



BERMUDA

MERCHANT SHIPPING (INSPECTIONS OF SHIPS AND ISSUE OF MARITIME
LABOUR CERTIFICATES) AMENDMENT REGULATIONS 2021

BR 119 / 2021

The Minister responsible for Maritime Administration, in exercise of the power conferred by sections 37A and 57 of the Merchant Shipping Act 2002, makes the following Regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Inspections of Ships and Issue of Maritime Labour Certificates) Amendment Regulations 2021.

Inserts regulation 12A

2 The Merchant Shipping (Inspections of Ships and Issue of Maritime Labour Certificates) Regulations 2020 are amended by inserting the following regulation next after regulation 12—

“Arbitration

12A (1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out in respect of a Bermuda ship, that person may serve a written notice on the responsible person within 21 days of receiving notification of that outcome—

- (a) stating that there is a dispute in relation to the survey; and
- (b) requesting that the dispute be referred to a single arbitrator.

(2) Subject to paragraphs (3), (4) and (6), an arbitrator referred to in paragraph (1) shall be appointed by agreement between the parties.

MERCHANT SHIPPING (INSPECTIONS OF SHIPS AND ISSUE OF MARITIME
LABOUR CERTIFICATES) AMENDMENT REGULATIONS 2021

(3) In default of agreement between the parties, the arbitrator shall be a person appointed by the President or Vice President of the Chartered Institute of Arbitrators, Bermuda Branch, following a request made by—

- (a) a party, after giving written notice to the other party; or
- (b) the parties jointly.

(4) A person shall not be qualified to be an arbitrator under this regulation unless that person is—

- (a) a person who holds a certificate to act as—
 - (i) a master or chief mate on a seagoing ship of 3,000 gross tonnage or more, in accordance with Regulation II/2 of Chapter II of the Annex to the STCW Convention; or
 - (ii) a chief engineer officer or second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000kW propulsion power or more, in accordance with Regulation III/2 of Chapter III of the Annex to the STCW Convention;
- (b) a person who holds a certificate of competency equivalent to a certificate referred to in sub-paragraph (a);
- (c) a naval architect;
- (d) a qualified person;
- (e) a person with experience in shipping matters or in activities carried on in Ports; or
- (f) a member of the Chartered Institute of Arbitrators, Bermuda Branch.

(5) An arbitrator appointed under this regulation has the powers of an inspector under section 220 of the Act.

(6) The rules for arbitration set out in Merchant Shipping Guidance Notice 2021 No. 2021-02 shall apply, unless alternative procedures are agreed between the applicant and the Minister, before the commencement of arbitration proceedings.

(7) In this regulation—

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

“parties” means the applicant and the responsible person, and “party” is to be construed accordingly;

“qualified person” means a person who is qualified to be appointed to a high judicial office in Bermuda;

MERCHANT SHIPPING (INSPECTIONS OF SHIPS AND ISSUE OF MARITIME
LABOUR CERTIFICATES) AMENDMENT REGULATIONS 2021

“responsible person” means the certifying authority responsible for the issue of the certificate in connection with which a survey required by these Regulations is carried out;

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

Made this 7th day of July 2021

Minister of Transport

[Operative Date: 08 July 2021]