

**SHIPPING (SAFE MANNING, WATCHKEEPING AND HOURS OF
WORK) REGULATIONS, 2001**

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Shipping
CAP. 296

SHIPPING (SAFE MANNING, WATCHKEEPING AND HOURS OF WORK) REGULATIONS, 2001

Authority : These Regulations were made on 26th April, 2001 by the Minister under sections 313 and 349 of the *Shipping Act*.

Commencement: 26th April, 2001.

Citation

1. These Regulations may be cited as the *Shipping (Safe Manning, Watchkeeping and Hours of Work) Regulations, 2001*.

Interpretation

2.(1) In these Regulations,

“authorised person” means a person authorised by the Minister for the purposes of these Regulations;

“Barbadian ship” means a vessel registered under Part I of the Act and entitled to fly the flag of Barbados;

“company” includes an individual, and in relation to a ship means the owner of the ship or any other organisation or person, such as the manager 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 all the duties and responsibilities imposed on the company by the Regulations annexed to the STCW Convention;

“endorsement document” means a document entitled “endorsement” attesting the recognition of a certificate under the provisions of the STCW Convention;

“GT” means gross tons, and the gross tonnage of a ship having alternative gross tonnage shall be the larger of those tonnages; however for a ship having its tonnage determined both under Part II and regulation 6 of the *Merchant Shipping (Tonnage) Regulations 1997* (S.I. 1997 No. 1510) , its gross tonnage is that determined under regulation 6;

“hazardous cargo” means cargo which is or may be harmful, explosive, flammable, toxic, corrosive, health-threatening or polluting to the environment;

“Merchant Shipping Notice” means a Notice described as such and made by the Barbados Ships’ Registry on the approval of the Minister responsible for Shipping;

“safe manning document” means a document described as such and issued,

- (a) in the case of a Barbadian ship, by the Minister; and
- (b) in the case of any other ship, by or on behalf of the government of the state whose flag the ship is entitled to fly;

“sea-going” means going to sea

- (a) beyond the limits of inland waters; or
- (b) in waters closely adjacent to sheltered waters or areas where port regulations apply;

“STCW Code” means the Seafarers’ Training, Certification and Watchkeeping Code adopted by the 1995 Conference of Parties to the STCW Convention;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended on 7th July, 1995.

(2) For the purpose of these Regulations, the definitions specified in Article II and Regulation 1/1 of the STCW Convention and section A-1/1 of the STCW Code shall form part of these Regulations.

(3) Any reference to the STCW Code, the STCW Convention or a particular Merchant Shipping Notice includes any amendment to that Code, Convention or Notice which the Minister considers relevant from time to time and specifies in a Merchant Shipping Notice.

Application

3. These Regulations apply to sea-going ships which are

- (a) Barbadian ships, wherever they are; or
- (b) other ships when in the territorial waters of Barbados,

except fishing vessels and pleasure craft.

Responsibilities of companies, masters and others

4.(1) This regulation only applies to Barbadian ships.

(2) A company shall ensure that

- (a) every master and seaman assigned to any of its ships holds an appropriate national certificate issued in accordance with the STCW Convention and an endorsement document in respect of any function he is to perform on that ship; and
- (b) documentation and data relevant to all masters and seamen employed on its ships are maintained and readily available for inspection and include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties.

(3) Nothing in paragraph (2) shall prohibit the master from directing officers and ratings to undertake any task in an emergency situation on board a ship.

(4) The company shall provide written instructions to the master of each of its ships setting out the policies and the procedures to be followed to ensure that all seamen who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties.

(5) The policies and procedures referred to in paragraph (4) shall include

(a) the allocation of a reasonable period of time during which each newly employed seaman will have an opportunity to become acquainted with

(i) the specific equipment the seaman will be using or operating;

(ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements a seafarer needs to know to perform the assigned duties properly;

(b) the allocation of a reasonable period of time during which each senior officer will have an opportunity to become acquainted with Parts II and IV of the Act, which can be gained by perusing the relevant parts of the Act, Merchant Shipping Notices and relevant Convention provisions;

(c) the designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seaman to receive essential information in a language the seaman understands; and

(d) the ship's complement effectively coordinating their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

(6) It shall be the duty of any master and any member of a crew designated with an obligation under paragraph (4) to carry out that obligation.

Safe manning document

5.(1) It shall be the duty of the company to ensure that in relation to every sea-going ship of 500 GT or more

- (a) a safe manning document is in force in respect of the ship and the manning of the ship;
- (b) the safe manning document is kept on board the ship at all times; and
- (c) the manning of the ship is maintained at all times to at least the levels specified in the safe manning document.

(2) The master of a ship to which this regulation applies shall ensure that the ship does not proceed to sea unless there is on board a valid safe manning document issued in respect of the ship and the manning of the ship complies with that document.

(3) It shall be the duty of a company applying for a safe manning document in respect of a Barbadian ship to submit to the Barbados Ships' Registry proposals as to the numbers and grade of personnel the company considers should be carried so that the ship would be safely manned if it proceeded to sea on any intended voyages.

(4) In preparing a proposal referred to in paragraph (3) the company shall take into account any guidance issued by the Barbados Ships' Registry and the requirements of Chapter VIII of the Annex and Code A of the STCW Convention.

(5) It shall be the duty of the company after the issue of a safe manning document to inform the Barbados Ships' Registry as soon as any of the circumstances which are pertinent to that safe manning document change, for the purpose of enabling the Barbados Ships' Registry to review the document's continuing validity or approve fresh proposals from the company.

Application to Barbadian ships only

6. Regulations 7 to 10 apply to Barbadian ships only.

General duty of company and masters

7. Subject to regulation 10, the company shall in respect of a ship ensure that the master and seamen do not work more hours than is safe in relation to the safety of the ship and the master's and seamen's performance of their duties.

Duties of master and seamen

8. Every master and seaman shall ensure that he is properly rested when commencing duty on a ship, and that he obtains adequate rest during periods when he is off duty.

Schedule of duties, and need to record

- 9.(1) The company shall, after consultation with the master, produce a schedule of duties that comply with this regulation and set out the hours of work for

- (a) a master or seaman whose work includes regular watchkeeping duties or ship handling;
- (b) the ship's chief engineer, chief officer and second engineer officer,

so as to ensure that each person does not work more hours than is safe in relation to the performance of his duties and the safety of the ship.

- (2) The schedule shall also specify

- (a) the maximum period of continuous watchkeeping;
- (b) the minimum rest period between watches;
- (c) the total daily, weekly and monthly hours of work; and

- (d) a minimum of 10 hours of rest in any 24-hour period, which may be divided into no more than 2 periods, one of which shall be at least 6 hours in length.
- (3) Notwithstanding paragraph (2)(d), the minimum period of 10 hours may be reduced to not less than 6 consecutive hours on condition that any such reduction shall not extend beyond 2 days and not less than 70 hours of rest are provided in each 7-day period.
- (4) The company shall in producing the schedule referred to in paragraph (2) give consideration to the category of shipping operation undertaken when arranging the hours of work for the persons referred to in paragraph (1).
- (5) The schedule may be changed by the company
- (a) after consultation with the master; and
 - (b) where the changes relate to the matters set out in paragraphs (1), (2) and (3).
- (6) The schedule shall be prominently displayed in the crew accommodation, for the information of all seamen.
- (7) The master shall ensure that the hours of work specified in a schedule are not exceeded.
- (8) The company and the master of the ship shall ensure that
- (a) a copy of the schedule; and
 - (b) a record of all deviations from the schedule
- are preserved for 5 years from the date the schedule was introduced, and that the schedule may be inspected by an inspector pursuant to section 197 of the Act.
- (9) Where during the 5-year period referred to in paragraph (8) the company is no longer responsible for the ship, copies of the schedule and of the record shall remain the responsibility of the company.

Exception

10.(1) In the case of an emergency or drill or in other overriding operational conditions on board a ship the requirements for rest periods specified in regulation 9(2)(d) need not be complied with.

(2) Notwithstanding paragraph (1), a master of a ship or a seaman may participate in

- (a) a navigational watch;
- (b) an engine room watch; or
- (c) a machinery watch,

although the master or seaman has not had the rest periods provided by the schedule pursuant to regulation 9.

(3) The master may exceed, and a seaman may be required to exceed, the schedule work or duty period when in the opinion of the master

- (a) an emergency threatens
 - (i) the safety of the ship or the life of any person on board the ship; or
 - (ii) the safety of the environment; or
- (b) the ship is employed
 - (i) in the service of the Defence Force at a time when the ship is operating in direct support of Her Majesty's armed forces; or
 - (ii) in direct support of the forces of any foreign power to which Barbados is bound by any Treaty to provide operational support.

(4) Where the master or a seaman has worked within a rest period provided by the schedule, the name of the master or seaman shall be entered in the

record required to be maintained by regulation 9(8), together with the reason why the master or seaman worked.

Watchkeeping arrangements

11.(1) The master of any ship shall ensure that the watchkeeping arrangements for the ship are at all times adequate for maintaining safe navigational and engineering watches, having regard to Chapter VIII of the Annex and Code A of the STCW Convention.

(2) Without prejudice to the duties of the master provided in paragraph (1), the master shall give directions to the deck watchkeeping officers responsible for navigating the ship safely during their periods of duty, in accordance with Part 3-1 of section A-VIII/2 of the STCW Code.

(3) The chief engineer officer of any ship shall

- (a) ensure that the engineering watchkeeping arrangements for the ship are at all times adequate for maintaining a safe watch, in accordance with Part 3-2 of section A-VIII/2 of the STCW Code; and
- (b) when deciding the composition of the watch, observe the principles set out in Part 3-2 of that section.

Watchkeeping arrangements in port

12. The master of any ship which is safely moored or safely at anchor under normal circumstances in port shall arrange for a watch to be maintained in accordance with Part 4 of section A-VIII/2 of the STCW Code, for the purposes of safety.

Watchkeeping arrangements in port for ships carrying hazardous cargo

13. The master of any ship which is carrying hazardous cargo and which is in port, even when safely moored or safely at anchor, shall, in addition to any watchkeeping arrangements required under regulation 12,

- (a) ensure that a safe deck watch and safe engineering watch are maintained by the ready availability on board of a duly qualified officer or officers and, where appropriate, ratings, where the ship is carrying hazardous cargo in bulk; and
- (b) ensure that in organising safe watchkeeping arrangements the master takes account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions on board, afloat and ashore, where the ship is carrying hazardous cargo other than in bulk.

Carriage of documents

14. Without prejudice to regulation 4, the company and the master shall ensure that all original certificates and other documents issued pursuant to the STCW Convention indicating the qualifications of any member of the crew to perform functions which they are required to perform aboard the ship in the course of their designated duties are carried at all times on board the ship.

Inspection of Barbadian and non-Barbadian ships

15.(1) An authorised person may inspect any ship for the purpose of

- (a) verifying that the master and all seamen serving on board hold valid appropriate certificates or valid dispensations and provide documentary proof that an application for an endorsement document has been forwarded to the Barbados Ships' Registry;

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- (b) verifying that the numbers of seamen and the number of certificates on board correspond with the applicable safe manning documents required in regulation 5;
- (c) assessing the ability of the master or a seaman on the ship to maintain the watchkeeping standards required by the STCW Convention where there are grounds for believing that such standards are not being maintained because
- (i) the ship has been involved in a collision, grounding or stranding;
 - (ii) there has been an unlawful discharge of a substance from the ship when underway, at anchor or at berth;
 - (iii) the ship has been manoeuvred in an erratic or unsafe manner, or navigational course markers or traffic separation schemes have not been followed; or
 - (iv) the ship has otherwise been operated in such a manner as to pose a danger to persons, property or the environment.
- (2) Where an authorised person finds on inspection any deficiency of a kind specified in paragraph (3), that person shall notify the master of the ship in writing and, in the case of a ship registered outside Barbados, while in a port in Barbados or in the approaches to that port, the nearest maritime, consular, or diplomatic representative of the flag state.
- (3) The deficiencies referred to in paragraph (2) are
- (a) a failure of the master or any seaman
 - (i) to hold a certificate;
 - (ii) to have an appropriate certificate;
 - (iii) to have a valid dispensation;
 - (iv) to provide documentary proof that an application for an endorsement document has been submitted to the Barbados

Ships' Registry in accordance with paragraph 5 of regulation 1/10 of the STCW Convention, or

- (v) to comply with the safe manning document;
- (b) a failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the competent authority of the country in which the ship is registered;
- (c) an absence on a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution; or
- (d) an inability of the master to provide adequately rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

Power to detain

16.(1) Where the master of a Barbadian ship contravenes any of these Regulations, the ship may be detained and section 330 of the Act shall apply.

(2) Where the master of a ship that is not a Barbadian ship but which is in the territorial waters of Barbados contravenes regulation 15(3) and the master, after receiving notification pursuant to regulation 15(2), fails to correct the deficiency resulting in danger to persons, property or the environment, the ship may be detained and section 330 of the Act shall apply.

Offences

17.(1) A company that contravenes regulation 4(2) or (4), 5(1) or (3), 9 or 14 is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 6 months or to both.

(2) A master of a ship who contravenes regulation 4(6), 5(2), 11(1) or (2), 12, 13, or 14 is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for a term of 6 months or to both.

- (3) A seaman who contravenes regulation 4(6) is guilty of an offence and is liable on summary conviction to a fine of \$1 000.
- (4) A chief engineer who contravenes regulation 11(3) is guilty of an offence and is liable on summary conviction to a fine of \$50 000.
- (5) A company that contravenes regulation 7 is guilty of an offence and is liable on summary conviction to a fine of \$100 000.
- (6) A master of a ship who contravenes regulation 9(7) or (8) is guilty of an offence and is liable on summary conviction to a fine of \$75 000.
- (7) A seaman who contravenes regulation 8 is guilty of an offence and is liable on summary conviction to a fine of \$1 000.
- (8) Where a person commits an offence which consists of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, that person shall prove that it was not reasonably practicable to do more than was in fact done to satisfy that duty or requirement.

Exemptions

18. The Minister

- (a) may grant, on such terms as he may specify, exemptions from all or any of these Regulations for classes of cases or individual cases; and
- (b) may alter or cancel any exemption so granted:

provided such exemption does not contravene the provisions of the STCW Convention.

Repeal

19. *[The Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations, 1997 (S.I. 1997 No. 1320) made under section 349(3) of the Act are repealed.]*