-commercial service.

Requirements for ships operating in Polar waters

68. A ship to which this Part applies must comply with the requirements of Chapter XIV.

Alternative design and arrangements: ships in Polar waters

69. (1) Structural arrangements, machinery and electrical installations, fire safety design and arrangement measures and life-saving appliances and arrangements may deviate from the prescriptive requirements set out in chapters 3, 6, 7 and 8 of the Polar Code, provided that the Maritime Authority is satisfied that alternative design and arrangements meet the intent of the goal and functional requirements concerned and provide an equivalent level of safety to

the requirements in those chapters.

(2) When alternative designs or arrangements deviate from the prescriptive requirements of chapters 3, 6, 7 and 8 of the Polar Code, an engineering analysis, evaluation and approval of the design and arrangements must be carried out based on the relevant IMO guidelines.

(3) The technical and operational measures and conditions for the allowed deviation must be recorded and any alternative designs or arrangement deviating from the prescriptive requirements must be recorded in—

- (a) the Polar Ship Certificate; and
- (b) the ship's Polar Water Operational Manual, as required by the Polar Code.

PART XV SURVEY AND CERTIFICATION

General

Application of Part XV

70. (1) Subject to the provisions of this Part, this Part applies to Convention ships.
- (2) This Part does not apply to cargo ships of less than 300 GT.

Surveys

Surveys of passenger ships

71. A St Helena passenger ship must be subject to the surveys specified in Regulation I/7.

Surveys of life saving appliances and other equipment of cargo ships

72. A St Helena cargo ship of 500 GT or more engaged on international voyages must be subject to the surveys of the St Helena cargo ship's life-saving appliances and other equipment specified in Regulation I/8.

Surveys of radio installations of cargo ships

73. A St Helena cargo ship of 300 GT or more engaged on international voyages must be subject to the surveys of the St Helena cargo ship's radio installations specified in Regulation I/9.

Surveys of structure, machinery and equipment of cargo ships

74. In addition to the surveys required by Regulations 72 and 73, a St Helena cargo ship of 500 GT or more must be subject to the surveys and inspections of the St Helena cargo ship's structure, machinery and equipment specified in Regulation I/10.

Surveys of chemical tankers, gas carriers and ships engaged in the carriage of INF cargo

75. In addition to the surveys required by Regulations 72 to 74—

- (a) a St Helena chemical tanker must be surveyed in accordance with Regulation VII/10;
- (b) a St Helena gas carrier must be surveyed in accordance with Regulation VII/13; and
- (c) a St Helena ship engaged in the carriage of INF cargo must be surveyed in accordance with Regulation VII/16.

Surveys of nuclear ships

- 76. (1)** A survey of a St Helena nuclear ship must include—
- (a) the applicable requirements of Regulations 71, 72, 73, 74 and 75 except in so far as such surveys are limited by the presence of radiation; and
 - (b) any special requirements of a safety assessment prepared in accordance with Regulation VIII/7.

(2) Notwithstanding the provisions of Regulations 72 and 74, a survey of a nuclear ship must, in all cases, be carried out at least once in every 12 month period.

Enhanced surveys of bulk carriers and oil tankers

77. In addition to the surveys required by Regulations 72 to 74, St Helena bulk carriers and oil tankers must be subject to an enhanced programme of inspections and surveys in accordance with Regulations XI-1/2 and XI-1/2-1.

Responsibilities after a survey

- 78. (1)** This regulation applies to—
- (a) St Helena ships; and
 - (b) a foreign ship which is surveyed pursuant to this Part.

(2) A ship and the ship's equipment must be maintained so as to ensure that the ship in all respects remains fit to proceed to sea without danger to the ship or persons on board.

(3) After a survey of a ship required by this Part is completed, no change must be made to the ship's structural arrangements, machinery, equipment and other items covered by the survey without the approval of the Maritime Authority, except by direct replacement.

(4) Whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety of the ship or the efficiency or completeness of the ship's life-saving appliances or other equipment—

- (a) the accident must be reported at the earliest opportunity to the Maritime Authority, or a proper officer; and
- (b) if a St Helena ship is in such a case in a port outside St Helena, the accident must also be reported to the appropriate authorities of the State in which the port is situated.

(5) If a report is made under sub-regulation (4)(a), the Maritime Authority or proper officer must determine whether a survey is necessary, and if so, require one to be carried out.

- (6)** If the survey referred to in sub-regulation (5) shows that repairs are required, or if

any important repairs or renewals are otherwise made to the ship or the ship's equipment, a further survey must be carried out on the completion of those repairs or renewals.

Procedure to be adopted when a ship is deficient

- 79. (1)** This regulation applies to—
- (a) St Helena ships; and
 - (b) a foreign ship which is surveyed pursuant to this Part.
- (2)** Where a surveyor or recognized organization determines that the condition of a ship—
- (a) does not correspond substantially with the particulars on one or more of the certificates referred to in this Part;
 - (b) or is such that the ship is not fit to proceed to sea without danger to the ship or persons on board, the surveyor or recognized organization must advise the owner or master of the corrective action which in the surveyor's or recognized organization's opinion is required and must notify the Maritime Authority of the advice.
- (3)** If such corrective action is not taken within such reasonable period as the surveyor or recognized organization may specify, the surveyor must notify the Maritime Authority which may suspend the validity of the particular certificate or certificates issued to the ship.
- (4)** Notice of suspension under sub-regulation (3) must be given by the Maritime Authority to the owner, to the surveyor and to the master.

Certification

Issue of certificates etc to St Helena ships engaged on international voyages

- 80. (1)** Where a survey to meet the requirements set out in this Part is completed in respect of a ship engaged in international voyages, the appropriate certificates listed in subregulation (2) must be issued by the Maritime Authority if the Maritime Authority is satisfied that—
- (a) the ship complies with these Regulations, SOLAS and the relevant Code that are applicable to the ship's type, size and date of construction, and
 - (b) the prescribed fee has been paid by the owner of the ship to the Maritime Authority.
- (2)** The certificates, "Convention Certificates", to which sub-regulation (1) refers are—
- (a) in the case of a passenger ship, a Passenger Ship Safety Certificate;
 - (b) in the case of a cargo ship of between 300 GT and 499 GT, a Cargo Ship Safety Radio Certificate;
 - (c) in the case of a cargo ship of 500 GT or more—
 - (i) a Cargo Ship Safety Certificate or, as the case may be, a Cargo Ship Safety Construction Certificate; or
 - (ii) after an initial or renewal survey in accordance with Regulations 72 to 75, a Cargo Ship Safety Certificate;
 - (d) in the case of a ship which will operate in Polar waters, a Polar Ship Certificate;
 - (e) in the case of a nuclear passenger ship, a Nuclear Passenger Ship Safety Certificate;

- (f) in the case of a nuclear cargo ship, a Nuclear Cargo Ship Safety Certificate;
- (g) in the case of a chemical tanker, an International Certificate of Fitness for the Carriage of Dangerous Chemicals;
- (h) in the case of a gas carrier, an International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk; and
- (i) in the case of a ship engaged in the carriage of INF cargo, an International Certificate of Fitness for the Carriage of INF Cargo.

(3) Whenever a reference is made to a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate or Cargo Ship Safety Radio Certificate, the reference applies to a Cargo Ship Safety Certificate if the reference is used as an alternative to the abovementioned certificates.

A Passenger Ship Safety Certificate, the Cargo Ship Safety Equipment Certificate, the Cargo Ship Safety Radio Certificate and the Cargo Ship Safety Certificate referred to in sub-regulations (1), (3), (4) and (5) must be supplemented by a Record of Equipment.

(4) For the purpose of port State control established under Regulation 1/19, a certificate issued under this regulation must be treated as a certificate issued under Regulation I/12 or I/13.

(5) In this regulation, “Record of Equipment” means a Record of Equipment drawn up in a form corresponding substantially to the model for a Record of Equipment applicable to the ship’s type contained in the Appendix to SOLAS.

Form and content of Convention Certificates

81. (1) A Convention Certificate must be in English.

(2) A Passenger Ship Safety Certificate, a Cargo Ship Safety Equipment Certificate, a Cargo Ship Safety Radio Certificate, a Cargo Ship Safety Certificate, a Nuclear Passenger Ship Safety Certificate and a Nuclear Cargo Ship Safety Certificate must be drawn up in a form corresponding substantially to the model for the certificate contained in the Appendix to SOLAS.

(3) A Polar Ship Certificate must be drawn up in a form corresponding substantially to the model for the certificate contained in the Polar Code.

(4) A Nuclear Passenger Ship Safety Certificate and a Nuclear Cargo Ship Safety Certificate must—

- (a) be drawn up in a form corresponding substantially to the model for the certificate contained in the Appendix to SOLAS; and
- (b) state that the ship, being a nuclear ship, complies with all the provisions of Chapter VIII and conforms to the safety assessment approved for the ship.

(5) An International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk must be drawn up in a form corresponding substantially to the model for the certificate contained in the Appendix to the BCH Code.

(6) An International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk

must be drawn up in a form corresponding substantially to the model for the certificate contained in Appendix 2 to the IGC Code.

(7) An International Certificate of Fitness for the Carriage of INF Cargo must be drawn up in a form corresponding substantially to the model for the certificate contained in the Appendix to the INF Code.

Duration and validity of Convention Certificates

82. (1) Subject to sub-regulation (2), a Convention Certificate must be issued from the date of the completion of the relevant survey and must be issued for a period of validity as follows—

- (a) a Passenger Ship Safety Certificate must be issued for a period of validity not exceeding 12 months;
- (b) a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Radio Certificate or Cargo Ship Safety Certificate and Polar Ship Certificate must be issued for a period of validity not exceeding five years; and
- (c) a Nuclear Passenger Ship Safety Certificate and Nuclear Cargo Ship Safety Certificate must be issued for a period of validity not exceeding 12 months.

(2) Notwithstanding the requirements of sub-regulation (1), where the circumstances described in Regulation I/14(b) to (h) apply, the period of validity of the relevant Convention certificate must be determined in accordance with the provision of Regulation I/14(b) to (h) that applies.

(3) A Convention Certificate ceases to be valid—

- (a) if the Convention Certificate's period of validity is exceeded and the certificate is not extended by the Maritime Authority in accordance with regulation 84 or otherwise in accordance with Chapter I;
- (b) if the relevant surveys and inspections have not been completed within the periods specified in this Part or otherwise in accordance with Chapter I by a Party, and the certificate has either not been extended in accordance with regulation 84 or otherwise in accordance with Chapter I, or the period of any such extension has expired;
- (c) upon transfer of the ship to another flag State; or
- (d) if the ship no longer substantially complies with the requirements of the certificate.

Issue and duration of Exemption Certificates

83. (1) When an exemption is granted to a ship in accordance with these Regulations, an Exemption Certificate must be issued in addition to any certificate issued under regulation 80.

(2) The period of validity of an Exemption Certificate must not be longer than the period of validity of the certificate to which the exemption refers.

(3) An Exemption Certificate must be subject to the same extension and other provisions as the certificate to which the exemption refers.

Extension of certificates and other provisions

84. (1) Where a Convention Certificate other than a Passenger Ship Safety Certificate is issued for a period of validity of less than five years and the surveys required under Regulations 72(1) and 73 to 77 are satisfactorily completed, the Maritime Authority may extend the validity of that Certificate so that the certificate is valid for a maximum period of five years.

(2) Where a survey required under Regulations 72(1) and 73 to 77 is satisfactorily completed before the expiry of the relevant Convention Certificate but the new certificate cannot be issued or placed on board the ship before the expiry of the existing certificate, the Maritime Authority may endorse the existing certificate as valid for a period not exceeding 5 months from the expiry date.

(3) Where a survey required under Regulations 72(1) and 73 to 77 has not been satisfactorily completed before the expiry of the relevant Convention Certificate and at the time of expiry the ship is not in a port in which the ship is to be surveyed, the Maritime Authority may, where it appears to the Maritime Authority proper and reasonable to do so, extend the validity of the certificate solely for the purpose of allowing the ship to complete the ship's voyage to the ship's port of survey.

(4) An extension of a period of validity under sub-regulation (1) or (2), and, except in special circumstances as determined by the Maritime Authority, an extension of a period of validity under sub-regulation (3), must be disregarded for the purpose of determining the date of expiry of an existing Convention Certificate under regulation 82(2) or (3).

Documents of compliance – carriage of dangerous goods

85. Where the Maritime Authority is satisfied that a ship, which carries dangerous goods and to which Part IX applies, complies with the requirements of Part IX, a document of compliance with the special requirements for ships carrying dangerous goods must be issued by the Maritime Authority.

Certification and verification for safety management system

86. (1) Where the Maritime Authority is satisfied that a ship complies with the provisions of Part XI, a Document of Compliance for such period as the Maritime Authority considers fit, not exceeding five years must be issued by the Maritime Authority.

(2) The Document of Compliance must be—

- (a)** accepted as evidence that the owner is capable of complying with the requirements of the ISM Code;
- (b)** valid only for the ship types explicitly indicated in the document; and
- (c)** withdrawn if the annual verification required by paragraph 13.4 of the ISM Code is not requested or if there is evidence of major non-conformities with the ISM Code.

(3) The Maritime Authority may issue an Interim Document of Compliance, for a period not exceeding 12 months, to facilitate initial implementation of the ISM Code when—

- (a)** an owner is newly established; or

(b) new ship types are to be added to an existing Document of Compliance, following verification that the owner has a safety management system and demonstrates plans to implement a safety management system meeting the full requirements of the ISM Code within the period of validity of the Interim Document of Compliance.

(4) A copy of the Interim Document of Compliance must be placed on board in order that the master of the ship, if so requested, may produce the copy of the Interim Document of Compliance for verification by the Maritime Authority.

(5) Where the Maritime Authority is satisfied that an owner and the owner's shipboard management operates in accordance with the approved safety management system, a Safety Management Certificate to a ship, for a period not exceeding five years must be issued by the Maritime Authority.

(6) The Maritime Authority may issue an Interim Safety Management Certificate, following the verifications set out in paragraph 14.4 of the ISM Code, for a period not exceeding 6 months—

- (a) to new ships on delivery;
- (b) when an owner takes on responsibility for the operation of a ship which is new to the owner; or
- (c) when a ship changes the ship's flag.

(7) Notwithstanding sub-regulation (6), the Maritime Authority may, in special cases, extend the validity of an Interim Safety Management Certificate for a further period not exceeding 6 months from the date of expiry.

(8) The Document of Compliance, the Interim Document of Compliance, the Safety Management Certificate and the Interim Safety Management Certificate must be—

- (a) in English; and
- (b) drawn up in the forms corresponding, as closely as possible, to the models given in the appendix to the ISM Code.

Issue and endorsement of Convention Certificates or ISM documents by another Party

87. (1) The Maritime Authority may request a Party to survey a St Helena ship and, if satisfied that SOLAS are complied with, to issue or authorise the issue in respect of the ship of—

- (a) a Convention Certificate; or
- (b) an ISM document.

(2) A Convention Certificate or ISM document issued in accordance with a request in pursuant to sub-regulation (1) must contain a statement that the Convention Certificate or ISM document is issued in accordance with a request pursuant to sub-regulation (1) and has the same effect as if the Convention Certificate or ISM document was issued by the Maritime Authority.

Requests made by other Parties

88. (1) The Maritime Authority may, at the request of another Party—

- (a) survey a ship registered by that Party; or

- (b) verify whether such a ship complies with the provisions of Chapter IX and the ISM Code.

(2) If the Maritime Authority is satisfied that SOLAS and any relevant Codes are complied with and that a survey, or a verification is satisfactorily completed in accordance with these Regulations, the Maritime Authority may issue to the ship one or more Convention Certificates or ISM documents, and where appropriate, endorse such certificates and documents in accordance with SOLAS.

(3) A Convention Certificate or ISM document issued in accordance with a request pursuant to sub-regulation (1) must contain a statement that the Convention Certificate or ISM document is issued in accordance with a request pursuant to sub-regulation (1) and has the same effect as if the Convention Certificate or ISM document was issued by the Party rather than by the Maritime Authority.

(4) Where a memorandum, issued by or under the authority of the Party concerned, is attached to a valid Passenger Ship Safety Certificate in respect of a ship to which SOLAS applies, which modifies the Passenger Ship Safety Certificate in respect of the persons that may be carried for a particular voyage, the Passenger Ship Safety Certificate has effect for the purpose of the voyage as if the Passenger Ship Safety Certificate was modified in accordance with the memorandum.

Cancellation of Convention Certificates or ISM documents

89. (1) The Maritime Authority may cancel a Convention Certificate or ISM document issued to a St Helena ship where there is reason to believe that—

- (a) the Convention Certificate or ISM document was issued on false or erroneous information; or
- (b) since any survey required by these Regulations, the structure, equipment, or machinery has sustained damage or is otherwise deficient.

(2) The Maritime Authority may require that a Convention Certificate or ISM document issued to a St Helena ship which has expired or has been cancelled be surrendered.

(3) A person must not—

- (a) intentionally alter a Convention Certificate or ISM document;
- (b) intentionally make a false Convention Certificate or ISM document;
- (c) in connection with any survey or verification required by this Part, knowingly or recklessly furnish false information;
- (d) with intent to deceive, use, lend, or allow to be used by another, a Convention Certificate or ISM document; or
- (e) fail to surrender a Convention Certificate or ISM document required to be surrendered under sub-regulation (2).

Availability of Convention Certificates or ISM documents

90. A Convention Certificate or ISM document must be—

- (a) carried on board a ship in respect of which the Convention Certificate or ISM document is issued; and
- (b) available on board for examination at all times.

Acceptance of Convention Certificates or ISM documents

91. A Convention Certificate or ISM document issued by a Party other than St Helena must be—

- (a) accepted by the Maritime Authority for the purpose of these regulation; and
- (b) must be regarded by the Maritime Authority as having the same force as a Convention Certificate or ISM document issued under these Regulations.

Prohibition on proceeding to sea without the appropriate documentation

92. (1) A St Helena ship engaged on international voyages must not proceed to sea unless the St Helena ship is surveyed and there is in force the following Convention certificates or ISM documents—

- (a) in the case of a passenger ship—
 - (i) a Passenger Ship Safety Certificate;
 - (ii) a Safety Management Certificate;
 - (iii) if the ship is operating in or is on a voyage part of which will take the ship into Polar waters, a Polar Safety Certificate; and
 - (iv) if the ship is a nuclear ship, a Nuclear Passenger Ship Safety Certificate;
- (b) in the case of a cargo ship of 300 GT or more, a Cargo Ship Safety Radio Certificate; and
- (c) in the case of a cargo ship of 500 GT or more—
 - (i) either—
 - (aa) a Cargo Ship Safety Radio Certificate, a Cargo Ship Safety Equipment Certificate and a Cargo Ship Safety Construction Certificate; or
 - (bb) a Cargo Ship Safety Certificate;
 - (ii) a Safety Management Certificate;
 - (iii) if the ship is operating in or is on a voyage part of which will take the ship into Polar waters, a Polar Safety Certificate; and
 - (iv) if the ship is a nuclear ship, a Nuclear Cargo Ship Safety Certificate.

(2) A St Helena ship engaged on international voyages is prohibited from proceeding to sea unless the St Helena ship is operated by a company which is issued with a Document of Compliance or an Interim Document of Compliance.

(3) A foreign ship is prohibited from proceeding to sea from a port in St Helena unless—

- (a) in the case of a foreign ship registered in a Party, there is in force such Convention Certificates or ISM document that would be required under sub-regulations (1) and (2) if the ship were a St Helena ship; or
- (b) in the case of a foreign ship registered in a State which is not a Party, the ship is in possession of documentation which shows that the ship has been surveyed for compliance with this Part as if the ship were a St Helena ship.

(4) Regulation 84 applies to the Convention Certificates mentioned in sub-regulation (3) as if the ship were a St Helena ship.

(5) If a Convention Certificate or ISM document is issued subject to conditions, or specifies sea areas in which the ship is certified or verified to operate—

- (a) all such conditions must be complied with; and

- (b) the ship must only operate in the specified sea areas.

Limit on the number of passengers on passenger ships

93. (1) A passenger ship must not carry on board a greater number of passengers than that stated on the ship's Passenger Ship Safety Certificate.

(2) Sub-regulation (1) must not apply if the Maritime Authority is satisfied that the number of passengers stated on the ship's Passenger Ship Safety Certificate is exceeded for the purpose of evacuating persons in order to avoid a threat to the security of their lives.

Qualification of Passenger Ship Safety Certificates

94. (1) If in the course of a particular voyage a passenger ship has on board a number of persons less than the total number stated in the Passenger Ship Safety Certificate and is in consequence, in accordance with these Regulations, free to carry a smaller number of lifeboats and other life-saving appliances than that stated in the certificate, an annex may be issued by the Maritime Authority.

- (2)** The annex referred to in sub-regulation (1) is required to—
- (a) state that in the circumstances there is no infringement of these Regulations;
 - (b) be annexed to the Passenger Ship Safety Certificate together with the statement referred to in sub-regulation (2)(a) above;
 - (c) be substituted for the Passenger Ship Safety Certificate in so far as the life-saving appliances are concerned; and
 - (d) be valid only for the particular voyage for which the annex is issued.

PART XVI ENFORCEMENT

Inspection and control of ships

95. (1) To ensure compliance with these Regulations, SOLAS and any Code, an inspector may go on board and inspect—

- (a) any ship to which these Regulations apply; and
- (b) the ship's equipment, any part of the ship, any equipment on board and any documentation carried in the ship.

(2) In the case of a foreign ship, the power referred to in sub-regulation (1) is, unless the conditions in sub-regulation (3) apply, limited to verifying that there are on board valid Convention Certificates and ISM documents which are applicable to the ship's type, size and date of construction required by these Regulations, SOLAS or a Code.

(3) The conditions are that the inspector has reasonable grounds for believing that—

- (a) the condition of the ship or the ship's equipment does not correspond substantially with the particulars of a Convention certificate or an ISM document;
- (b) the condition of the ship and the ship's equipment is not maintained to conform to SOLAS to ensure that the ship in all respects is fit to proceed to sea without danger to the ship or persons on board;

- (c) following a survey required by SOLAS, changes were made to the ship without the approval of the Administration of the ship's flag State; or
 - (d) the master or crew are not familiar with essential shipboard procedures relating to the safety of ships.
- (4) The powers referred to in sub-regulation (1) to go on board a ship may only be exercised if the ship in question is—
- (a) in a port in St Helena; or
 - (b) at an offshore installation in St Helena waters or controlled waters.
- (5) For the purpose of this regulation, an inspector has the powers of an inspector conferred by the Merchant Shipping Ordinance, 2021.
- (6) An inspection under this regulation must be carried out in accordance with IMO resolution A.1119(30) on the Procedures for Port State Control.
- (7) Where a ship which is not a St Helena ship is inspected for the purpose of this regulation, the inspector must ensure that the report of that inspection is sent to—
- (a) the consul or diplomatic representative of the ship's flag State or the appropriate maritime authorities of that State; and
 - (b) the surveyor or recognized organizations responsible for the issue of a Convention Certificate or ISM document in respect of the ship; and
 - (c) any other Party if that Party requested the inspection.
- (8) When carrying out an inspection under this regulation, an inspector must take all reasonable steps to avoid a ship being unduly detained or delayed.
- (9) In addition to any inspection required by sub-regulation (1), a nuclear ship must be subjected to special control by the Maritime Authority before the nuclear ship enters a port in St Helena.
- (10) The special control required by sub-regulation (9) must be directed towards verifying that—
- (a) there is on board a valid Nuclear Passenger Ship Safety Certificate or Nuclear Cargo Ship Safety Certificate, as the case may be; and
 - (b) there are no unreasonable radiation or other hazards at sea or in port, to the crew, passengers or public or to the waterways or food or water resources.

Detention

- 96. (1)** A St Helena ship which does not comply with these Regulations is liable to be detained.
- (2) A foreign ship in St Helena waters is liable to be detained if—
- (a) the condition of the ship or the ship's equipment does not correspond substantially with the particulars of a Convention Certificate or ISM document;
 - (b) the condition of the ship or the ship's equipment is not maintained to conform to SOLAS to ensure that the ship in all respects is fit to proceed to sea without danger to the ship or persons on board; or
 - (c) following a survey required by SOLAS, changes were made to the ship without the

approval of the Administration of the ship's flag State.

(3) Where a ship is liable to be detained under these Regulations, the person detaining the ship must serve on the master a detention notice which is required to—

- (a) state the grounds of the detention; and
- (b) require the terms of the notice to be complied with before the ship is released by any person as prescribed in the Merchant Shipping Ordinance, 2021.

(4) Where a foreign ship is detained, the consul or diplomatic representative of the ship's flag State or the appropriate maritime authorities of that State must immediately be informed by the Maritime Authority.

(5) Notwithstanding sub-regulation (1), an inspector may permit a ship which is liable to be detained to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard if to do so does not pose a risk to the ship or persons on board.

Offences and penalties

97. (1) An owner or master who contravenes any of these Regulations, commits an offence.

Penalty: On conviction a fine of £ 50,000 and, or imprisonment for 6 months, or both.

Defence

98. (1) It is a defence for a person charged with an offence under these Regulations to prove that that person took all reasonable steps to ensure that the Regulations were complied with.

(2) In any proceedings for an offence under these Regulations consisting of a failure to comply with a duty or a requirement to do something so far as is reasonably practicable, it is for the person charged to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

PART XVII TRANSITIONAL PROVISIONS

Convention Certificates and documents etc issued prior to the entry into force of these Regulations

99. Any Convention Certificate, ISM document or other document required by these Regulations which is issued under any other enactment and is valid immediately before the day on which these Regulations come into force—

- (a) has effect on and after before the date on which these Regulations come into force as if the Convention Certificate, ISM document or other document were issued under these Regulations; and
- (b) subject to these Regulations continues to be valid until the expiry of that certificate or document.

SCHEDULE ONE LIST OF SOLAS CODES

The SOLAS Codes referred to at Regulation 2 include:

- (a) the BCH Code;
- (b) the Code of Practice for the Safe Loading and Unloading of Bulk Carriers as adopted by the IMO by resolution A.862(2) on 27 November 1997;
- (c) the CSS Code;
- (d) the Code of Practice for Packing of Cargo Transport Units as adopted by the Maritime Safety Committee of the IMO on 16 December 2014 (MSC.1/Circ.1497);
- (e) the Code of Safety for Dynamically Supported Craft as adopted by the IMO by resolution A.373(X) on 14 November 1977;
- (f) the Code for Existing Ships Carrying Liquefied Gases in Bulk as adopted by the IMO by resolution A.329(IX) on 12 November 1975;
- (g) the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 as adopted by the IMO by resolution A.1049(27) on 30 November 2011;
- (h) the International Code for Fire Safety Systems as adopted by the Maritime Safety Committee of the IMO by resolution MSC.98(73) on 5 December 2000;
- (i) the International Code for Application of Fire Test Procedures, 2010 as adopted by the Maritime Safety Committee of the IMO by resolution MSC.307(88) on 3 December 2010;
- (j) the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk as adopted by the IMO by resolution A.328(IX) on 12 November 1975;
- (k) the International Code of Safety for High-Speed Craft as adopted by the Maritime Safety Committee of the IMO by resolution MSC.36(63) on 20 May 1994;
- (l) the International Code of Safety for High-Speed Craft, 2000, as adopted by the Maritime Safety Committee of the IMO by resolution MSC.97(73) on 5 December 2000;
- (m) the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk as adopted by the Marine Environment Committee of the IMO by resolution MEPC.19(22) on 5 December 1985;
- (n) the IGC Code;
- (o) the International Code of Safety for Ships Using Gases or Other Low-Flashpoint Fuels as adopted by the Maritime Safety Committee of the IMO by resolution MSC.391(95) on 11 June 2015;
- (p) the IMO Instruments Implementation Code as adopted by the IMO by resolution A.1070(28) on 4 December 2013;
- (q) the International Maritime Dangerous Goods Code as adopted by the Maritime Safety Committee of the IMO by resolution MSC.122(75) on 24 May 2002;
- (r) the IMSBC Code;
- (s) the INF Code;
- (t) the International Grain Code;
- (u) the International Code on Intact Stability, 2008 as adopted by the Maritime Safety Committee of the IMO by resolution MSC.267(85) on 4 December 2008;
- (v) the ISM Code;
- (w) the International Life-Saving Appliances Code as adopted by the Maritime Safety Committee of the IMO by resolution MSC.48(66) on 4 June 1996;
- (x) "MODU Code 1979" means the Code for the Construction and Equipment of Mobile Offshore Drilling Units, 1979 as adopted by the IMO by resolution A.414(X) on 15 November 1979;
- (y) the Code for the Construction and Equipment of Mobile Offshore Drilling Units, 1989

- as adopted by the IMO by resolution A.649(16) on 15 October 1989;
- (z) the Code for the Construction and Equipment of Mobile Offshore Drilling Units, 2009 as adopted by the IMO by resolution A.1023(26) on 2 December 2009;
 - (aa) the Code on Noise Levels on Board Ships as adopted by the Maritime Safety Committee of the IMO by resolution MSC.337 (91) on 30 November 2012;
 - (bb) the Code for the Transport and Handling of Hazardous and Noxious Liquid Substances in Bulk on Offshore Support Vessels as adopted by the IMO by resolution A.1122(30) on 6 December 2017;
 - (cc) the Code of Safe Practice for the Carriage of Cargoes and Persons by Offshore Supply Vessels as adopted by the IMO by resolution A.863(20) on 27 November 1997;
 - (dd) the Polar Code;
 - (ee) the RO Code;
 - (ff) the Code of Safety for Special Purpose Ships, 2008 as adopted by the IMO by resolution A.534(13) on 17 November 1983; and
 - (gg) the TDC Code.

MERCHANT SHIPPING (OIL POLLUTION) ACT, 1971

COMPULSORY INSURANCE REGULATIONS, 1976

(Made by the Governor under sections 10(1) and (4) and 11(3) of the Act as applied to St Helena by the Merchant Shipping (Oil Pollution)(Overseas Territories) Order 1975 (S.I. 1975/2171). The 1975 Order was revoked and replaced by the Merchant Shipping (Oil Pollution)(St Helena) Order 1998 (SI 1998/1263) but subsidiary legislation made under it is saved by the UK Interpretation Acts.)

TABLE OF CONTENTS

1. Citation, commencement and interpretation
2. Definition of “persistent oil”
3. Recognition of certificates
4. Fee for certificate
5. Cancellation and delivery up of certificates

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Oil Pollution (Compulsory Insurance) Regulations 1976, and come into operation on 1 April 1976.

(2) In these Regulations, unless the context otherwise requires—
“**Certificate**” means a document showing that there is in force in respect of a ship to which section 10(2) of the Act applies a contract of insurance or other security such as is mentioned in that subsection;

“**Convention country**” has the meaning assigned to it in section 19(1) of the Act;

“**St Helena**” means St Helena, Ascension and Tristan da Cunha.

Definition of “persistent oil”

2. For the purposes of section 10(1) of the Act (requirements as to compulsory insurance against liability for oil pollution) “**persistent oil**” means any of the following—

- (a) hydrocarbon mineral oils whether crude or distilled, including crude coal tar and the oily residue of tank cleaning operations necessitated by the carriage of any such oils, but excluding those oils which consist wholly of distillate fractions of which more than 50 per cent by volume distil at 340° centigrade when tested by the “American Society for Testing and Materials Specification D 86/67” in the case of oils derived from petroleum and at 350° centigrade in the case of oils derived from coal tar;
- (b) residual oil, consisting of mineral hydrocarbons comprising the residues of the process of distilling and/or refining crude petroleum, and any mixture containing such residual oil;
- (c) whale oil.

Recognition of certificates

3. (1) Subject to sub-regulation (3), certificates for ships registered in any country which is not a Convention country are to be recognised for the purposes of section 10(3)(c) of the Act (authorities by whom a certificate must be issued) if issued by or under the authority of the government of any of the following countries, namely—

Denmark,
Federal Republic of Germany,
France,
Netherlands,
Norway,
Spain,
Sweden,
United Kingdom.

(2) Subject to sub-regulation (3), a certificate for a ship registered in any of the following countries, namely—

Australia,
Austria,
Belgium,
Canada,
Finland,
Greece,
Iceland,
Italy,
Japan,
Luxembourg,
New Zealand,
Portugal,
Republic of Ireland,
Switzerland,
Turkey,
United States of America,

are to be recognised for the purposes of that section 10(3)(c) if issued by or under the authority of the government of the country specified above in which that ship is registered.

(3) Where a ship such as is mentioned in sub-regulation (1) or (2) is engaged on a St Helena voyage, a certificate relating to that ship is not, by virtue of either of those sub-regulations, to be recognised for the purposes of section 10(3)(c) of the Act unless the certificate has, and is expressed to have, as the period of its validity a period ending not earlier than the completion of that St Helena voyage.

For the purposes of this paragraph, “**St Helena voyage**” means any voyage by a ship—

- (a) from a port in St Helena or a terminal in the territorial sea of St Helena to another such port or terminal;
- (b) from a place outside St Helena to a port in St Helena or a terminal in the territorial sea of St Helena; or
- (c) from a port in St Helena or a terminal in the territorial waters of St Helena to a place outside S. Helena,

and the reference to the duration of such a voyage is to be taken as comprising the whole of any period during which the ship is engaged in that voyage, including any time during which in connection with the voyage, it is in a port in St Helena or at a terminal in the territorial sea of St Helena.

Fee for certificate

4. The fee payable on application for a certificate to be issued by the Governor under section 11 of the Act is £12.00.

Cancellation and delivery up of certificates

5. (1) If at any time while a certificate under section 11 of the Act is in force the person to whom the certificate has been issued ceases to be the owner of the ship to which the certificate relates, the person must forthwith deliver up the certificate to the Governor and in such a case the certificate must be cancelled by the Governor.

(2) If at any time while a certificate under section 11 is in force it is established in any legal proceedings that the contract of insurance or other security in respect of which the certificate was issued is or may be treated as invalid, the certificate may be cancelled by the Governor and if so cancelled must on demand forthwith be delivered up to the Governor by the person to whom it was issued.

(3) If at any time while a certificate under section 11 is in force circumstances arise in relation to the insurer or guarantor named in the certificate (or, where more than one is so named, to any of them) such that, if the certificate were applied for at that time, the Governor would be entitled to refuse the application under subsection (2) of that section (power to refuse a certificate where there is a doubt whether an insurer will be able to meet insurance obligations), the certificate may be cancelled by the Governor and if so cancelled must on demand forthwith be delivered up to the Governor by the person to whom it was issued.

MERCHANT SHIPPING ACT, 1894

Made by the Governor under sections 4(1)(e) and 89 of the Act, which applies to St Helena by implication

JAMESTOWN (REGISTRY PORT) ORDER, 1977

Citation

1. This Order may be cited as the Jamestown (Registry Port) Order, 1977.

Port Jamestown

2. The port of Jamestown in St. Helena is approved as a port for the registry of British Shipping.
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