

“seafarer” in these Regulations means any person, including a master, who is employed or engaged or works in any capacity on board a ship, on the business of the ship and where there is doubt as to whether a person working or engaged on a ship is a seafarer the Minister shall make a determination, and in doing so, he shall be guided by the advice and guidance provided by the International Labour Organization;

“shipowner” means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the Maritime Labour Convention, regardless of whether any other organisation or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.

Application

- 3 These Regulations apply to—
- (a) Bermuda ships wherever they may be other than—

(i) fishing vessels;

(ii) vessels owned and operated by a Government Department or Agency for non-commercial purposes; and

(iii) pleasure vessels; and

(b) subject to regulation 10, these Regulations apply to other ships that are not Bermuda ships when in a port other than—

(i) fishing vessels;

(ii) pleasure vessels; and

(iii) warships, naval auxiliaries and other ships owned or operated by a state and not engaged in commercial activity.

No charge to be made for food and water

4 (1) In every ship to which these Regulations apply the seafarers shall be provided with food and water in accordance with these Regulations and the seafarers shall not be charged in any way for food and water during the course of their employment on board.

(2) Notwithstanding the requirement in sub-paragraph (1) for food and water shall be provided free of charge; in any ship in which there are restaurants that seafarers may use, the shipowner shall be permitted to make a charge for the use of these restaurants whenever a seafarer elects to use one in lieu of the facilities provided elsewhere in the ship for seafarers.

Standards of supplies

5 (1) The food and drinking water supplies provided on board every Bermuda ship shall be suitable in respect of quantity, nutritional value, quality and variety having regard to the duration and nature of the voyage, the number of seafarers employed in the ship and to their religious requirements and cultural practices in so far as they pertain to food and its preparation.

(2) The shipowner shall not knowingly provide food and drinking water supplies on board any Bermuda ship that contain anything known to cause, or likely to cause, sickness or injury to health and shall make every endeavour to ensure that supplies are of satisfactory quality. Except when it is impracticable to do so, food provisions should only be sourced from reputable suppliers, and when fresh supplies are purchased locally they should be purchased only by or under the direct supervision of the cook, or in the case of ships operate by shipowners with qualified purchasing departments by those departments.

Storage of food and maintenance of hygiene

6 The arrangements for the maintenance of hygiene, the storage of food, the control of fresh water supplies, and the preparation of food shall take into account any guidance provided in a Bermuda Shipping Notice and in accordance with the Merchant Shipping (Seafarer's Accommodation) Regulations 2013.

Training of catering staff

7 (1) Seafarers whose work involves the preparation or handling of food shall receive training and instruction before or on joining the ship covering the—

- (a) necessity for personal hygiene and methods to ensure it;

(b) practices to adopt in respect of maintaining hygienic conditions in the workplace; and

(c) safe practices in respect of food handling, display and storage.

(2) The training and instruction required by paragraph (1) shall be recorded and the records of training shall be available on board for at least as long as any seafarers who have received the training continue to serve on board.

Inspections of food and drinking water

8 (1) The master shall ensure that the quality of drinking water supplied to the seafarers is regularly checked and that an inspection is carried out at intervals of not more than one month of every—

- (a) store room and its contents;

(b) refrigerated store and its contents;

(c) galley and its equipment; and

(d) other space used for the preparation or serving of food and the equipment in that space.

(2) On completion of any inspection required by paragraph (1) the master or the person carrying out the inspection shall record the date of inspection and any particular in which any of the areas inspected, the equipment in those areas, the cleanliness of the areas and the hygiene practices in those areas, are deficient and shall indicate the action proposed to rectify the deficiency, the status of previous recorded deficiencies and the time scale in which any deficiency is to be rectified.

(3) The records of inspection required by paragraph (2) shall be available for inspection by any official authorised by the Minister.

(4) On any occasion where the inspection in sub-paragraph (1) reveals a deficiency which is likely to cause sickness or injury to health

he shall take immediate steps to stop the use of the area, or stores, or equipment in question until it can be restored to a safe and hygienic condition and used without risk to seafarer's health.

Carriage of ship's cooks

9 Every Bermuda ship to which these Regulations apply other than a ship that has a safe manning certificate for fewer than 10 seafarers and is engaged on voyages of less than twenty four hours where the seafarers on board have an opportunity to obtain meals ashore, shall carry a qualified ship's cook.

Training of ship's cooks

10 (1) Every cook that is required to be carried in a Bermuda ship shall—

- (a) be over 18 years of age; and

(b) have attended a recognised training course covering at least—

(i) practical cookery;

(ii) food and personal hygiene;

(iii) food storage;

(iv) stock control;

(v) environmental protection; and

(vi) catering health and safety;

(c) have a certificate attesting to the training specified in sub-paragraph (b); and

(d) have served at sea for not less than 2 years.

(2) For the purposes of paragraph (1)(b) a recognised training course is—

- (a) a training course in Bermuda that is recognised by the Minister; or

(b) a training course in another country that is a signatory to the Maritime Labour Convention and which is recognised by the competent authority of that country as meeting the requirements in sub-paragraph (1)(b).

(3) The Minister may accept training for cooks that he considers to be equivalent to the training specified in sub-paragraph (2) in the case of cooks who have trained in shore based establishments.

(4) In any ship which is not required to carry a ship's cook by every person who is involved in the operation of the ship's galley or in the handling or preparation of food shall be trained or instructed in the essential aspects of food hygiene and safety set out in regulation 7.

(5) On any occasion where due to exceptional circumstances a vessel that is normally required to carry a cook who is trained in accordance with this regulation is required to sail without a cook the Minister may grant a temporary dispensation for a seafarer who is not trained in accordance with paragraph (1) to act as the ship's cook to so act for a maximum period of one month or until the next port where a replacement trained cook can be engaged provided that the person to whom the dispensation is issued shall have completed the training set out in regulation 7.

(6) Ship's cooks who do not have a certificate specified in paragraph 1(b) at the commencement date of these Regulations but who have an existing ship's cooks certificate may continue to serve as a ship's cook, and their existing certificate will continue to be accepted for a period of 5 years after the entry into force of the Maritime Labour Convention.

Detention

11 (1) Any person duly authorised by the Minister may inspect any ship to which these Regulations apply when in a port in Bermuda and if he is satisfied that the provision of food and water or the qualifications of ship's cooks are not in accordance with the requirements stated in the Declaration part 1 to the ship's Maritime Labour Certificate, or in the case of a ship which is not issued with a Maritime Labour Certificate, the requirements in Regulation 3.2 of the Maritime Labour Convention, he may detain the ship until the deficiency is rectified, but in the exercise of these powers he shall not detain or delay the ship unreasonably.

(2) Any authorised officer of the Maritime Administration who discovers that a Bermuda ship does not comply with these Regulations may—

- (a) withdraw the vessel's Maritime Labour Certificate until such time as the deficiency is rectified; or

(b) if the vessel is in a port outside Bermuda, inform the port state authorities for that port of the deficiency.

Revocation

12 The following regulations are revoked—

- (a) Merchant Shipping (Certification of Ship's Cooks) Regulations 1986; and

(b) Merchant Shipping (Provisions and Water) Regulations 1990.

Commencement

13 These Regulations shall come into operation on the same date on which the Merchant Shipping (ILO) Amendment Act 2012 comes into operation.

Made this 12th day of December 2013

Minister of Tourism Development and Transport

BERMUDA	
MERCHANT SHIPPING (SEAFARER'S EMPLOYMENT) REGULATIONS 2013	
BR 107 / 2013	
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The Minister responsible for Maritime Administration, in exercise of the power conferred by sections 3, 7, 38, 39, 40 and 45 of the Merchant Shipping Act 2002, makes the following Regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Seafarer's Employment) Regulations 2013.

Interpretation

2 (1) In these Regulations—

“collective bargaining agreement” means an agreement in writing between the company and a recognised trade union which is independent and which is recognised in its country of domicile and which has validity for not more than 5 years;

“commercial activity” means any activity or employment of the vessel for which a contract or charter party is in force and includes the carriage of any cargo or persons for reward;

“independent” in relation to a trade union means not under the domination or control of an employer or a group of employers or of one or more employer's associations and not liable to interference by an employer or any such group or association arising out of financial or material support or any other means tending towards such control;

“International Bargaining Forum” means the committee set up by the International Maritime Employer's Committee and including representatives of the seafarer's trades unions and shipping employers;

“Load Line Convention” means the International Convention on Loadlines 1966 as amended;

“Maritime Labour Certificate” means the certificate issued under Title 5 of the Maritime Labour Convention 2006;

“Maritime Labour Convention” means the Maritime Labour Convention 2006, adopted at a general conference of the International Labour Organization in Geneva on 7 February 2006;

“MARPOL Convention” means the International Convention for the Prevention of Pollution from Ships 1973 as modified by the protocol of 1978 and as amended;

“pleasure vessel” means—

- (a) a vessel which, at the time 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 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

(b) payments are made by or on behalf of the users of the vessel other than by the owner; or any vessel wholly owned by or on behalf of a member's 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 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 or the individuals husband or wife and “relative” means brother, sister, ancestor or lineal descendant;

“Port State Control Authority” means the authority in any country assigned the responsibility under Article V of the Maritime Labour Convention for the inspections of ships in its territory;

“seafarer” means any person, including a master, who is employed or engaged or works on any capacity on board a ship, on the business of the ship and where there is doubt as to whether a person working or engaged on a ship is a seafarer and subject to these Regulations the Minister shall make a determination and in doing so he shall be guided by the advice and guidance provided by the International Labour Organization;

“shipowner” means the owner of the ship or another organization or person such as a manager, an agent, or a bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner;

“SOLAS” means the International Convention for the Safety of Life at Sea 1974 and its Protocol of 1988 as amended;

“STCW Convention” means the Standards of Training, certification and Watchkeeping Convention 1978 as amended in 1995 and including any amendments subsequently;

“voyage” means—