



BERMUDA

MERCHANT SHIPPING (PASSENGER SHIP CONSTRUCTION)
REGULATIONS 2021

BR 175 / 2021

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The Minister responsible for Maritime Administration, after consulting the persons referred to in section 94(3) of the Merchant Shipping Act 2002, in exercise of the powers conferred by section 93 of that Act, makes the following Regulations:

PART 1 PRELIMINARY

Citation

1 These Regulations may be cited as the Merchant Shipping (Passenger Ship Construction) Regulations 2021.

Interpretation

2 In these Regulations—

“Chapter I” means Chapter I of the Convention (relating to general provisions);

“Chapter II-1” means Chapter II-1 of the Convention (relating to construction-subdivision and stability, machinery and electrical installations);

“Chapter II-2” means Chapter II-2 of the Convention (relating to fire protection, fire detection and fire extinction);

“company” means the owner of a ship or any other organisation or person such as the manager, or the bareboat charterer, who has assumed responsibility for operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by the SOLAS Convention;

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

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

Application

3 (1) Chapter II-1 or Chapter II-2 of the Convention (relating to passenger ship construction) apply to Bermuda registered passenger ships and Convention passenger ships, while in Bermuda waters, as specified in Regulation 1 (Application) of Chapter II-1 or Chapter II-2 of the Convention.

(2) These Regulations shall not apply to—

- (a) high-speed craft;
- (b) ship of war or troopship;
- (c) vessels licensed under section 44 of the Marine and Ports Services Act 2021; and
- (d) a Convention passenger ship by reason of her being within Bermuda, or the territorial waters of Bermuda, if she would not have been there, but for

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stress of weather or any other circumstances that neither the master, owner or charterer (if any) could have prevented.

Ambulatory reference

4 (1) In these Regulations, any reference to Chapter II-1 or Chapter II-2 of the Convention is to be construed as a reference to Chapter II-1 or Chapter II-2 as modified from time to time, and if Chapter II-1 or Chapter II-2 is replaced, as a reference to the replacement.

(2) For the purposes of paragraph (1), Chapter II-1 or Chapter II-2 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 II-1 or II-2 has effect at the time such modification or replacement comes into force in accordance with Article VIII of the Convention.

PART 2

GENERAL

Requirement to comply with SOLAS Chapter II-1 and Chapter II-2

5 Every passenger ship to which these Regulations apply shall comply with the requirements of SOLAS Chapter II-1 and Chapter II-2 as apply in relation to a ship of its description.

PART 3

EXEMPTIONS, EQUIVALENT ARRANGEMENTS AND APPROVALS

Exemptions

6 (1) The Minister may grant exemptions as provided for in Regulation 4 (Exemptions) of Chapter I, of the Convention.

(2) The Minister may, on giving reasonable notice, alter or cancel any exemption granted under paragraph (1).

(3) An exemption granted under paragraph (1) or an alteration or cancellation under paragraph (2) shall be given in writing and shall specify the date on which it takes effect and the terms (if any) on which it is given.

Equivalent arrangements

7 The Minister may permit equivalent arrangements as provided for in Regulation 5 (equivalents) of Chapter I, of the Convention.

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Validity of approvals, type approvals, exemptions, equivalent arrangements and waivers

8 (1) The Minister, or any person authorised by the Minister, may grant an approval or type approval or an exemption, equivalent arrangement or waiver permitted by SOLAS Chapter II-1.

(2) An approval, type approvals, exemptions, equivalent arrangements and waivers given under paragraph (1) may, on the giving of reasonable notice, be continued, altered or cancelled.

(3) Any approvals, type approvals, exemptions, equivalent arrangements and waivers given under paragraph (1), or a continuation, alteration or cancellation under paragraph (2), 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.

(4) The requirement that the approvals, type approvals, exemptions, equivalent arrangements and waivers referred to in paragraph (1), or the continuation, alteration or cancellation under paragraph (2), 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.

(5) Any approvals, type approvals, exemptions, equivalent arrangements and waivers given under paragraph (1), or a continuation, alteration or cancellation under paragraph (2), shall comply with the Merchant Shipping (Marine Equipment) Regulations 2020.

PART 4

CONTROL AND ENFORCEMENT

Offences and penalties

9 (1) Any contravention of these Regulations in respect of a ship, other than a matter to which paragraph (3) applies, shall be an offence by both the owner and the master of that ship, punishable on summary conviction, by a fine not exceeding \$10,000 and on conviction on indictment, by a fine of \$50,000 or imprisonment for a term not exceeding two years, or both.

(2) In paragraph (1), “owner” includes any company, person or organisation, such as the manager or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner.

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(3) Any contravention of these Regulations which is a matter contained in SOLAS Chapter II-1 or Chapter II-2 shall be an offence punishable on summary conviction, by a fine not exceeding \$10,000 and on conviction on indictment, by a fine of \$50,000 or imprisonment for a term not exceeding two years, or both.

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

Detention

10 In any case where a ship does not comply with the requirements of these Regulations, the ship is liable to be detained, and section 242 of the Merchant Shipping Act 2002 (which relates to the detention of a ship) shall have effect in relation to that ship, as if for the words “this Act” wherever they appear, there were substituted, the words “the Merchant Shipping (Passenger Ship Construction) Regulations 2021”.

Made this 29th day of December 2021

Minister of Transport

[Operative Date: 29 December 2021]