

**MERCHANT SHIPPING (DISTRESS SIGNALS AND
PREVENTION OF COLLISIONS) REGULATIONS 2005**

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MERCHANT SHIPPING ACT 2002

2002 : 35

**MERCHANT SHIPPING (DISTRESS SIGNALS AND
PREVENTION OF COLLISIONS) REGULATIONS 2005**

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The Minister of Tourism and Transport, in exercise of the powers conferred by section 93 of the Merchant Shipping Act 2002, and after consulting the persons referred to in section 94(3) of the Merchant Shipping Act 2002 makes the following regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 2005.

Interpretation

2 (1) In these Regulations—

"Hydrographer of the Navy" means the Hydrographer of the Navy of the United Kingdom appointed to that office by the Admiralty Board of the United Kingdom;

"International Regulations" means the International Regulations for Preventing Collisions at Sea 1972 as amended by —

- (a) Resolutions A464(XII), A626(15), A678(16), A736(18) and A910(22) of the Organisation; and
- (b) any further Resolutions of the Organisation which the Minister of Transport notifies by Merchant Shipping Notice that he considers relevant from time to time;

"Merchant Shipping Notice" means a Notice described as such and issued by the Minister responsible for Shipping;

"mile" means a nautical mile of 1,852 metres;

"Notice to Mariners" means an Admiralty Notice to Mariners published by the Hydrographer of the Navy;

"Organisation" means International Maritime Organization.

(2) The traffic separation schemes which are referred to in rule 10(a) of the International Regulations are the schemes listed in Notice to Mariners No. 17 and marked "*" in the margin.

(3) In paragraph (2), "Notice to Mariners No. 17" means Notice to Mariners No. 17 in the Annual Summary of Admiralty Notices to Mariners of 1989 and any subsequent Notice to Mariners containing like material which the Hydrographer of the Navy considers relevant from time to time being a Notice to Mariners which —

- (a) replaces Admiralty Notice to Mariners No. 17; or
- (b) replaces any subsequent Notice to Mariners containing the like material;

and a reference to any such subsequent Notice to Mariners includes a reference to any Notice to Mariners amending the same which the Hydrographer of the Navy considers relevant from time to time.

(4) In the International Regulations —

"date of entry into force of these Regulations" in rule 38 (exemptions) means, in the case of a vessel registered outside Bermuda, the date of entry into force of the International Regulations for the State whose flag the vessel is entitled to fly;

"high speed craft" means a craft capable of maximum speed equal to or exceeding —

$$3.7 \sqrt[0.1667]{M/S}$$

where M is the displacement corresponding to the design waterline (M^3).

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(5) The diagram mentioned in paragraph 7 of Annex 1 to the International Regulations is the diagram specified in the Chromaticity Chart (1975) published by the International Illumination Commission (CIE).

(6) The reference to the International Code of Signals in paragraph 3 of Annex IV to the International Regulations is a reference to the International Code of Signals (1985) published by the Organisation, and the reference to the Merchant Ship Search and Rescue Manual in that paragraph is a reference to the manual of that name published in 1986 by the Organisation; and such references include reference to any document amending either of those publications which is considered by the Minister to be relevant from time to time and is specified in a Merchant Shipping Notice.

Application

3 (1) These Regulations apply to the following vessels —

- (a) Bermuda ships wherever they may be, and other ships while within Bermuda or the territorial waters of Bermuda; and
- (b) seaplanes registered in Bermuda and on the surface of water anywhere, and other seaplanes on the surface of water in Bermuda or the territorial waters of Bermuda.

(2) In this regulation "ships" include hovercraft.

Signals of distress

4 (1) The signals of distress which shall be used by vessels to which regulation 3(1)(a) applies are those set out in Annex IV to the International Regulations.

(2) No signal of distress shall be used by any vessel unless the master of the vessel so orders.

(3) The master shall not order any signal of distress to be used by his vessel unless he is satisfied —

- (a) that his vessel is in serious and imminent danger, or that another ship or an aircraft or person is in serious and imminent danger and cannot send that signal; and
- (b) that the vessel in danger (whether his own vessel or another vessel) or the aircraft or person in danger, as the case may be, requires immediate assistance in addition to any assistance then available.

(4) The master of a vessel which has sent any signal of distress by means of radio or other means shall cause that signal to be revoked by all appropriate means as soon as he is satisfied that the vessel or

aircraft to which or the person to whom the signal relates is no longer in need of assistance as aforesaid.

Prevention of collision

5 (1) Subject to paragraph (2), vessels to which these Regulations apply shall comply with rules 1 to 37 of, and Annexes I to III, to the International Regulations.

(2) Nothing in these Regulations shall be taken to require compliance by any vessel or class of vessels, which by virtue of rule 38 of the International Regulations may be exempted from compliance with any of the provisions of the said Regulations specified in paragraphs (a) to (h) inclusive of that rule, at any time when, by virtue of that rule, that vessel or class of vessels may be exempted from that provision.

Exemptions

6 The Minister may exempt any ship or description of ships from all or any of these regulations which relate to the number, position, range or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signalling appliances if he is satisfied that compliance with such provision is either impractical or unreasonable in the case of that ship or description of ships in such terms (if any) as he may specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Penalties

7 (1) Where any of these regulations is contravened, the owner of the vessel, the master and any person for the time being responsible for the conduct of the vessel shall be deemed to have committed an offence, punishable on conviction on indictment by imprisonment for a term not exceeding two years or a fine of \$100,000.00, or on summary conviction—

(a) in the case of any infringement of rule 10(b)(i) (duty to proceed with traffic flow in lanes of separation schemes) of the International Regulations by a fine not exceeding \$100,000.00; and

(b) in any other case by a fine not exceeding \$10,000.00.

(2) It shall be a defence for any person charged under these regulations to show that he took all reasonable precautions to avoid the commission of the offence.

Power to detain

8 In any case where a ship does not comply with the requirements of these regulations, the ship shall be liable to be detained and section 242 of the Merchant Shipping Act 2002 (which relates to the detention of

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a ship) shall have effect in relation to the ship, subject to the modification that as if for the words "this Act" wherever they appear, there were substituted "the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 2005".

Revocations

9 The following statutory instruments are revoked —

- (a) Merchant Shipping (Distress Signals and Prevention of Collisions) (Overseas Territories) Order 1983 SI 1983 No. 762;
- (b) Merchant Shipping (Distress Signals and Prevention of Collisions) (Overseas Territories) (Amendment) Order; 1984 SI 1984 No. 1688;
- (c) Merchant Shipping (Signals of Distress) Rules 1992 SI 1992 No. 1582; and
- (d) Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996 SI 1996 No. 75.

Made this 21st day of January, 2005.

Minister of Tourism and Transport