



BERMUDA

MERCHANT SHIPPING (LIFE-SAVING APPLIANCES AND ARRANGEMENTS)  
REGULATIONS 2021

BR 174 / 2021

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SCHEDULE 1

Classification of Ships

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

PART 1

PRELIMINARY

Citation

- 1 These Regulations may be cited as the Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2021.

Interpretation

- 2 In these Regulations—
  - “Chapter III” means Chapter III in the Annex to the Convention (relating to life-saving appliances and arrangements);
  - “Convention” means the International Convention for the Safety of Life at Sea, 1974;
  - “fishing vessel” means a ship used for catching fish, whales, seals, walrus or other living resources of the sea;
  - “international voyage” means a voyage between—

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- (a) a port in Bermuda and a port outside Bermuda; or
- (b) a port in a Convention country (other than Bermuda) and a port in any other country or territory (whether a Convention country or not) which is outside Bermuda,

and for the purposes of paragraph (b), “Convention country” means a country or territory which is either a country, the Government of which is party to the Convention or a territory to which the Convention extends whether or not it is subject to the amendments to, or reservations in respect of the Convention;

“long international voyage” means an international voyage which is not a short international voyage;

“Merchant Shipping Notice” means a Notice described as such and issued by the Chief Marine Surveyor, or the equivalent UK Merchant Shipping Notice, subject to necessary modifications;

“mile” means a nautical mile of 1,852 metres;

“new ship” means a ship the keel of which is laid, or which is at a similar stage of construction, on or after 1 July 1998;

“passenger” is a person other than—

- (a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; or
- (b) a child under one year of age;

“passenger ship” means a ship licensed to carry more than 12 passengers;

“pleasure vessel” means—

- (a) a vessel which, at the time that it is being used, is—
  - (i) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the passengers 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, and no other payments are made by or on behalf of users of the vessel other than by the owner; or
- (b) any vessel wholly owned by or on behalf of a member’s club formed for the purpose of sport or pleasure and which, at the time that 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

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club funds and applied for the general use of the club; and no other payments are made by or on behalf of users of the vessel other than by the owner,

and, for the purposes of this definition “immediate family” means in relation to an individual, the husband or wife of the individual and a relative of the individual and “relative” means brother, sister, ancestor or lineal descendant;

“sea” includes any estuary or arm of the sea;

“short international voyage” means an international voyage—

- (a) in the course of which a ship is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety; and
- (b) which does not exceed 600 miles in distance between the last port of call in the country in which the voyage begins and the final port of destination,

and, for the purposes of paragraph (b), the final port of destination is the last port of call in the scheduled voyage at which the ship commences its return voyage to the country in which the voyage began;

“similar stage of construction” means the stage at which—

- (a) construction identifiable with a specific ship begins; and
- (b) assembly of that ship has commenced comprising at least 50 tons or 1% of the estimated mass of all structural material, whichever is less.

#### Classification of ships

3 For the purposes of these Regulations, ships are classified as set out in Schedule 1.

#### General application

4 (1) Subject to paragraphs (2) and (3), these Regulations apply to—

- (a) Bermuda sea-going ships, wherever they may be; and
- (b) non-Bermuda sea-going ships while they are within Bermuda waters.

(2) These Regulations do not apply to—

- (a) ships of war and naval auxiliaries;
- (b) ships owned or operated by a State and engaged only on governmental non-commercial service;
- (c) wooden ships of primitive build;
- (d) fishing vessels;
- (e) 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

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Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian;

- (f) non-Bermuda ships which are pleasure vessels of any size; and
- (g) high speed craft to which the Merchant Shipping (High Speed Craft) Regulations 2010 apply.

(3) A non-Bermuda ship flying the flag of a State which is not a party to the Convention is not subject to these Regulations if it would not have been in Bermuda waters but for stress of weather or any other circumstances which neither the master nor the owner or the charterer could have prevented.

(4) Where persons are on board a ship as a consequence of—

- (a) the circumstances described in paragraph (3); or
- (b) an obligation laid upon the master to carry shipwrecked or other persons,

those persons are not to be taken into account for the purpose of determining the application to that ship of any provision of these Regulations.

(5) For the purposes of this regulation, “non-Bermuda ship” means any ship other than a Bermuda ship.

Ambulatory reference

5 (1) In these Regulations, any reference to Chapter III is to be construed—

- (a) as a reference to Chapter III as modified from time to time; and
- (b) if Chapter III is replaced, a reference to the replacement.

(2) For the purposes of paragraph (1), Chapter III is modified or replaced if the modification or replacement takes effect in accordance with Article VIII of the Convention.

(3) A modification or replacement of Chapter III has effect at the time such modification or replacement comes into force in accordance with Article VIII of the Convention.

Approval and replacement of life-saving appliances and arrangements

6 (1) Unless approved under the Merchant Shipping (Marine Equipment) Regulations 2020, life-saving appliances required by Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1) and placed on board a Bermuda ship must be approved by the Minister or any person authorised by Minister.

(2) Unless approved under the Merchant Shipping (Survey and Certification) Regulations 2019, life-saving arrangements required by Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1) on board a Bermuda ship, must be approved by the Minister, or any person authorised by the Minister.

(3) The Minister, or any person authorised by the Minister, may grant an approval in relation to a Bermuda ship for anything in Chapter III requiring to be—

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- (a) approved by the Administration of the State whose flag the ship is entitled to fly;
  - (b) done to the satisfaction of such Administration; or
  - (c) acceptable to that Administration.
- (4) An approval given under paragraph (1), (2) or (3) may, on the giving of reasonable notice, be continued, altered or cancelled.
- (5) Any approval given under paragraph (1), (2) or (3), or a continuation, alteration or cancellation under paragraph (4), must—
- (a) be in writing;
  - (b) specify the date on which it takes effect; and
  - (c) specify the terms, if any, on which it is given.
- (6) The requirement that the approval referred to in paragraph (1), (2) or (3), or a continuation, alteration or cancellation under paragraph (4), be in writing is satisfied where the text of the approval is—
- (a) transmitted by electronic means;
  - (b) received in legible form; and
  - (c) capable of being used for subsequent reference.
- (7) Subject to paragraph (8), any item of life-saving equipment marked with an expiry date—
- (a) ceases to be approved for the purposes of these Regulations on the expiry date; and
  - (b) must be replaced on or before the expiry date.
- (8) The emergency pack of an inflatable liferaft, which is inspected at the time of the annual servicing of the liferaft and has more than six months remaining before the expiry date at the time of that inspection, may be retained until the next annual service.

Equivalentents

- 7 (1) Where Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1) require that—
- (a) a particular life-saving appliance or type of life-saving appliance (which may include any fitting, material or apparatus) be fitted on, or carried in a ship;
  - (b) any particular life-saving arrangement be made on, or in relation to a ship; or
  - (c) any particular provision be made in relation to a ship,

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the Minister may approve any other life-saving appliance, life-saving arrangement or other provision if satisfied that it is at least as effective as that required by Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1), as the case may be.

(2) Before giving approval to a novel life-saving arrangement, the Minister must be satisfied that such arrangement has—

- (a) successfully undergone an engineering analysis in accordance with regulation 38.3 of Chapter III (elements of engineering analysis), in the case of ships engaged on international voyages to which Part B of Chapter III applies; or
- (b) successfully complied with the engineering analysis required by Merchant Shipping Notice 1676 (Amendment 1), in the case of ships engaged on international voyages to which Part B of Chapter III does not apply, and in the case of ships engaged on non-international voyages.

(3) An approval given under paragraph (1) may, on the giving of reasonable notice, be continued, altered or cancelled.

(4) Any approval given under paragraph (1), or a continuation, alteration or cancellation under paragraph (3), must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) specify the terms, if any, on which it is given.

(5) The requirement that the approval referred to in paragraph (1), or a continuation, alteration or cancellation under paragraph (3), be in writing is satisfied where the text of the approval is—

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

#### Exemptions

8 (1) Subject to paragraph (3), the Minister may exempt from any provision of Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1)—

- (a) a ship or class of ship which, during a voyage, does not proceed more than 20 miles from the nearest land, and where the Minister is satisfied that the sheltered nature and conditions of such a voyage makes it unreasonable or unnecessary to apply Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1);
- (b) a ship employed in special trades for the carriage of large numbers of special trade passengers (such as the pilgrim trade) where—

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- (i) the Minister is satisfied that it is impracticable to enforce compliance with the requirements of Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1); and
- (ii) the ship complies with—
  - (A) the rules annexed to the Special Trade Passenger Ships Agreement 1971; and
  - (B) the rules annexed to the Protocol on Space Requirements for Special Trade Passenger Ships 1973;
- (c) a ship which does not normally engage on international voyages but is, in exceptional circumstances, required to undertake a single international voyage; and
- (d) a ship which embodies features of a novel kind if research into the development of those features and their incorporation in ships engaged on international voyages may be seriously impeded if the ship had to comply with the requirements of Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1).

(2) Subject to paragraph (3), the Minister may, in exceptional circumstances not provided for in paragraph (1), exempt from any of the provisions of Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1), a ship or class of ship, if satisfied that compliance with such provision is either impracticable or unreasonable in the case of that ship or class of ship.

(3) An exemption under paragraph (1) or (2) may be granted subject to such safety requirements as the Minister thinks fit, to ensure the overall safety of the ship.

(4) An exemption granted under paragraph (1) or (2) may, on the giving of reasonable notice, be altered or cancelled.

(5) An exemption granted under paragraph (1) or (2), or an alteration or cancellation under paragraph (4), must—

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) specify the terms, if any, on which it is given.

(6) The requirement that an exemption granted under paragraph (1) or (2), or an alteration or cancellation under paragraph (4), be in writing is satisfied where the text of the approval is—

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

(7) Where an exemption is granted subject to safety requirements, the exemption ceases to have effect if those requirements are not complied with.

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PART 2

REQUIREMENTS FOR SHIPS CONSTRUCTED BEFORE 1 JULY 1998  
AND ENGAGED ON INTERNATIONAL VOYAGES

Application

9 This Part applies to ships of Classes I, II, VII, VII(A), VII(T), VIII, VIII(T), IX, XI and XII, the keels of which were laid, or which were at a similar stage of construction, before 1 July 1998, and engaged on international voyages.

Merchant Shipping Notice 1676 (Amendment 1)

10 (1) A ship to which this Part applies must comply with each requirement applicable to that ship prescribed by Merchant Shipping Notice 1676 (Amendment 1).

(2) Except for ships of Classes XI and XII, a ship to which this Part applies must comply with each provision of Part B of Chapter III that applies to it.

(3) For the purposes of paragraph (1), where there is a conflict between the requirements of Merchant Shipping Notice 1676 (Amendment 1) and Part B of Chapter III, the latter takes precedence.

Replacement of life-saving appliances and arrangements

11 (1) This regulation does not apply to ships of Classes XI and XII.

(2) Subject to paragraphs (3) and (4), on a ship to which this Part applies, where—

- (a) life-saving appliances or arrangements are replaced; or
- (b) the ship undergoes repairs, alterations or modifications of a major character which involves replacement of, or any addition to its life-saving appliances or arrangements,

the replacement or additional life-saving appliances or arrangements must, so far as is reasonably practicable, comply with the requirements of Part B of Chapter III.

(3) Any life-saving appliance or arrangement complying with the requirements of Part B of Chapter III is not required to comply with the requirements of Merchant Shipping Notice 1676 (Amendment 1) which would otherwise apply.

(4) Where—

- (a) a survival craft, other than an inflatable liferaft, is replaced but its launching appliance is not; or
- (b) a launching appliance for a survival craft, other than an inflatable liferaft, is replaced but the survival craft is not,

the survival craft or the launching appliance (as the case may be) must be of the same type as that replaced.

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(5) For the purposes of paragraph (4), “survival craft” means a craft capable of sustaining the lives of persons in distress from the time of abandoning the ship.

PART 3

REQUIREMENTS FOR SHIPS CONSTRUCTED BEFORE 1 JULY 1998  
AND ENGAGED ON NON-INTERNATIONAL VOYAGES

Application

12 This Part applies to ships of Classes II(A), VII(A), VIII(A), VIII(A)(T), IX, IX(A), IX(A)(T), XI and XII, the keels of which were laid, or which were at a similar stage of construction, before 1 July 1998, and not engaged on international voyages.

Compliance by ships constructed before 1 July 1998

13 A ship to which this Part applies must comply with each requirement applicable to that ship prescribed by Merchant Shipping Notice 1676 (Amendment 1).

PART 4

REQUIREMENTS FOR NEW SHIPS ENGAGED ON INTERNATIONAL VOYAGES

Application

14 This Part applies to new ships of Classes I, II, VII, VII(T), VIII, VIII(T), IX, XI and XII engaged on international voyages.

Compliance by new ships of Classes I, II, VII, VII(T) VIII, VIII(T) and IX engaged on international voyages

15 A new ship of Class I, II, VII, VII(T), VIII, VIII(T) or IX, when engaged on an international voyage, must comply with each provision of Part B of Chapter III that applies to it.

Compliance by new ships of Classes XI and XII engaged on international voyages

16 A new ship of Class XI or XII, when engaged on an international voyage, must comply with each requirement applicable to that ship prescribed by Merchant Shipping Notice 1676 (Amendment 1).

Alternative design and arrangements for new ships

17 (1) Life-saving appliances and arrangements for new ships to which regulation 15 applies, may deviate from the requirements of Part B of Chapter III, provided that the alternative design and arrangements meet the intent of the requirements in Part B of Chapter III and provide an equivalent level of safety.

(2) In relation to a ship to which regulation 15 applies—

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- (a) an alternative design or arrangement must be subjected to an engineering analysis in accordance with regulation 38.3 of Chapter III (elements of engineering analysis); and
  - (b) a copy of the engineering analysis must be provided by the owner, to the Minister.
- (3) In relation to the alternative design or arrangement and the engineering analysis mentioned in paragraph (2)—
- (a) the Minister must evaluate and, if satisfied that the requirements of regulation 38.3 of Chapter III are met, approve the engineering analysis; and
  - (b) any amendment to the alternative design or arrangement must, provided the Minister is satisfied that such alternative design or arrangement is at least as effective as that required by these Regulations, be approved by the Minister.
- (4) Where the assumptions and operational restrictions that were stipulated in the alternative design or arrangement mentioned in paragraph (2) are changed—
- (a) a further engineering analysis must be carried out which takes into account the changed assumptions and operational restrictions; and
  - (b) where the alternative design or arrangement requires amendment, this must be evaluated and approved by the Minister, if satisfied that such alternative design or arrangement is at least as effective as that required by these Regulations.
- (5) An approval given under paragraph (3) or (4) may, on the giving of reasonable notice, be continued, altered or cancelled.
- (6) An approval given under paragraph (3) or (4), or a continuation, alteration or cancellation under paragraph (5), must—
- (a) be in writing;
  - (b) specify the date on which it takes effect; and
  - (c) specify the terms, if any, on which it is given.
- (7) The requirement that the approval referred to in paragraph (3) or (4), or a continuation, alteration or cancellation under paragraph (5), be in writing is satisfied where the text of the approval is—
- (a) transmitted by electronic means;
  - (b) received in legible form; and
  - (c) capable of being used for subsequent reference.
- (8) A copy of an approval given under paragraph (3) or (4), or a continuation or alteration under paragraph (5), and which confirms that the alternative design or arrangement complies with Chapter III, must be carried on board the ship.

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PART 5

REQUIREMENTS FOR NEW SHIPS ENGAGED ON NON-INTERNATIONAL VOYAGES  
AND NEW SHIPS ENGAGED ON INTERNATIONAL VOYAGES TO WHICH PART B OF  
CHAPTER III DOES NOT APPLY

Application

18 This Part applies to new ships of—

- (a) Classes II(A), VIII(A), VIII(A)(T), IX, IX(A), IX(A)(T), XI and XII which are not engaged on international voyages; and
- (b) Classes I, II, VII, VII(T), VIII, VIII(T) and IX which are engaged on international voyages but to which Part B of Chapter III does not apply.

Compliance by new ships

19 A ship to which this Part applies must comply with each requirement applicable to that ship prescribed by Merchant Shipping Notice 1676 (Amendment 1).

PART 6

CONTROL AND ENFORCEMENT

Offences and penalties

20 (1) If a ship proceeds or attempts to proceed to sea or on any voyage, or arrives within Bermuda waters, in breach of any of the requirements of these Regulations, Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1) applicable to that ship, the owner and the master each commit an offence in respect of each case of non-compliance.

(2) An offence under paragraph (1) is punishable on summary conviction, by a fine not exceeding \$10,000; or on conviction on indictment, by imprisonment for a term not exceeding two years, or a fine, or both.

(3) It is a defence for a person charged with an offence under this regulation to prove that the person charged took all reasonable steps to avoid the commission of the offence.

Detention

21 (1) For the purposes of this regulation, any reference to “the Act” is a reference to the Merchant Shipping Act 2002.

(2) Any ship which does not comply with the requirements of these Regulations, Part B of Chapter III or Merchant Shipping Notice 1676 (Amendment 1) applicable to that ship, may be detained.

(3) Section 242 of the Act applies where a ship is liable to be detained under this regulation as if—

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- (a) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and
  - (b) subsection (7) were omitted.
- (4) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—
- (a) states the grounds of the detention; and
  - (b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 242(1) of the Act.
- (5) Subject to paragraph (6), section 104 (references of detention notices to arbitration) and section 105 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation, as they apply in relation to detention notices issued pursuant to section 242 (Enforcing detention of ship).
- (6) For the purposes of paragraph (5)—
- (a) section 104 of the Act applies as if—
    - (i) subsection (3) were omitted; and
    - (ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted; and
  - (b) sections 104 and 105 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.
- (7) Subject to paragraph (8), where a ship other than a Bermuda ship is detained, the Minister must immediately inform the ship’s flag administration in writing.
- (8) If it is not possible to inform the ship’s flag administration in accordance with paragraph (7), the Minister must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.
- (9) For the purposes of paragraphs (7) and (8), “flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

Consequential amendment

22 The Merchant Shipping (Entry into Dangerous Spaces) Regulations 1990 are amended—

- (a) in regulation 3(1), by inserting “and to regulation 6” next after the words “paragraph (2)”; and
- (b) by deleting regulation 6 and substituting the following regulation—

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“Drills

6 (1) This regulation does not apply to ships to which either Part 2 or Part 4 of the Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2021 applies.

(2) Subject to paragraph (1), the master of—

(a) any tanker or gas carrier of 500 tons and over; and

(b) any other ship of 1,000 tons and over,

must ensure that drills simulating the rescue of a crew member from a dangerous space are held at intervals not exceeding two months, and that a record of such drills is entered in the official log book.”.

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SCHEDULE 1

(regulation 3)

CLASSIFICATION OF SHIPS

<i>Passenger ships</i>	<i>Description of class of ship</i>
Class I	ships engaged on voyages any of which are long international voyages;
Class II	ships engaged only on short international voyages;
Class II(A)	ships engaged on voyages of any kind other than international voyages.
<i>Non-passenger ships</i>	<i>Description of class of ship</i>
Class VII	ships, other than ships of Classes I, VII(A), VII(T), XI and XII, engaged on voyages any of which are long international voyages;
Class VII(A)	ships employed as fish processing or canning factory ships, and ships engaged in the carriage of persons employed in the fish processing or canning industries;
Class VII(T)	tankers engaged on voyages any of which are long international voyages;
Class VIII	ships, other than ships of Classes II, VIII(T), IX, XI and XII, engaged only on short international voyages;
Class VIII(A)	ships, other than ships of Classes II(A) to VI(A) inclusive, VIII(A)(T), IX, IX(A), IX(A)(T), XI and XII, engaged only on voyages which are not international voyages;
Class VIII(T)	tankers engaged on voyages any of which are short international voyages;
Class VIII(A)(T)	tankers engaged only on voyages which are not international voyages;
Class IX	tugs and tenders, other than ships of Classes II, II(A), III, VI and VI(A), which proceed to sea but are not engaged on long international voyages;
Class IX(A)	ships, other than ships of Classes IV to VI inclusive, which do not proceed to sea;
Class IX(A)(T)	tankers which do not proceed to sea;

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*Non-passenger ships*

Class XI

Class XII

*Description of class of ship*

sailing ships, other than fishing vessels and ships of Class XII, which proceed to sea;

pleasure vessels of 13.7 metres in length or over.

Made this 29th day of December 2021

Minister of Transport

[Operative Date: 29 December 2021]