



BERMUDA

MERCHANT SHIPPING (REGISTRATION OF SHIPS) REGULATIONS 2003

BR 27 / 2003

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In exercise of the powers conferred upon the Minister by sections 25 and 32(6) of the Merchant Shipping Act 2002, the following Regulations are hereby made:—

PART I
GENERAL

Citation and commencement

1 These Regulations may be cited as the Merchant Shipping (Registration of Ships) Regulations 2003 and shall come into force on 7 April 2003.

Interpretation

2 (1) In these Regulations unless the context otherwise requires—

“the Act” means the Merchant Shipping Act 2002;

“application for registration” includes, except where otherwise stated, application for registration of a ship or share in a ship; application for re-registration of the same; and application for the registration of a transfer or transmission of a ship or a share in a ship; but does not include application for the renewal of registration;

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“appropriate person” means in relation to a port in a country outside Bermuda—

- (a) any British consular officer within whose consular district the port lies;
- (b) where Her Majesty’s Government in the United Kingdom is represented in that country by a High Commissioner, any member of the High Commissioner’s official staff nominated by him for the purposes of these Regulations; or
- (c) where that country is a colony, the Governor of the colony or any person appointed by him for those purposes;

and in this definition “High Commissioner” includes an acting High Commissioner and “Governor” includes an acting Governor;

“appropriate attestation” means attestation in a form approved by the Minister;

“authorised surveyor” means any person authorised under the Merchant Shipping (Tonnage) Regulations 1982 (or any regulations amending or replacing them) to carry out the measurement of ships for the purposes of those Regulations;

“Authority” means the Bermuda Shipping and Maritime Authority (BSMA);

“builders certificate” means a certificate signed by the builder of the ship and containing a true account of the proper dimensions and of the tonnage of the ship, as estimated by him, and of the date and place where it was built, and of the name of the person, if any, for whom the ship was built, or the name of the person to whom it was delivered;

“certificate of charter by demise” means a certificate of registration issued to a ship which is registered pursuant to section 31 of the Act;

“certificate of registry” means a certificate of British registry which is issued to a ship which is registered under the Act and includes a certificate of charter by demise;

“certified transcript” means an extract from the register certified by the Registrar showing the entry in the register in respect of a ship, its ownership and any mortgages as at a specified date;

“classification society” means a person authorised to act as a ‘Certifying Authority for the purposes of the Merchant Shipping (Tonnage) Regulations 1982 or any regulations amending or replacing them;

“closure transcript” means an extract from the register certified by the Registrar showing that the entry in the register in respect of a ship has been closed, the date of its closure, and the details about the ship and its ownership and any subsisting mortgages at the time of closure;

“declaration of eligibility” means a declaration which complies with the provisions of regulation 11(1);

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“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992 as adjusted by the Protocol signed at Brussels on 17 March 1993;

“EEA State” means a State which is a contracting party to the EEA Agreement;

“freeze” means to prevent any entry (which includes a deletion of an entry) being made in the register;

“non-United Kingdom nationals exercising their right of freedom of movement of workers or right of establishment” means persons who are either—

- (a) nationals of a member State other than the United Kingdom exercising in the United Kingdom their rights under Article 48 or 52 of the EEC Treaty, as the case may be; or
- (b) nationals of a State, other than a member State, which is a Contracting Party to the EEA Agreement exercising in the United Kingdom their rights under Article 28 or 31 of the EEA Agreement;

“inspector of marks” means an authorised measurer or any person authorised by the Minister to verify the carving and marking of a ship under these Regulations;

“overall length” for ships to be registered on the register means the distance between the foreside of the foremost fixed permanent structure and the aftside of the aftermost fixed permanent structure;

“owner” means, in relation to a ship or share in a ship, the person owning the ship, or as the case may be, a share in the ship, whether or not registered as owner;

“pleasure vessel” means—

- (i) any ship which at the time it is being used is—
 - (a) (i) in the case of a ship wholly owned by an individual or individuals is used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or
 - (ii) in the case of a ship owned by a body corporate, the persons on the ship are employees or officers of the body corporate, or their immediate family or friends; and
- (b) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the ship carrying any person, other than as a contribution to the direct expenses of the operation of the ship incurred during the voyage or excursion; or
- (ii) any ship wholly owned by or on behalf of a members’ 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 and applied for the general use of the club; and

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(iii) in the case of any ship referred to in subregulation (i) or (ii) no other payments are made by or on behalf of users of the ship, other than by the owner;

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

“representation” means probate, administration, confirmation, or other instrument constituting a person the executor, administrator or other legal representative of a deceased person, including a certificate of confirmation relating to a vessel;

“ship’s manager” means a person who exercises the functions of a managing owner;

“ship on charter by demise” means a ship registered by virtue of section 31 of the Act;

“surveyor of ships” means a marine surveyor nominated by the Minister to undertake the surveys required by these Regulations and includes any marine surveyor of the Authority;

“transfer of a ship” includes transfer of a share in a ship.

(2) In these Regulations, the beneficial ownership of a ship or a share in a ship shall be determined by reference to every beneficial interest in that ship, however arising (whether held by trustee or nominee or arising under a contract or otherwise), other than an interest held by any person as mortgagee.

[Regulation 2 paragraph (1) definition “Authority” inserted, and “surveyor of ships” amended by BR 18 / 2019 reg. 2 effective 18 February 2019]

PART II

THE REGISTER OF BRITISH SHIPS IN BERMUDA

The register

3 (1) The register maintained by the Registrar in accordance with section 23 of the Act shall be divided into the following parts—

- (a) Part I for ships owned by persons qualified in accordance with these Regulations; and
- (b) Part II for ships which are registered under section 31 of the Act (‘ships on charter by demise’).

(2) The register may consist of both paper and computerised records and such other records as the Minister may consider to be expedient.

(3) Any person shall be entitled on application to the Registrar and on payment of the prescribed fee to obtain a transcript, certified by an authorised officer, of the entries in the register.

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(4) During the official opening hours of the Authority any person shall be entitled (by prior arrangement with the Registrar) on payment of the prescribed fee to inspect the entries in the register.

(5) Entries in the register shall be made in accordance with the following provisions—

- (a) the property in a ship shall be divided into sixty-four shares;
- (b) subject to the provisions of the Act and these Regulations with respect to joint owners or owners by transmission, not more than sixty-four persons shall be entitled to be registered at the same time as owners of any one ship. This rule shall not affect the beneficial title of any person represented by or claiming under or through any registered owner or joint owner;
- (c) a person shall not be entitled to be registered as owner of a part of a share; but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares in a ship;
- (d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share in a ship in respect of which they are registered.

(6) The Registrar shall be entitled to amend the register where-

- (a) a clerical error has occurred; or
- (b) sufficient evidence is produced to satisfy him that the entry is incorrect;

and on making the amendment he shall issue a new certificate of registry if necessary.

[Regulation 3 paragraph (4) amended by BR 18 / 2019 reg. 3 effective 18 February 2019]

Trusts not to be entered

4 (1) Subject to subregulation (2) no trust, express, implied or constructive may be registered by the Registrar.

(2) Where, on the bankruptcy of a registered owner or mortgagee his title is transmitted to his trustee in bankruptcy, that person, if a qualified person, may be registered as the owner or mortgagee of a British ship or share in a ship.

PART III

QUALIFICATION AND ENTITLEMENT FOR REGISTRATION ON PART I OF THE REGISTER

Persons qualified to be owners of British ships to be registered on Part I of the register

5 (1) The following persons are qualified to be the owners of British ships which are to be registered on Part I of the register—

- (a) British citizens;

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- (b) non-United Kingdom nationals exercising their right of freedom of movement of workers or right of establishment;
 - (c) British Overseas Territories citizens;
 - (d) British Overseas citizens;
 - (d) persons who under the British Nationality Act 1981 of the United Kingdom are British subjects;
 - (e) persons who under the Hong Kong (British Nationality) Order 1986 of the United Kingdom are British Nationals (Overseas);
 - (f) bodies corporate incorporated in a EEA State;
 - (g) bodies corporate incorporated in the United Kingdom or in any relevant British possession;
 - (h) bodies corporate incorporated in Bermuda; and
 - (i) European Economic Interest Groupings being groupings formed in pursuance of Article I of Council Regulation (EEC) No. 2137/85 (set out in the Schedule to United Kingdom Statutory Instrument 1989/638) and registered in the United Kingdom.
- (2) A person who is not qualified under subregulation(1) to be the owner of a ship registered on Part I of the register may nevertheless be one of the owners of such a ship if—
- (a) a majority interest in the ship (within the meaning of regulation 6) is owned by persons who are so qualified under subregulation (1); and
 - (b) the ship is registered on Part I of the register.

Bermuda connection and majority interest

6 (1) Subject to regulation 26 (2) and subregulations (2) and (3), a ship shall be entitled to be registered if a majority interest in the ship is owned by one or more persons qualified under regulation 5(1).

(2) Where a majority interest in a ship is owned by a person or persons qualified by reason of regulation 5 (1), the ship shall, subject to subregulation (3), be registered only if that person is or (as the case may be) any of those persons are, resident in Bermuda.

(3) Where the condition in subregulation (2) is not satisfied the ship shall be registered only if a representative person is appointed in relation to the ship under Part IV.

(4) For the purposes of this regulation—

- (a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together, the legal title to thirty-three or more shares in the ship (there being left out of account for this purpose any share in which any beneficial interest is owned by a person who is not entitled to be an owner of a British ship); and

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- (b) a body corporate shall be treated as resident in Bermuda if it is incorporated or registered there and carries on business from a place of business maintained by it in Bermuda.

PART IV

APPOINTMENT OF REPRESENTATIVE PERSONS

Appointment of representative persons

7 (1) Where the entitlement of any ship to be registered is conditional upon the appointment of a representative person, the owner of the ship shall—

- (a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the requirements in subregulation (2) to be the representative person; and
- (b) ensure that, so long as the ship remains registered, an individual or body corporate satisfying those requirements shall be so appointed.

(2) A representative person is either—

- (a) an individual resident in Bermuda; or
- (b) a body corporate incorporated or registered in Bermuda and carrying on business from a place of business maintained by it in Bermuda.

(3) The appointment of the representative person shall be made in a form approved by the Minister and shall contain the name, address and other contact particulars of the representative person.

(4) The owner of any ship in relation to which any representative person is for the time being appointed under this regulation shall—

- (a) on applying for the ship to be registered, send to the Registrar the appointment required by subregulation (3);
- (b) in the event of any change in the identity, or in the address of the representative person, notify the Registrar of the relevant change within 7 days of the change occurring;

and the Registrar shall record the new particulars in the register.

Service on representative persons

8 Any document required or authorised to be served by or under the Act or required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under the Act, or under any instrument in force by or under the Act, on the owner of a ship shall be treated as duly served on him if it is—

- (a) delivered to any representative person for the time being appointed;

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- (b) sent to any such person by post or by electronic transmission at the address notified (or, as the case may be, last notified) to the Registrar under regulation 7(4) in relation to that person; or
- (c) left for any such person at that address.

PART V REGISTRATION

Form of application

9 (1) Every application made under these Regulations shall be made to the Registrar at the Authority in person, by post or by electronic transmission.

(2) The application shall be made in a form approved by the Minister and shall contain the name and address of the applicant and sufficient information to enable the ship to be identified.

[Regulation 9 paragraph (1) amended by BR 18 / 2019 reg. 4 effective 18 February 2019]

The applicant

10 Every application made under these Regulations shall be made—

- (a) in the case of individuals, by one or more of the individuals registered or requiring to be registered as owners or by his or their agent;
- (b) in the case of a body corporate, by a director, secretary or other duly authorised officer of that body corporate, or by its agent; or
- (c) in the case of an European Economic Interest Group, by a duly authorised officer of that Group, or by its agent.

Applications for registration

11 (1) Subject to regulation 14, every application for registration must be supported by a declaration of eligibility which shall be in a form approved by the Minister and shall include—

- (a) a declaration of ownership by every owner setting out his qualification to own a British ship;
- (b) a declaration of Bermuda connection;
- (c) a statement of the number of shares in the ship the legal title of which is vested in each owner whether alone or jointly with any other person or persons.

(2) Every application for registration of a ship which has, immediately prior to the application, been registered on any other register shall be accompanied with—

- (a) a certified extract from that register in respect of that ship; and

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- (b) , where the application is in respect of the registration of a ship pursuant to section 31 of the Act ('Ships chartered in by demise'), a declaration by the registrar of the country of primary registration that the certificate of registration has been surrendered to him.

(3) Every application for registration of a ship shall be accompanied with an instrument evidencing the appointment of a managing owner under regulation 12 or a ship's manager under regulation 13.

Appointment of managing owner

12 (1) Where application is made in respect of a ship which has more than one owner, or whose shares are owned by more than one owner, and no representative person has been appointed under Part IV, one of those owners who is resident in Bermuda shall be nominated as the managing owner, and the register shall be marked accordingly and all correspondence shall be sent to that person at the address recorded in the register in respect of that owner.

(2) Where the owners determine that a different managing owner should be appointed, the Registrar shall be notified in writing within 48 hours of the appointment and the register noted accordingly.

(3) Any document required or authorised to be served, by or under the Act or required or authorised, by virtue of any statutory provision, to be served for the purpose of the institution of, or otherwise in connection with, proceedings for an offence under the Act, or under any instrument in force under the Act, on the owner of a ship shall be treated as duly served on him if -

- (a) delivered to the managing owner; or
- (b) sent to the managing owner by post or by electronic transmission at the address notified (or, as the case may be, last notified) to the Registrar under subregulation (1) or (2) in relation to that person;
- (c) left for the managing owner at that address.

Appointment of ship's manager

13 (1) Every owner of a ship on making application for registration of a ship shall, where no managing owner has been nominated under regulation 12, notify the Registrar of the person appointed as the ship's manager and the register shall be marked accordingly.

(2) Where the owner appoints a different ship's manager, he shall notify the Registrar in writing within 48 hours of the appointment, and the register shall be noted accordingly.

Applications by bodies corporate

14 Where application is made on behalf of a body corporate, the application must be accompanied with—

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- (a) if it is a company incorporated in Bermuda, a copy of its certificate of incorporation, and, in the case of a company which has changed its name since incorporation, its certificate of incorporation on change of name;
- (b) if it is an overseas company, a copy of its permit to engage in business in Bermuda issued under section 134 of the Companies Act 1981;
- (c) if it is a foreign corporation continuing in Bermuda as an exempted company under the Companies Act 1981, a copy of its certificate of registration of continuance issued under section 132C of the Companies Act 1981;
- (d) if it is—
 - (i) a company incorporated in the United Kingdom or a member state;
 - (ii) a company incorporated in any relevant British possession; or
 - (iii) a company incorporated in some other country;
proof in accordance with the laws of the country or territory of its incorporation that the company is an incorporated company and is of good standing; and
- (e) if it is a body corporate incorporated by virtue of an Act of Parliament, a Charter granted by Her Majesty, or an Act or Ordinance of a British possession including Bermuda, proof, sufficient to satisfy the Registrar, of its incorporation.

Declaration of intent

15 Where, at the time when the application for registration is made, the ownership of a ship has not yet passed (or fully passed) to the persons who are to be its owners when it is registered, the application shall be accompanied with a declaration of intent instead of a declaration of eligibility.

Form of declaration of intent

16 The declaration of intent shall consist of—

- (a) a draft declaration of eligibility setting out particulars of ownership of the ship as they are intended to be when the ship is registered; and
- (b) a declaration that the ownership of the ship will, at the time when registration occurs, be, to the best of his knowledge, as stated in the draft declaration of eligibility.

Declaration of eligibility to be submitted before registration

17 Where an application for registration is accompanied with a declaration of intent and not by a declaration of eligibility, a duly completed declaration of eligibility shall be submitted to the Registrar prior to registration.

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Evidence of title on registration

18 An application to register a ship must be supported by the following evidence of title-

- (a) in the case of a new ship, the builder's certificate;
- (b) in the case of a ship which is not new, either—
 - (i) a previous bill or bills of sale showing the ownership of the ship for at least 5 years before the application is made; or
 - (ii) if the ship has been registered with a full registration at any time within the last 5 years, a bill or bills of sale evidencing all transfers of ownership during the period since it was so registered;
- (c) where the evidence required by paragraph (a) or (b) is not available, other evidence of title satisfactory to the Registrar.

Survey and measurement of ship

19 (1) Every ship, other than pleasure vessels under 24 metres in length, shall before registration be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the tonnage regulations.

(2) Pleasure vessels under 24 metres in length shall before registration be surveyed by a measurer approved by the Minister for the purpose and her tonnage ascertained in the manner provided in subregulation (1).

(3) After survey or measurement, the surveyor or measurer shall issue a certificate specifying the ship's tonnage and build and such other particulars describing the identity of the ship as may be required by the Minister; the certificate shall be delivered to the Registrar before the ship may be registered.

(4) Subject to subregulation (5), a ship which is being—

- (a) registered for the first time which has been surveyed or measured and its tonnage ascertained within the previous 12 months; or
- (b) re-registered within 12 months of its registration on the register ceasing;

shall not be required to be surveyed or measured, or its tonnage ascertained, again in accordance with subregulation (1), (2) or (3) if a declaration is made by the owners confirming that the survey or measurement and tonnage details have not changed from those previously provided to the Registrar.

(5) The Registrar may direct, if he thinks it appropriate, that such declaration be provided by an authorised measurer or surveyor.

Names

20 (1) On making an application for the registration of a ship the applicant shall propose a name by which the ship is to be called.

(2) Schedule 1 (which provides for the approval of names) shall have effect.

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(3) A ship shall not be described by any name other than its registered name.

(4) A change shall not be made in a registered ship's name without the prior written permission of the Registrar.

Allocation of port of choice and official number

21 (1) On making an application for registration of a ship the applicant shall specify the port of Hamilton as the ship's port of choice.

(2) On receipt of an application for registration of a ship for the first time the Registrar, if he is satisfied that that ship is eligible to be registered, shall allocate to the ship an official number and shall issue a carving and marking note.

(3) The Registrar may, at the request of the owner, allocate an official number to a ship notwithstanding that he is not yet satisfied as to its eligibility.

(4) Where a ship has had a number allocated under subregulation (3) and that number has been carved into the ship's beam but the ship is not accepted as being eligible for registration, the number shall be permanently defaced and a certificate to that effect shall be provided by the classification society to the Registrar.

Marking

22 On receipt of a carving and marking note on first registration the owner shall—

- (a) if the ship has not already been surveyed or measured as required by regulation 19, cause it to be so surveyed or measured;
- (b) cause the ship to be carved and marked in accordance with Schedule 2;
- (c) where required under regulation 23 cause the ship's carving and marking to be inspected by an inspector of marks.

Inspection of marks

23 (1) An inspector of marks shall in respect of a ship other than a pleasure vessel which is under 24 metres in length, satisfy himself that the ship has been carved and marked in accordance with Schedule 2 and, when so satisfied, shall complete the carving and marking note and return it to the Registrar.

(2) The owner of a pleasure vessel which is under 24 metres in length shall certify that the ship has been carved and marked in accordance with Schedule 2 and shall return the certified carving and marking note to the Registrar.

Verification of measurement and carving and marking

24 (1) If the Registrar is not satisfied—

- (a) that the particulars of the measurement and tonnage of the ship or such other particulars describing the identity of the ship, as have been required by the Minister, furnished to him are correct; or
- (b) that the ship is carved and marked in the manner required by Schedule 2;

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he may direct the owner to have the measurement or other details, or carving or marking, of the vessel verified by an authorised measurer or inspector of marks as appropriate.

(2) If the owner fails to comply with the direction of the Registrar, the Registrar may—

- (a) if the ship is not registered, refuse it registration until his direction has been complied with; or
- (b) if the ship is registered, he may serve notice on the owner or managing owner, or any charterer, manager or operator of the ship requiring him to produce evidence within 30 days sufficient to satisfy him that the particulars of the measurement and tonnage are, or that the marking of the ship is, correct.

(3) If at the expiry of that period of 30 days the Registrar is not so satisfied, he may—

- (a) extend the notice and ask for further information; or
- (b) serve a final notice which closes the ship's registration, such closure to be effected 7 days after the service of that notice.

(4) Where a ship's registration is closed under subregulation (3)(b) the owner of the ship shall forthwith surrender its certificate of registry.

(5) Where the Registrar serves a notice under this regulation on the owner of a ship in respect of which a mortgage is registered, he shall send a copy of that notice to the mortgagee at the address recorded in the register for the mortgagee.

Cancellation of carving and marking note

25 If a carving and marking note issued under regulation 21 is not duly completed and returned to the Registrar within 3 months of its issue, the Registrar may cancel it and the application shall be treated as having been withdrawn.

Registration and refusal of registration of a ship

26 (1) Where the Registrar is satisfied in respect of an application that—

- (a) the ship is eligible to be registered as a Bermuda ship;
- (b) the ship has been duly carved and marked and that the appropriate survey or measuring certificate has been provided;
- (c) the particulars of the ship furnished to him are correct;
- (d) title to the ship has been adequately proved (where necessary); and
- (e) the relevant requirements of these Regulations have been complied with;

he shall, subject to subregulations (2) and (3) register the ship by entering in the register the particulars of the ship and its owners specified in Schedule 3.

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(2) If the Registrar is not satisfied as mentioned in subregulation (1) he shall, subject to regulation 79, refuse the application.

(3) Notwithstanding that a ship is otherwise entitled to be registered, the Registrar may refuse to register it if—

- (a) taking into account any requirement of the Act (including any instrument made under it) relating to the condition of the ship or its equipment so far as it is relevant to its safety or to any risk of pollution or to the safety, health and welfare of persons employed or engaged in any capacity on board the ship, he considers that it would be inappropriate for the ship to be registered;
- (b) he is satisfied that the company operating the ship does not hold a Document of Compliance issued or accepted by the Minister as required by the Merchant Shipping (International Safety Management (ISM) Code) Regulations 1998 ; or
- (c) he is satisfied that there is not in force in relation to the ship a Safety Management Certificate issued by the Minister as required by the Merchant Shipping (International Safety Management (ISM) Code) Regulations 1998.

(4) In subregulation (3)—

“Document of Compliance” means the Document of Compliance referred to in Regulation 4 of Chapter IX of SOLAS;

“Safety Management Certificate” means the Safety Management Certificate referred to in Regulation 4 of Chapter IX of SOLAS;

“SOLAS” means the International Convention for the Safety of Life at Sea, 1974, its Protocol of 1978 and its amendments in force at 1 July 1998.

Issue of certificate of registry

27 Upon registering a ship the Registrar shall issue and send to the owner a certificate of registry containing the particulars set out in Schedule 3.

Period of registration

28 Subject to regulation 89, the registration of a ship shall, unless terminated under these Regulations, be valid for a period of 10 years beginning with the date of registration specified in the certificate of registry and shall expire at the end of that period unless it is renewed in accordance with regulations 30 and 31.

Documents to be retained by the Registrar

29 On registering a ship the Registrar shall retain in his possession any builder's certificate or bill of sale or other evidence of title produced on first registration, any certificate of measurement or survey, and all declarations of eligibility.

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Renewal notices and time limit for renewal

30 (1) At least 3 months (but not more than 6 months) before the expiry of the registration period, the Registrar shall issue to the owner of the ship a renewal notice.

(2) Subject to subregulation (3), the owner of the ship may apply for renewal of registration at any time between the date of issue of the renewal notice and the date of expiry of the current registration period.

(3) Notwithstanding subregulation (2), an application for renewal of registration may be made prior to the last 3 months of the current registration (or issue of a renewal notice), for issue of a certificate of registry commencing prior to the expiry of the current registration period.

(4) Where such a certificate is issued it shall not be valid for a period greater than 10 years commencing on the date of issue and the previous certificate shall then cease to be valid.

(5) Where pursuant to a renewal notice issued under subregulation (1) no application for renewal is received from the owner of the ship, the Registrar shall notify every mortgagee of that fact.

Application for renewal of registration

31 (1) Application for renewal shall be in a form approved by the Minister and shall be accompanied with—

- (a) a declaration of eligibility; and
- (b) a declaration that there have been no changes to any registered details of the ship that have not been notified to the Registrar.

(2) Where no application for renewal is made the owner shall notify each and every mortgagee of the expiration of the ship's registration.

Evidence of title on registration of transfer of ship

32 On application for registration under paragraph 2(l) of Schedule 1 to the Act of a transfer of a registered ship or a share in a registered ship, the bill of sale shall be produced to the Registrar.

Form of bill of sale

33 Every bill of sale effecting a transfer of a registered ship or a share in a ship under the Act and these Regulations shall be in the form approved by the Minister with appropriate attestation and shall contain a description of the ship sufficient to identify it.

Registration of transfer of a ship

34 (1) If the Registrar is satisfied with the evidence under regulation 32 that the ship or share in a ship has been transferred, he shall—

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- (a) enter the name of the new owner in the register as the owner of the ship or share in question and issue a new certificate, which shall be valid for a period of 10 years;
- (b) register the bill of sale by entering the name of the new owner in the register as owner of the ship or share in question; and
- (c) where an original is provided, endorse on the bill of sale the fact that the entry has been made, together with the date and time when it was made.

[Regulation 34 paragraph (1)(c) deleted and substituted by BR 18 / 2019 reg. 5 effective 18 February 2019]

Evidence of title on transmission of a registered ship

35 (1) An application for registration of a transmission of a registered ship or a share in a registered ship under paragraph 3(l) of Schedule 1 to the Act shall be made in the form approved by the Minister.

(2) The following evidence shall be produced to the Registrar on an application for a transfer of a registered ship or share therein by way of transmission-

- (a) if the transmission was consequent on death, the grant of representation or a copy thereof or of an extract therefrom;
- (b) if the transmission was consequent on bankruptcy such evidence as is for the time being receivable in courts of justice as proof of title of persons claiming under bankruptcy;
- (c) if the transmission was consequent on an order of a court, a copy of the order or judgement of that court.

[Regulation 35 paragraph (2)(a) amended by BR 18 / 2019 reg. 6 effective 18 February 2019]

Declaration of eligibility on transfer or transmission

36 Every application for the registration of a transfer or transmission of a registered ship or a share in a registered ship shall be accompanied with a declaration of eligibility and, where the application is made on behalf of a body corporate, the document or documents mentioned in regulation 14.

Refusal of registration of transfer or transmission

37 (1) If on an application for transfer or transmission of a ship or shares in a ship the Registrar is not satisfied that the ship is eligible to be registered—

- (a) the Registrar shall serve a notice under subregulation (2) on the owner of the ship; and
- (b) the ship's registration shall terminate by virtue of this subregulation at the end of the period of 14 days beginning with the date of the service of that notice.

(2) A notice under this subregulation shall state—

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- (a) that the Registrar is not satisfied that the vessel in question is eligible to be registered; and
- (b) that the ship's registration will accordingly terminate by virtue of subregulation (1)(b) at the end of the period referred to in that subregulation.

Notification of change affecting eligibility of ship to be registered

38 (1) If at any time there occurs, in relation to a registered ship any change affecting the eligibility of the ship to be registered, not being a change which affects the qualification or eligibility of the owner (as prescribed by regulation 5) or the Bermuda connection of a ship (as prescribed by regulation 6), the owner of the ship shall, as soon as practicable after the change occurs, notify the Registrar.

(2) The notification referred to in subregulation (1) shall be made in writing, shall be signed by the owner and shall specify the nature of the change and the name and the official number of the ship.

(3) Any person who contravenes subregulation (1) shall be guilty of an offence.

Notification of change affecting ownership of ship

39 (1) Where there is any transfer or transmission of a registered ship or share in a registered ship—

- (a) the person ceasing to own the ship or share, or in the event of his death, his legal personal representative, shall notify the Registrar and surrender the certificate of registry; and
- (b) the Registrar shall cancel the certificate of registry and shall freeze the register pending the application for the registration of the transfer or transmission by the new owner or owners of the ship or share.

(2) Where there is a transfer of a registered ship—

- (a) the new owners shall within 48 hours of the transfer make application in accordance with these Regulations for the transfer to be registered;
- (b) if the transfer is of all the shares in the ship, and application is not made within the 48 hours, the Registrar may cancel the registration of the ship and the certificate of registry;
- (c) if the transfer is of one or some of the shares in the ship, and application is not made within the 48 hours, the Registrar shall serve a notice on the remaining registered owners notifying them that, unless an application to transfer the share or shares in question is made within 48 hours of the date of the notice the registration of the ship and the certificate of registry may be cancelled.

(3) Where there is a transmission of a registered ship—

- (a) the new owners shall promptly make application in accordance with these Regulations for the transmission to be registered;

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- (b) if the transmission is of all the shares in the ship, and application is not made within a reasonable time, the Registrar may cancel the registration of the ship and the certificate of registry;
- (c) if the transmission is of one or some of the shares in the ship, and application is not made within a reasonable time, the Registrar shall serve a notice on the remaining registered owners notifying them that, unless an application to register the transmission of the share or shares in question is made within 48 hours of the date of the notice the registration of the ship and the certificate of registry may be cancelled.

Change in registered particulars of ship

40 (1) Where there is a change—

- (a) in the registered particulars of a ship other than a change in the tonnage of the ship; or
- (b) in the name or address of an owner entered in the register (not being a change of ownership);

application shall be made as soon as practicable to the Registrar for the change to be recorded in the register.

(2) Such application shall be in writing and shall, subject to regulation 84, be accompanied with the certificate of registry and such evidence as to the change as may be required by the Registrar.

(3) Where there is a change in the tonnage of a ship, it shall be resurveyed or remeasured in accordance with regulation 19; thereafter—

- (a) application in a form approved by the Minister shall be made as soon as practicable for the change to be recorded in the register; and
- (b) the application shall be accompanied with the certificate of survey or measurement and the certificate of registry.

(4) On recording the change in the registered particulars the Registrar shall cancel the existing certificate and issue to the owner a new certificate of registry expiring on the same date as the existing one.

Change of name

41 (1) An owner of a registered ship may apply to the Registrar to change the name of the ship.

(2) The application shall be made in a form approved by the Minister and shall, subject to regulation 84, be accompanied with the certificate of registry.

(3) If the Registrar is satisfied that the name complies with Schedule 1 he shall issue a marking note to the owner.

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Re-marking of ship

42 (1) On receipt of the marking note the owner shall cause the ship to be marked with the new name and, in respect of ships over 24 metres, shall cause the marking to be inspected in accordance with regulation 23.

(2) The owner or inspector shall, if satisfied that the ship is marked in the manner required by Schedule 2, complete the marking note and return it to the Registrar.

Registration of change of name

43 On receipt of the marking note duly completed the Registrar shall register its new name, shall cancel the existing certificate and shall issue to the owner a new certificate of registry expiring on the same date as the existing one.

Removal from the register

44 (1) The Registrar may, subject to regulation 74 terminate a ship's registration in the following circumstances—

- (a) on application by the owner;
- (b) on failure of the registered owner to notify the Registrar that ownership of the ship has changed;
- (c) on the ship no longer being eligible to be registered;
- (d) on the ship being destroyed (including shipwreck, fire and sinking);
- (e) if, taking into account any requirements of the Act (including any instrument made under it) relating to the condition of the ship or its equipment so far as relevant to its safety or to any risk of pollution or to the safety, health and welfare of persons employed or engaged in any capacity on board the ship, he considers that it would be inappropriate for the ship to remain registered;
- (f) when any penalty imposed on the owner of a ship in respect of a contravention of the Act, or of any instrument in force under it, has remained unpaid for a period of more than 3 months (and no appeal against that penalty is pending);
- (g) when any summons for any such contravention has been duly served on the owner of a ship but the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than 3 months has elapsed since that time; and
- (h) when any fee due to the Authority has remained unpaid for a period of more than 3 months.

(2) Where the Registrar terminates registration under subregulation (1)(a), (b) or (d), he shall—

- (a) forthwith issue a closure transcript to the owner of the ship; and
- (b) notify any mortgagees of the closure of the registration.

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(3) On receipt of the closure transcript the owner shall immediately surrender the ship's certificate of registry to the Registrar for cancellation.

[Regulation 44 paragraph (1)(h) amended by BR 18 / 2019 reg. 7 effective 18 February 2019]

PART VI MORTGAGES

Form of mortgage

45 The following mortgages shall be in a form approved by the Minister (in each case with appropriate attestation)—

- (a) a mortgage produced for registration under Schedule 1 to the Act;
- (b) a transfer of a registered mortgage; and
- (c) a discharge of a registered mortgage.

Registration of mortgage

46 Where a mortgage executed in accordance with regulation 44 is produced to the Registrar for registration, he shall—

- (a) register the mortgage; and
- (b) where an original is provided, endorse on it the date and time it was registered.

[Regulation 46 sub-paragraph (b) deleted and substituted by BR 18 / 2019 reg. 8 effective 18 February 2019]

Notices by intending mortgagees: priority notices

47 (1) Where any person who is an intending mortgagee under a proposed mortgage of—

- (a) a registered ship; or
- (b) a share in a registered ship;

notifies the Registrar of the interest which it is intended that he should have under the proposed mortgage, the Registrar shall record that interest.

(2) For the purpose of subregulation (1) the notice to the Registrar shall be in a form approved by the Minister and shall contain the name and official number of the ship, the name, address and signature of the intending mortgagor, the number of shares to be mortgaged, and the name and address of the intending mortgagee.

(3) Where any person who is an intending mortgagee under a proposed mortgage of—

- (a) a ship which is not for the time being registered; or
- (b) a share in any such ship;

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notifies the Registrar in writing of the interest which it is intended that he should have under the proposed mortgage, the Registrar—

- (i) shall record that interest in the register; and
- (ii) if the ship is subsequently registered, shall register the ship subject to that interest or, if the mortgage has by then been executed in accordance with regulation 43 and produced to the Registrar, subject to that mortgage.

(4) For the purposes of subregulation (3) the notice shall be in a form approved by the Minister and contain the following information—

- (a) the present name of the ship;
- (b) the intended name of the ship;
- (c) the I.M.O. number of the ship;
- (d) the approximate length of the ship;
- (e) where the ship is registered outside Bermuda, a copy of its certificate of registry or other document evidencing its registration and giving its port of registration;
- (f) where the ship is a new ship, the builder's certificate or if that is not available, the name and address of the builder and the ship's yard number;
- (g) where the ship is neither a new ship nor a registered ship, details of any permanent marks on the ship which enable it to be clearly identified; and
- (h) the name, address and signature of the intending mortgagor, the number of shares to be mortgaged, and the name and address of the intending mortgagee.

(5) In a case where—

- (a) paragraph 8 of Schedule 1 to the Act operates to determine the priority between two or more mortgagees; and
- (b) any of those mortgages gave notification under subregulation (1) or (3) with respect to his mortgage;

paragraph 8 of the said Schedule shall have effect in relation to that mortgage as if it had been registered at the time when the relevant entry was made in the register under the said subregulation (1) or (3).

(6) Any notification given by a person under subregulation (1) or (3) (and anything done as a result of it) shall cease to have effect—

- (a) if the notification is withdrawn; or
- (b) at the end of the period of 30 days beginning with the date of the notification, unless the notification is renewed in accordance with subregulation (7).

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(7) The person by whom any such notification is given may renew or further renew the notification on each occasion for a period of 30 days, by notice in writing given to the Registrar—

- (a) before the end of the period mentioned in subregulation (6)(b); or
- (b) before the end of a period of renewal;

as the case may be.

(8) Any notice given under this regulation shall be in a form approved by the Minister.

Evidence of transmission of mortgage

48 On the application for registration of a transmission of a registered mortgage as mentioned in paragraph 12 of Schedule 1 to the Act the evidence to be produced to the Registrar shall be—

- (a) a declaration of transmission of mortgage in a form approved by the Minister; and
- (b) if the transmission was consequent on death, the grant of representation or a copy thereof or of an extract therefrom; or
- (c) if the transmission was consequent on bankruptcy, such evidence as is for the time being receivable in courts of justice as proof of title of persons claiming under bankruptcy; or
- (d) if the transmission was consequent on an order of the court, a copy of the order of that court.

[Regulation 48(b) amended by BR 18 / 2019 reg. 9 effective 18 February 2019]

Transfer or transmission of registered mortgage

49 Where a transfer of a registered mortgage or evidence of a transmission is produced to the Registrar, he shall—

- (a) enter the name of the transferee, or the name of the person to whom the mortgage has been transmitted, in the register as mortgagee of the ship or share in question;
- (b) in respect of a transfer, where an original is provided, endorse on the instrument of transfer, the date and time the entry was made.

[Regulation 49 sub-paragraph (b) deleted and substituted by BR 18 / 2019 reg. 10 effective 18 February 2019]

Discharge of mortgages

50 (1) Where a registered mortgage has been discharged, the Registrar shall, on production of the mortgage deed and with such evidence of the discharge as satisfies him that the mortgage has been discharged, record in the register that the mortgage has been discharged.

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(2) If for good reason the registered mortgage cannot be produced to the Registrar, he may, on being satisfied that the mortgage has been properly discharged, record in the register that the mortgage has been discharged.

Effect of termination of registration on registered mortgage

51 Where the registration of a ship terminates by virtue of any of these Regulations, that termination shall not affect any entry in the register of any undischarged registered mortgage of that ship or any share in it.

PART VII

PROVISIONAL REGISTRATION

Provisional registration

52 Where a ship which the owner intends should be registered on Part I or Part II of the register is outside Bermuda the owner may apply to the Registrar for provisional registration.

Application for provisional registration

53 An application for provisional registration shall be in a form approved by the Minister and shall be accompanied with the particulars required by regulations 11(1) and 14.

Period of provisional registration

54 The Registrar, on being satisfied that the ship is eligible for registration, may proceed to register the ship provisionally for a period of 3 months.

Certificate of provisional registration

55 (1) The Registrar, shall issue to the owner of the ship a certificate of provisional registration in a form approved by the Minister.

(2) The certificate shall have effect as a certificate of registry until—

- (a) the expiration of 3 months from its date of issue;
- (b) the ship's arrival in Bermuda or a port specified in the certificate of provisional registration; or
- (c) termination by the Registrar on request from the owner;

whichever shall first occur.

Provisional registration not to be renewed

56 Where a ship has been provisionally registered once, it shall not be provisionally registered again within one year of the date of the issue of the certificate of provisional registration, except with the consent of the Registrar.

PART VIII

TRANSFER OF REGISTRATION

Transfer of registration to the United Kingdom or relevant British possession

57 (1) Subject to subregulation (2), the registration of a ship registered on Part I of the register may be transferred from the register to the register of a port in the United Kingdom or a relevant British possession.

(2) Where an application is made under this regulation for the transfer of a ship's registration under subregulation (1), the Registrar shall not proceed to deal with the application unless he is satisfied that registration of the ship at the intended port of registration is not precluded by any provision of the law in force in the United Kingdom or in the possession in question; and any certificate purporting to be signed by the Registrar of the intended port of registration and stating that any such provision is in force shall be conclusive evidence for the purposes of this subregulation of the matters stated in it.

(3) Where the Registrar of the intended port of registration issues a certificate of registry following any such application and on notification of the transfer by the Registrar of the new port of registration, the Registrar shall terminate the registration of the ship.

(4) Where the registration of a ship is transferred under this regulation the certificate of registry shall be surrendered to the Registrar for cancellation.

Transfer of registration from relevant British possession

58 (1) Where a ship, excluding a fishing vessel, is registered in the register of a port in the United Kingdom or in a relevant British possession, the registration of that ship may be transferred to the Port of Hamilton pursuant to Part I of the register if-

- (a) an application to the registrar of its existing port of registration has been made for that purpose by a declaration in writing by all the persons appearing on his register to be interested in the ship as owners; and
- (b) the following documents have been transmitted to the Registrar—
 - (i) a copy of the application and declaration required by paragraph (a) transmitted by the registrar of its existing port of registration;
 - (ii) a copy transmitted by him of all the registered particulars of the ship and the names of all persons appearing on his register to be interested in the ship as owners and mortgagees; and
 - (iii) the ship's certificate of registry.

(2) Where the ship has not previously been required by the registrar of its existing port of registration to have its name approved by the Registrar in accordance with Schedule 1, the applicant shall propose a name by which the ship is to be called.

(3) On being satisfied that the name complies with the requirements of Schedule 1, the Registrar shall issue a marking note.

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(4) The Registrar on being satisfied that provisions of this regulation have been complied with may register a transfer.

(5) On receipt of a marking note the owner shall proceed as provided in regulation 42.

(6) On receipt of the documents specified in subregulation (1) and the completed marking note the Registrar shall-

- (a) enter in the register all the particulars and names so transmitted; and
- (b) issue a new certificate of registry.

(7) Where entitlement of a ship to be registered is by virtue of regulation 6 subject to any condition specified in that regulation being satisfied, the registration of the ship shall not be transferred to the register unless it appears to the Registrar that that condition is satisfied.

(8) A transfer of registration under this regulation shall not affect the rights of any person mentioned in subregulation (1)(a).

(9) Regulation 26(3) shall apply to the registration of ships on transfer as it applies to the registration of ships otherwise than on transfer.

PART IX

SHIPS ON DEMISE CHARTER

SHIPS CHARTERED-IN ON DEMISE CHARTER TERMS

Qualification and entitlement for registration of ships chartered-in by demise

59 (1) The persons qualified to be the owners of British ships by virtue of regulation 5 (1) who charter a ship on demise charter terms shall be qualified to register a ship under section 31 of the Act.

(2) A ship shall be entitled to registration on Part II of the register only if the following persons have consented to such registration—

- (a) the owner of the ship;
- (b) the mortgagees of any mortgage on the ship;
- (c) the registrar in the country or of primary registration.

(3) In this regulation “country of primary registration” has the meaning given in section 31(1)(a) of the Act.

Appointment of representative person

60 Where the charterer is not resident in Bermuda he shall appoint a representative person and Part IV shall apply as if the charterer were the owner.

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Applications

61 (1) Every application for registration of a ship chartered on demise charter terms shall be made to the Registrar at the Authority in person, by post or by electronic transmission.

(2) Regulation 10 shall apply to this Part as if the charterer were the owner.

(3) Every application for registration of the ship shall be in a form approved by the Minister and accompanied with-

- (a) a declaration of eligibility which shall include a declaration by every charterer setting out his qualification to register a ship chartered on demise charter terms;
- (b) a certified copy of the charterparty showing-
 - (i) the name of the ship;
 - (ii) the name of the charterer or charterers and the name of the owner or owners of the ship;
 - (iii) the date of the charterparty; and
 - (iv) the duration of the charterparty;
- (c) a certified copy of the certificate of registry, or other document, issued by the authority responsible for the registration of ships in the country or territory of primary registration showing the ownership of the ship;
- (d) where the charterer is a body corporate, the document or documents required by regulation 14;
- (e) the consents referred to in regulation 59 (2); and
- (f) such other information or documents as the Registrar may require.

(4) Regulation 19 shall apply to this Part.

[Regulation 61 paragraph (1) amended by BR 18 / 2019 reg. 11 effective 18 February 2019]

Names

62 (1) On making an application for registration of a ship chartered on demise charter terms the applicant shall propose a name by which the ship is to be called while so registered.

(2) If the Registrar is satisfied that the name is in compliance with the provisions of Schedule 1 he shall approve the name.

Allocation of home port

63 On making application for registration of a ship chartered on demise charter terms the applicant shall specify Hamilton as the home port.

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Marking

64 (1) On being satisfied that the ship is eligible for registration and on production of any certificate of survey required under regulation 19 the Registrar shall issue a carving and marking note.

(2) On receipt of a carving and marking note the charterer shall—

(a) where the ship is not already so marked cause it to be marked with—

(i) its name; and

(ii) its home port (Hamilton); and

(b) where the ship is not already so carved or marked, cause it to be carved and marked;

in accordance with Schedule 2.

Inspection of marks etc.

65 Regulations 23 and 25 shall apply to this Part as if any reference in them to the owner were a reference to the charterer.

Registration

66 (1) Where the Registrar is satisfied in respect of an application—

(a) that the ship has been duly carved and marked; and

(b) that, where required, the appropriate certificate of survey has been provided; and

(c) that the other requirements preliminary to registration have been complied with;

he shall enter in the register the details prescribed in Schedule 3.

(2) Upon registering a ship the Registrar shall issue and send to the charterer a certificate of demise charter registry containing the particulars set out in Schedule 4.

(3) Upon registering a ship, the Registrar shall retain in his possession a certified copy of the charterparty, a certified copy of any certificate of survey and copies of all declarations of eligibility, and, if applicable, copies of any declarations required by Regulation 14.

(4) Notwithstanding that a ship is otherwise entitled to be registered, the Registrar may refuse to register it if, taking into account any requirements of the Act (including any instrument made under it) relating to the condition of the ship or its equipment so far as relevant to its safety or to any risk of pollution or to the safety, health and welfare of persons employed or engaged in any capacity on board the ship, he considers that it would be inappropriate for the ship to be registered.

[Regulation 66 paragraph (3) deleted and substituted by BR 18 / 2019 reg. 12 effective 18 February 2019]

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Period of registration

- 67 (1) The registration of a ship chartered on demise charter terms shall expire—
- (a) on the expiry of the charter period; or
 - (b) at the end of a period of 5 years beginning with the date of registration specified in the certificate of demise charter registry;

whichever is the earlier.

Notification of changes affecting eligibility of ship to be registered

- 68 (1) If at any time there occurs, in relation to a registered ship chartered on demise charter terms any change affecting the eligibility of the ship to be registered, the charterer of the ship shall, within 7 days after the change occurs, notify the Registrar.
- (2) Notification made under subregulation (1) shall be made in writing, shall be signed by the charterer and shall specify the nature of the change and the name of the ship.
- (3) Any person who contravenes subregulation (1) shall be guilty of an offence.

Notification of change of ownership

- 69 (1) If at any time there occurs, in relation to a registered ship chartered on demise charter terms, any change in the ownership of the ship not affecting the subsistence of the charterparty, the charterer shall furnish to the Registrar within 7 days of the change occurring—
- (a) particulars of the name and address of the new owner; and
 - (b) a declaration by the new owner confirming that he is bound by the charterparty to the same extent as the former owner.
- (2) A charterer who fails to furnish the Registrar with the particulars or declaration in accordance with subregulation (1) shall be guilty of an offence.

Application of other regulations to this Part

- 70 Regulations 40, 41 and 42 shall apply to this Part.

Notification to foreign registries by Registrar

- 71 The Registrar shall notify the responsible authority for registration of ships in the country or territory of primary registration when—
- (a) the ship has been registered as a ship chartered on demise charter terms on the Bermuda register; or
 - (b) the ship's registration has been closed by reason of the expiry of the certificate of registry under regulation 67(1)(b); or
 - (c) the ship's registration has been closed by the Registrar pursuant to the provisions of regulation 72.

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Closure of registration of ship chartered on demise charter terms by the Registrar

72 (1) The Registrar may, subject to regulation 74, close the registration of a ship chartered on demise charter terms—

- (a) on the application of the charterer;
- (b) if the charterer fails to notify the Registrar that the ownership of the ship has changed;
- (c) if the ship becomes ineligible for registration as a Bermuda ship;
- (d) if the ship is lost, irrespective of how such loss has occurred;
- (e) if, taking into account any requirement of the Act (including any instrument made under it) relating to the condition of the ship or its equipment so far as it is relevant to its safety or to any risk of pollution or to the safety, health and welfare of persons employed or engaged in any capacity on board the ship, the Registrar considers that it would be inappropriate for the ship to remain registered.

(2) Where the ship's registration is closed under subregulation (1) the charterer shall forthwith surrender to the Registrar the certificate of demise charter registry for cancellation.

Ships chartered-out on demise charter terms

Applications for consent

73 (1) An application for the consent of the Registrar under section 32 of the Act shall be made by the owner to the Registrar at the Authority in person, by post or by electronic transmission.

(2) Every application for consent shall be in the form approved by the Minister and shall be accompanied with—

- (a) a copy of the charterparty containing the matters specified in regulation 61 (3)(b);
- (b) the consents required by sections 32 (3)(b) and (c) of the Act;
- (c) the following undertakings—
 - (i) an undertaking by the owner that he would surrender to the Registrar the certificate of registry upon the registration of the ship in the country of secondary registration;
 - (ii) an undertaking by the owner that he would furnish the Registrar with a certified extract from the register of the country of secondary registration in respect of that ship; and
- (d) a certificate from the authority responsible for the registration of ships in the country of secondary registration certifying that it has no objection to the application for registration.

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(3) In this regulation, “country of secondary registration” has the meaning given in section 32(1) of the Act.

[Regulation 73 paragraph (1) amended by BR 18 / 2019 reg. 13 effective 18 February 2019]

PART X MISCELLANEOUS

Service of notices

74 (1) Where it appears to the Registrar that regulation 44(1)(c), (e), (f), (g) or (h) or 72 (b),(c) or (e) apply, he may serve notice on the owner or managing owner, or on any charterer, manager or operator of the ship requiring him to produce, within 30 days, evidence, which may include a declaration of Bermuda connection, sufficient to satisfy him that the ship is eligible to remain on the register.

(2) Where the Registrar has served a notice as provided in subregulation (1), he shall notify every registered mortgagee of the ship in question that such a notice has been served.

(3) If at the expiry of that period of 30 days the Registrar is not so satisfied, he may—

- (a) extend the notice and ask for further information or evidence; or
- (b) serve a final notice which closes the ship’s registration, such closure to take effect 7 days after the service of that notice.

(4) Where a ship’s registration is terminated under subregulation (3) the Registrar shall issue a closure transcript and the owner of the ship shall forthwith surrender its certificate of registry and all other documents issued by the Authority.

[Regulation 74 paragraph (4) amended by BR 18 / 2019 reg. 14 effective 18 February 2019]

Copy of notice to be sent to mortgagee

75 Where the Registrar serves a notice under regulation 74 on the owner of a ship in respect of which a mortgage is registered, the Registrar shall send a copy of that notice to the mortgagee at the address recorded for him in the register.

Documents not in the English language to be accompanied with a translation

76 Any document which is not in the English language and is produced in support of any application under these Regulations shall be accompanied with a notarised translation of the document in the English language.

Witnessing of documents

77 Where the signature on any document made under these Regulations is required to be witnessed, any witness to the signature shall be a person of full age and shall not be the spouse of the signatory.

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Dispensing with declarations

78 (1) Where under these Regulations, any person is required to make a declaration on behalf of himself or any body corporate, but is unable to do so and can satisfy the Registrar that it is due to reasonable cause, the Registrar may on such terms as he thinks fit, dispense with the declaration.

(2) Where under these Regulations, any evidence is required to be produced to the Registrar, but such evidence cannot be produced and the Registrar is satisfied that it is due to reasonable cause, the Registrar may on production of such other evidence as he considers appropriate, dispense with the evidence.

Copies of documents

78A (1) Where any document listed in paragraph (2) is to be provided by or to the Registrar, the Registrar may provide or receive a copy of that document, including a copy provided or received by means of an electronic communication.

(2) The documents referred to in paragraph (1) are—

- (a) a transcript of the entries in the Register referred to in Regulation 3(3);
- (b) an appointment of a representative person referred to in Regulation 7(4)(a);
- (c) a certified extract in respect of the ship referred to in Regulation 11(2);
- (d) proof of incorporation in accordance with the laws of a foreign country referred to in Regulation 14(c);
- (e) a certificate from one of the Registrars of Companies referred to in Regulation 14(c);
- (f) a builder's certificate referred to in Regulation 18 and 47(4)(f);
- (g) a bill of sale referred to in Regulations 18(b)(i) and 32;
- (h) a certificate of survey or measurement specifying a ship's tonnage and build referred to in Regulations 19(3), 40(3), 66(1) and 86;
- (i) a carving and marking note referred to in Regulations 21(2), 23, 25 and 66;
- (j) a certificate of permanent defacement referred to in Regulation 21(4);
- (k) a renewal notice referred to in Regulation 30;
- (l) a grant of representation or an extract from that grant in Regulation 35(2) or 48(b);
- (m) such evidence of proof of title referred to in Regulation 35(2)(b) or 48(c);
- (n) a signed notification referred to in Regulation 38, 68 or 69(1);
- (o) a marking note referred to in Regulations 41(3), 53, 42 and 58;
- (p) a copy of certificate of registry, and any other document evidencing registration referred to in Regulation 47(4);

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- (q) an instrument of transfer of a registered mortgage in Regulation 49;
 - (r) a mortgage deed referred to in Regulation 50(1);
 - (s) a certificate of registry or other document referred to in Regulation 61(3);
and
 - (t) a notarised translation in the English language, of any other document, referred to in Regulation 76.
- (3) For the purposes of paragraph (1)—

“electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form; and

“electronic communications network” has the meaning set out in section 2 of the Electronic Communications Act 2011.”.

[Regulation 78A inserted by BR 18 / 2019 reg. 15 effective 18 February 2019]

Requirement for supplementary information

79 Where the Registrar is not satisfied by the information provided on an application for registration of a ship that the ship is eligible for registration, he may require such supplementary information or evidence as he considers appropriate for the purpose of satisfying himself that it is so eligible.

Fees

80 Where a fee is prescribed in respect of any service or other transaction to be carried out pursuant to these Regulations, the Registrar shall not be required to carry out the service or other transaction unless the appropriate fee has been paid.

Duplicate certificates

81 (1) If it is shown to the satisfaction of the Registrar that the certificate of registry has been lost, stolen or destroyed or has become defaced or illegible (‘the event’), he may issue to the owner a duplicate of that certificate, which shall be marked as such, and shall be of the same effect as the original.

(2) Where a duplicate certificate of registry is issued the original if then available or if subsequently found or recovered shall be forthwith surrendered to the Registrar.

(3) If—

- (a) the port where the ship is at the time of the event, or as the case may be, where it first arrives after the event, is not in Bermuda; and
- (b) the master of the ship or some other person having, knowledge of the facts of the case makes a declaration before the appropriate person as to the

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loss, theft, destruction, defacement or illegibility of the certificate, the appropriate person shall notify the Registrar.

(4) On being notified of the event and being satisfied that the ship is entitled to be issued with a duplicate certificate, the Registrar shall authorise the appropriate person to issue a provisional certificate, endorsed with a statement of the circumstances under which it is granted.

(5) The provisional certificate shall within 10 days of the ship arriving in a port in Bermuda or in a foreign port nominated by the Registrar, be surrendered to the Registrar, and a duplicate certificate shall be issued.”.

[Regulation 81 paragraphs (4) and (5) deleted and substituted by BR 18 / 2019 reg. 16 effective 18 February 2019]

Custody of certificate

82 (1) A certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge or interest whatever had or claimed by any owner, mortgagee or other person to, on, or in the ship.

(2) If any person refuses to surrender the certificate of registry when in his possession or under his control to the person entitled to its custody for the purposes of the lawful navigation of the ship, or to the Registrar, proper officer or any other person entitled by law to demand such delivery, he shall be guilty of an offence.

Surrender of certificate on termination or expiry of registration

83 On the termination, whether by expiration of the registration period or otherwise, of a ship's registration the certificate of registry and other documents issued by the Authority must be returned by the owner or charterer to the Registrar for cancellation.

[Regulation 83 amended by BR 18 / 2019 reg. 17 effective 18 February 2019]

Dispensing with production of certificate

84 Where a certificate of registry is required by these Regulations to accompany any application and it is shown to the satisfaction of the Registrar that for any reasonable cause (which includes, but is not limited to, the ship being in a port outside Bermuda, or the certificate being needed for an imminent voyage, at the time the application was made) the certificate cannot be produced, the Registrar may, subject to such conditions as he thinks fit, dispense with its production.

Transfers etc. where tonnage not in accordance with ITC 69

85 (1) Subject to subregulation (2), no transfer of ownership of a ship or shares in a ship, no renewal of registration, nor change of details of the ship or its owners shall be registered in respect of any ship which—

- (a) is required to have its tonnage measured in accordance with the International Convention on Tonnage Measurement of Ships 1969; and
- (b) for which no such measurement has been undertaken and registered;

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until such re-measurement takes place and where necessary the certificate of survey has been provided to the Registrar for amendment of the register.

(2) Subregulation (1) does not apply where the transfer, or change of details, arises by reason of the death of an owner of a ship, or a share in a ship.

[Regulation 85 paragraph (1) amended by BR 18 / 2019 reg. 18 effective 18 February 2019]

Removal of marks on cessation of registration

86 If a ship's registration is terminated, whether by expiration of the registration period or otherwise, the marking prescribed under these Regulations must be removed from the ship and written confirmation of that removal must be sent to the Registrar.

PART XI OFFENCES

Offences

87 (1) Any person who, with intent to deceive, uses or lends or allows to be used by another, a certificate of registry whether in force or not, commits an offence.

(2) It shall be an offence on the part of the owner or master of a registered ship if any of the marks required by these Regulations to be marked on a ship is effaced, altered, allowed to become illegible, covered or concealed.

(3) It shall be a defence for a person charged with an offence under subregulation (2) of this regulation to prove-

- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or
- (b) that the effacing, alteration, covering or concealing of the marking was for the purpose of escaping capture by an enemy.

(4) Any person who fails, without reasonable cause to surrender a certificate of registry when required to do so by regulation 81, 82 or 83 commits an offence.

(5) Any person who in connection with the registration of a ship knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence.

(6) Any person who intentionally alters, suppresses, conceals or destroys a document which he has been required by these Regulations to produce to the Registrar shall be guilty of an offence.

(7) The offences specified in regulations 38, 68 and 69 and in subregulations (1), (4), (5) and (6) of this regulation shall be punishable on summary conviction as follows—

- (a) for an offence under regulation 38, 68 or 69 or subregulation (1), (5) or (6), with a fine of \$10,000; and
- (b) for an offence under subregulation (4) with a fine of \$2,500.

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(8) An offence under subregulation (2) of this regulation shall be punishable on summary conviction with a fine of \$15,000.

PART XII
TRANSITIONALS

Definitions for this Part

88 For the purposes of this Part—

“new certificate” means a certificate of registry issued in accordance with these Regulations;

“old certificate” means any certificate of registry, other than a provisional certificate, issued under—

- (a) the Merchant Shipping Act 1894; or
- (b) the Merchant Shipping Act 1988 (Bermuda) Order 1991;

“transitional period” in relation to a ship, means the period commencing on the date of commencement of these Regulations and ending on the date of expiry of the certificate which is specified in relation to such a ship in the table in regulation 89.

Validity of old certificates

89 Subject to regulation 90, an old certificate shall remain in force until either—

- (a) a new certificate is issued under these Regulations; or
- (b) the certificate has expired, in accordance with the following table—

<i>Year of first registration</i>	<i>Date of expiry of certificate</i>
On or before 1 January 2000	31 January 2010
On or before 1 January 2002	31 January 2011
On or before 1 January 2004	31 January 2012

whichever shall be the earlier.

Continuation in force of old certificates

90 Notwithstanding regulation 89, an old certificate shall remain in force beyond the transition period if—

- (a) an application to renew the certificate has been correctly made in accordance with regulation 31; and
- (b) the Registrar has not issued a new certificate by the date of expiry of the transitional period;

but any new certificate shall commence at that date.

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Registered information

91 Schedules 3 and 4 shall not apply to any ship until a new certificate of registry is issued in respect of that ship.

Issue of new certificates of registry

92 (1) Notwithstanding regulations 40 and 43, any certificate of registry of a ship which—

- (a) is issued during the transitional period; and
- (b) replaces an old certificate of registry;

shall be valid for a period of ten years from the date of issue.

(2) Any duplicate certificate issued to a ship under regulation 81 during the transitional period shall be a certificate issued in accordance with these Regulations and shall be valid for a period of ten years from the date of issue.

(3) The Registrar may during the transitional period, at his discretion replace a ship's old certificate with a new certificate of registry which shall be valid for a period of ten years from the date of issue.

Advertisement rather than renewal notice

93 (1) Notwithstanding regulation 30, no renewal notice shall be issued by the Registrar when old certificates of registry are due to expire at the end of the transitional period under regulation 89 (b).

(2) At least 4 months before the expiry of each date mentioned in column 2 in the table in regulation 89(b), or, in the case of the first entry, as soon as practicable after the coming into force of these Regulations, the Registrar shall publicise that—

- (a) all certificates of registry will expire on the specified date for ships of that year of first registration; and
- (b) application for renewal must be made in accordance with regulations 30 and 31.

Applications for registration made before commencement of these Regulations

94 (1) Subject to subregulation (2), any application for registration of a ship which is made, but in respect of which registration was not effected, prior to the commencement of these Regulations shall be completed in accordance with these Regulations.

(2) Where—

- (a) an application for registration of a ship is made, but in respect of which registration was not effected, prior to the commencement of these Regulations; and
- (b) the provision of these Regulations would render the ship ineligible for registration;

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then the application shall be determined in accordance with the relevant legislation under which the application was made.

(3) An application shall be deemed to have been made when a properly completed application, accompanied with the proper fee, is received by the Registrar in Hamilton.

(4) Where, for any reason the fee is not a proper and valid fee, or where the cheque used to pay a fee is returned by the bank on which it is drawn, then the application shall not be deemed to have been made.

(5) Any certificate of registry which is issued in accordance with this regulation shall be valid for a period of ten years and shall contain the information contained in Schedule 4.

PART XIII SUPPLEMENTARY

References to port of registry to be construed as references to Hamilton

95 Any reference in any Act other than the Act or in any other instrument made under any such other Act to the port of registration of the ship or the port to which the ship belongs shall be construed as a reference to the port of Hamilton.

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SCHEDULE 1

(Regulations 20, 41, 58 and 62)

APPROVAL OF NAMES

1 Every application to the Registrar to approve a name shall specify a name which is in Roman letters; any numerals shall be in Roman or Arabic numerals.

2 In respect of an application to register a ship on Parts I or II of the register, the Registrar shall not approve the proposed name if it is—

- (a) already the name of a registered Bermuda ship; or
- (b) a name so similar to that of a registered Bermuda ship as to be calculated to deceive or likely to confuse;
- (c) a name which may be confused with a distress signal;
- (d) a name which is prefixed by any letters or name which could be taken to indicate a type of ship or any other word, pre-fix or suffix which might cause confusion as to the name of the ship.

3 Subject to paragraph 4, if the Registrar is satisfied that a name does not fall within paragraphs 2(a) to (d) he shall notify the applicant in writing that the name is approved and the ship may be registered with that name.

4 Notwithstanding that the Registrar is satisfied as to paragraph 2 he may refuse to approve a name-

- (a) which might cause offence or embarrassment;
- (b) which has a clear and direct connection with the Royal family.

5 Any approval given under paragraph 2 shall be valid only for the period of 12 months beginning with the date on which it is notified to the applicant.

6 If the Registrar is not so satisfied he shall notify the applicant accordingly.

7 Notwithstanding paragraph 5, the Registrar may allow the reservation of a ship's name or designation for a period of 10 years if he is satisfied that—

- (a) the ship is intended to replace another of the same name which is to be registered within 10 years of the date of the application; and
- (b) the applicant is the owner of a registered ship with the same name as that which is to be reserved and its registration in Bermuda will be closed before the registration of the new vessel; or

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- (c) the applicant is the owner of a registered ship with the same name as that which is to be reserved and it will be sold before the registration of the new ship on condition that it changes its name and that its name is so changed.

8 Applications for a reservation under paragraph 7 must be accompanied with a full statement of the circumstances of the case.

9 Where a ship having once been registered has ceased to be registered, no person (unless ignorant of the previous registration, proof whereof shall lie on him) shall apply for registration of the ship other than by the name by which it was previously registered except with the written permission of the Registrar.

SCHEDULE 2

(Regulations 22,23, 24, 42 and 64)

CARVING AND MARKING

1 Every ship is required, before it may be registered, to be marked permanently and conspicuously to the satisfaction of the Registrar in accordance with this Schedule.

2 The Minister may exempt any class of ship from all or any of the requirements of this Schedule, subject to such conditions, if any, as he thinks fit.

3 Subject to any exemption in respect of that class of ship, a ship shall be marked as follows—

- (a) its name shall be marked on each of its bows, and its name and its port of choice shall be marked on its stem;
- (b) the marking is to be on a dark background in white or yellow letters, or on a light background in black letters, the letters being not less than 10 centimetres high and of proportional breadth;
- (c) its official number, identification (IMO) number and the number denoting its registered tonnage shall be permanently marked on its main beam or on one of the hatchways, or, in the case of a tanker, in the pump room, or in the case of ships with ro-ro spaces, on one of the end transverse end bulkhead of the ro-ro spaces; and
- (d) the identification (IMO) number shall be permanently marked in a visible part on the stern of the ship or on either side of the hull, amidships, port and starboard, above the deepest assigned load line or either side of the superstructure, port and starboard or on the front of the superstructure or, in the case of passenger ships, on a horizontal surface visible from the air.

4 A pleasure vessel shall be marked as follows—

- (a) the official number and registered tonnage shall—
 - (i) be marked on the main beam or, if there is no main beam, on a readily accessible visible permanent part of the structure of the pleasure vessel either by cutting in, centre punching or raised lettering; or
 - (ii) be engraved on plates of metal, wood or plastic, secured to the main beam (or, if there is no main beam, to a readily accessible visible permanent part of the structure) with rivets, through bolts with the ends clenched, or screws with the slots removed;
- (b) the name and port of choice (unless an exempted ship), are to be marked on a conspicuous and permanent part of the stem on a dark background

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in white or yellow letters, or on a light background in black letters, the letters being not less than 5 centimetres high and of proportionate breadth, or, where this is not possible by the alternative methods given below—

- (i) by engraving on plates of metal or of plastic or by cutting in on a shaped wooden chock. Where a shaped wooden chock is used it should be secured to the hull through bolts, the ends being clenched; or
- (ii) by individual glass reinforced plastic letters and numbers approximately 2 mm in thickness. These to be fixed to the hull with epoxy adhesive, and painted with suitable paint and coated with translucent epoxy resin;
- (iii) where metal or plastic plates have been used these must be fixed by the use of epoxy adhesives. Metal or plastic plates secured by adhesives should be coated with translucent epoxy resin after they have been fixed in position.

5 A scale of decimetres, or metres and decimetres, denoting a draught of water shall be marked on a ship, other than an exempted ship, on each side of its stem and its stem post, as follows—

- (a) in figures in two-decimetre intervals, if the scale is in decimetres; and
- (b) in figures at each metre interval and at intervening two-decimetre intervals, if the scale is in metres and decimetres;

the capital letter 'M' being placed after each metre figure; the top figure of the scale showing both the metre and (except where it marks a full metre interval) the decimetre figure; the lower line of the figures, or figures and letters (as the case may be), coinciding with the draught line denoted thereby; the figures and letters being not less than one decimetre in length and being marked by being cut in and painted white or yellow on a dark background, or in such other way as the Minister approves.

6 The name of a ship shall be marked in Roman letters and any numerals shall be in Roman or Arabic numerals.

SCHEDULE 3

(Regulations 26, 27, 66 and 91)

PARTICULARS TO BE RECORDED IN THE REGISTER

1 The following particulars shall be registered about each owner who is an individual—

- (a) his surname, forename and title;
- (b) his address;
- (c) his nationality;
- (d) the number of shares in the ship owned by him, and if held jointly, with whom the shares are held;
- (e) the name of the managing owner or ship's manager.

2 The following particulars shall be registered about each owner which is a body corporate—

- (a) its name;
- (b) the address of its registered office and, if different, its place of business;
- (c) its country of incorporation;
- (f) the number of shares in the ship owned by the company, and if held jointly, with whom the shares are held.

3 The following particulars shall be registered about any representative person—

- (a) the full name of the individual or body corporate;
- (b) the address of the individual, or the place of business in Bermuda of the body corporate.

4 The following particulars shall be registered about ships registered or to be registered on Parts I or II of the register—

- (a) name;
- (b) IMO number;
- (c) radio call sign;
- (d) port of choice;
- (e) official number;
- (f) year of build;

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- (g) method of propulsion e.g. whether sail, steam, motor or dumb;
- (h) where built;
- (i) name and address of builders;
- (j) date keel laid/when built;
- (k) length-metric units;
- (l) breadth-metric units;
- (m) depth-metric units;
- (n) type of ship whether dry cargo, oil tanker, passenger; bulk carrier;
- (o) material used to construct hull;
- (p) gross tonnage;
- (q) net tonnage;
- (r) registered tonnage;
- (s) make and model of engine(s);
- (t) total power of engines in kilowatts.

5 In addition to the particulars referred to in paragraph 4, the following particulars shall be registered in respect of ships chartered on demise charter terms—

- (a) the name and address of the owner;
- (b) the number of shares owned by each owner and, if any are jointly owned, with whom they are owned;
- (c) the name and address of the charterer;
- (d) the name and address of any representative person;
- (e) national unique identifier or official number;
- (f) its county of original registration;
- (g) commencement date of the charter period and its expiry date;
- (h) the name by which the ship is known on the primary register (or a translation of that name).

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SCHEDULE 4

(Regulations 27, 66, 91 and 94)

CERTIFICATE OF REGISTRY

1 A certificate of registry for a ship registered or to be registered on Part I of the register shall contain—

- (a) the full name and address of the owner(s);
- (b) the number of shares owned by each owner and if any are jointly owned, with whom they are owned;
- (c) the following information about the ship-
 - (i) its name;
 - (ii) IMO number;
 - (iii) radio call sign;
 - (iv) port of choice;
 - (v) official number;
 - (vi) year of build;
 - (vii) method of propulsion e.g. whether sail, steam, motor or dumb;
 - (viii) length-metric units;
 - (ix) breadth-metric units;
 - (x) depth-metric units;
 - (xi) type of ship e.g. dry cargo, oil tanker, passenger, bulk carrier;
 - (xii) gross tonnage;
 - (xiii) net tonnage;
 - (xiv) registered tonnage;
 - (xv) engine make and model;
 - (xvi) engine power in kilowatts;
- (d) the date of issue of the certificate;
- (e) the date the certificate expires.

2 A certificate of charter on demise charter terms for ships registered or to be registered on Part II of the register shall contain the particulars prescribed by either paragraph 1 (a), (c), (d) and (e), and the following—

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- (a) the name and address of the charterer;
- (b) national unique identifier or official number;
- (c) country of primary registration;
- (d) original name (or a transition thereof) if different from its registered name.

Made this 31st day of March, 2003

Minister of Transport

[Amended by:

BR 18 / 2019]