

Merchant Shipping (Port State Control) Regulations 2018

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THE MERCHANT SHIPPING ACT

Regulations made by the Minister under section 228 of the Merchant Shipping Act

- 1. These regulations may be cited as the Merchant Shipping (Port State Control) Regulations 2018.**
- 2. In these regulations -**

“Act” means the Merchant Shipping Act;

“clear grounds” means evidence which, in the professional judgement of a surveyor or inspector, warrants a more detailed inspection of a ship, its equipment or its crew;

“Conventions” means the International Conventions specified in the First Schedule;

“flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly;

“Ministry” means the Ministry to which responsibility for the subject matter of shipping is assigned;

“pilot” has the same meaning as in the Ports Act;

“port authority” means the Mauritius Ports Authority established under the Ports Act;

“port limit” has the same meaning as in the Ports Act;

“stoppage of an operation” means a formal prohibition of a ship to continue an operation due to any established deficiency which, individually or together, would render the continued operation hazardous.

3. (1) Subject to paragraph (2), these regulations shall apply to any foreign ship -

(a) in the port in Mauritius; or

(b) anchored within the port limit of Mauritius.

(2) These regulations shall not apply to -

(a) a fishing vessel;

(b) a naval vessel;

(c) a Government ship used for non-commercial purposes; or

(d) a pleasure yacht not engaged in trade.

4. (1) The surveyor or inspector shall take such action as may be necessary to ensure that any ship below 500 gross tonnage to which a Convention does not apply is not hazardous to safety, health or the environment.

(2) No more favourable treatment shall, in carrying out an inspection of a ship in accordance with these regulations, be given to a ship flying the flag of a State which is not a party to a Convention or to the crew of such a ship than that given to a ship flying the flag of a State which is a party to the Convention or to the crew of such a ship.

5. (1) The surveyor or inspector shall, in carrying out an inspection of a ship -

(a) check the validity of every relevant certificate and document which are required to be carried on board the ship in accordance with the Convention;

(b) satisfy himself of the overall condition of the ship, including the engine room; and

(c) check that the master and crew are familiar with the essential procedures and operations relating to the safety of the ship.

(2) Where, on an inspection carried out in accordance with paragraph (1), the surveyor or inspector is of the opinion that the condition of a ship, its equipment or crew, does not substantially meet the relevant requirements of a Convention, he may carry out such in-depth inspection as he may deem necessary.

6. (1) The surveyor or inspector shall, after the completion of an inspection made pursuant to regulation 5(2), provide to the master of the ship an inspection report giving the results of the inspection and details of any decision taken by the surveyor or inspector, and of any corrective action to be taken by the master, owner or operator, as the case may be.

(2) The master shall, on receipt of the inspection report, take such corrective action as he may determine, to the satisfaction of the surveyor or inspector, in respect of an inspection made pursuant to paragraph (1).

7. (1) The Director may detain the ship, or require the stoppage of the operation, where he is of the opinion that any deficiency noted is hazardous to the safety or health of the crew or the environment.

(2) Where the Director detains a ship or requires the stoppage of operation under paragraph (1), he shall serve a notice to that effect to the master.

(3) The notice served pursuant to paragraph (2) shall not be lifted unless the Director is satisfied that —

(a) the ship may proceed to sea, or the operation may resume, without risk to the safety or health of the crew or passengers or risk to other ships; or

(b) there is no unreasonable threat or harm to the marine environment.

(4) Notwithstanding paragraph (1), the Director may, in addition to detaining the ship, suspend the inspection of a ship until the responsible parties comply with the requirements of the Convention.

(5) Without prejudice to any provision of these regulations in the event that an inspection referred to in regulation 5 gives rise to detention, the Director shall immediately inform, in writing, the flag administration or the Consul or, in his absence, the nearest diplomatic representative of the State of the flag administration and recognised organisations responsible for the issue of the ship's certificates.

(6) These regulations shall be without prejudice to the additional requirements of the Conventions concerning notification and reporting procedures related to Port State Control.

(7) Where the grounds for detention are a result of damages suffered on the ship heading to a port in Mauritius, no detention order shall be issued provided —

(a) due notification has been given to the flag state administration, nominated surveyor or recognised organisation responsible for the issue of the relevant certificate;

(b) the master or the owner has submitted to the Director details of the circumstances of the accident or damage suffered and appropriate remedial action, to the satisfaction of the Director has been undertaken.

8. (1) Where deficiencies referred to in regulation 7(1) cannot be rectified in the port of inspection, the Director may allow the ship to proceed to the nearest appropriate repair yard available, as chosen by the master and agreed to by the Director, provided that the conditions determined by the competent authority of the flag administration and agreed by the Director are complied with.

(2) The conditions as determined and agreed upon under paragraph (1) shall ensure that

the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(3) In the circumstances referred to in paragraph (1), the Director shall notify the competent authority of the State where the repair yard is situated, the parties referred to in regulation 7(5) and any other authority as appropriate of all the conditions for the voyage.

(4) (a) A ship to which this paragraph applies, which proceeds to sea from any port in any State —

- (i) without complying with the conditions determined by the competent authority of the State in the port of inspection; or
- (ii) which fails to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard, shall not enter the port in Mauritius, until the owner has provided evidence to the satisfaction of the competent authority of the State where the ship was found defective that the ship ifilly complies with all applicable requirements of the Conventions.

(b) This paragraph applies to a ship, detained in a port in a State after inspection has revealed deficiencies which are clearly hazardous to safety, health or the environment, which has been allowed by the competent authority to proceed to the nearest appropriate repair yard.

(5) If a ship proceeds to sea from the port in Mauritius without complying with the conditions determined by the Director in accordance with paragraph (1), the Director shall immediately alert the competent authorities of neighbouring coastal States.

(6) If a ship to which paragraph (3) applies is to proceed to a repair yard in Mauritius, but fails to call into the indicated repair yard, the Director shall immediately alert the competent authorities of neighbouring coastal States.

9. A surveyor or inspector shall carry a personal document in the form of an identity card as specified in Second Schedule, indicating that the surveyor or inspector, as the case may be, is

authorised to carry out inspections.

10. A pilot, engaged in the berthing or unberthing of a ship to which these regulations apply or engaged on such a ship bound for a port within a member State, shall immediately inform the port authority who shall immediately inform the Director, whenever they learn in the course of their normal duties that there are deficiencies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

11. If the port authority, when exercising its normal duties, learns that such a ship within its port has deficiencies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, that authority shall immediately inform the Director.

12. (1) The Director may lift the detention order in case of exceptional circumstances that pose a threat to the peace, security or environment of Mauritius.

(2) The ship shall be allowed to sail out of the port limit and be bailed from entering the port until the threat has ceased to exist and there is evidence to the satisfaction of the Director that the deficiencies on the vessel have been rectified.

(3) Notwithstanding the provisions of paragraph (1), the Director may impose conditions to the detention order in case of force majeure.

13. (1) The master of every ship which intends to call at a port in Mauritius shall, at least 48 hours before its expected time of arrival at the port, provide the Director with information on the ship through the port state notification system as set out in Third Schedule.

(2) Where the master fails to give the notification as provided in paragraph (1), he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees.

14. Where any inspection carried out on a ship reveals any deficiency warranting the detention of the ship, the owner of the ship shall pay the appropriate fee to the Ministry, as set out in the relevant regulations.

15. Any person who is aggrieved by the decision of the Director may appeal to the Minister by giving notice in writing to the Permanent Secretary and lodging his appeal with the Permanent Secretary within 10 days of the date on which the decision of the Director was communicated to him.

16. These regulations shall come into operation on 1 October 2018.

Made by the Minister on 13 September 2018.

FIRST SCHEDULE

[Regulation 2]

CONVENTIONS

- 1.** The International Convention on Load Lines, 1966
- 2.** The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) as amended
- 3.** The International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (MARPOL 73/78)
- 4.** The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended
- 5.** The Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72)
- 6.** The International Convention on Tonnage Measurement of Ships, 1969
- 7.** Together with the Protocols and amendments to these Conventions and related Codes of mandatory status, in force.

SECOND SCHEDULE

[Regulation 8]

REPUBLIC OF MAURITIUS

**MINISTRY OF OCEAN ECONOMY, MARINE RESOURCES,
FISHERIES AND SHIPPING**

IDENTITY CARD OF SURVEYOR OR INSPECTOR CARRYING OUT AN INSPECTION

Surname

Other names

Occupation

Date of issue

.....

Signature of Issuing Authority

.....

Signature of holder

THE HOLDER, A SURVEYOR OR INSPECTOR OF THE MINISTRY OF OCEAN ECONOMY, MARINE RESOURCES, FISHERIES AND SHIPPING IS EMPOWERED TO CARRY OUT INSPECTIONS ON BOARD FOREIGN REGISTERED VESSELS WHILE THEY ARE WITHIN MAURITIUS WATERS. IN CASE DEFICIENCIES ARE FOUND, WHICH WARRANT DETENTION, THE VESSEL MAY BE DETAINED PURSUANT TO REGULATION 7 OF THE MERCHANT SHIPPING (PORT STATE CONTROL) REGULATIONS 2018.

THIRD SCHEDULE

[Regulation 12]

PORT STATE CONTROL NOTIFICATION

Name of Vessel	Port of Registry
Call Sign	I.M.O Number
Classification Society	Gross tonnage
E.T.A	Type of vessel
Name of Local Shipping Agency	Date of Construction
Last Port of Call	Next Port of Call
Any condition affecting the navigation or safety of vessel?	
Place and date of last Port State Control .....	.....
Security Level .....	.....

Certificates

Issue Date

Expiry Date

Certificate of Registry .....	.....
International Load Line .....	.....
Cargo Ship Safety Equipment .....	.....

Cargo Ship Safety Construction	.....	.....
IOPP	.....	.....
Insurance against pollution damage	.....	.....
Passenger Ship Safety	.....	.....
Document of Compliance (ISM)	.....	.....
Safety Management	.....	.....
Minimum Safe Manning	.....	.....
International Ship Security	.....	.....
Name of Issuing Authority	.....	.....
Authority issuing the certificate of insurance		
against hydrocarbons pollution damage	.....	.....
Total number of crew including master	.....	.....
Name of Master	.....	Nationality
		
Date	.....	
