



S.I. 2025 No. 26

**MERCHANT SHIPPING (ANTI-FOULING SYSTEMS)
REGULATIONS, 2025**

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Merchant Shipping Act

(Act 2024–28)

**MERCHANT SHIPPING (ANTI-FOULING SYSTEMS)
REGULATIONS, 2025**

The Minister, in exercise of the powers conferred on him by section 1476 of the *Merchant Shipping Act*, makes the following Regulations:

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the *Merchant Shipping (Anti-Fouling Systems) Regulations, 2025*.

Definitions

2.(1) In these Regulations,

“Act” means the *Merchant Shipping Act, 2024* (Act 2024-28);

“Administration” means the Barbados Maritime Transport Administration;

“anti-fouling system” means a coating, paint, surface treatment, surface or device that is used on ships to control or prevent attachment of unwanted organisms;

“authorized officer” means a person appointed as an inspector in accordance with section 1053 of the Act;

“Barbados ship” has the same meaning as in the Act;

“Barbados Maritime Transport Administration” has the same meaning as in the Act;

“Barbados waters” has the same meaning as in the Act;

“bareboat charter terms” means the hiring of a ship for a stipulated period on terms that give the charterer possession and control of the ship, including the right to appoint the master and crew;

“certifying authority” means the Administration or a person authorized by the Administration;

“Convention” means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001;

“Declaration on Anti-Fouling Systems” means a declaration drawn up in accordance with Regulation 5 of Annex 4 to the Convention, in the form shown in the *Second Schedule*;

“International Anti-Fouling Systems Certificate” means a certificate issued in accordance with Regulation 2 of Annex 4 to the Convention, in the form shown in the *First Schedule*;

“master” has the same meaning as in the Act;

“offshore terminal” means an installation situated away from the shore, where bulk, fluid or gas cargo is

(a) transferred between ships;

(b) loaded onto a ship after having been transported from the shoreline; or

(c) unloaded from a ship for transporting to the shoreline;

“operator” means a person registered in accordance with the Act as the owner of a Barbados ship;

“owner” in relation to a ship, includes a person, organization or manager, or a charterer on bareboat charter terms, who has assumed responsibility for the operation of the ship from the owner;

“ship” means a vessel of any type operating in the maritime environment, and includes hydrofoil boats, air cushion vehicles, submersibles, floating craft,

fixed or floating platforms, floating storage units and floating production storage and off-loading units;

“statement of compliance” means a document issued by a certifying authority following a satisfactory survey in accordance with Regulation 1 of the Convention;

“surveyor” means a person who is authorized in accordance with the Act to survey and inspect ships; and

“voyage” includes an excursion.

(2) In these Regulations,

(a) in relation to an air-cushion vehicle, a reference to the master of a ship includes a reference to the captain of the air-cushion vehicle;

(b) in relation to a platform, a reference to the master of a ship includes a reference to the manager of the platform; and

(c) in relation to a fishing vessel, a reference to the master of a ship includes a reference to the skipper of the vessel.

(3) For the purposes of these Regulations, a voyage commences when a ship leaves its berth or anchorage.

Purpose

3. The purposes of these Regulations are to protect the marine environment through prohibition of the use of harmful organotins in anti-fouling paints found on ships, to establish a mechanism in accordance with the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001, and to prevent the potential future use of other harmful substances in anti-fouling systems.

Certifying authorities

4.(1) The Administration may authorize a person as a certifying authority in accordance with

- (a) the Convention;
- (b) Parts 1 and 2 of the Code for Recognized Organizations; and
- (c) Part 3 of the Code for Recognized Organizations.

(2) An authorization by a certifying authority may be subject to conditions.

(3) Conditions may impose limitations on an authorization by a certifying authority relating to

- (a) individual ships;
- (b) classes of ships; and
- (c) the extent of any survey to be carried out by that person.

(4) The Administration may direct, in relation to an individual case or class of cases, that a survey, or part of a survey, for the purpose of these Regulations is to be carried out by the Administration and not by another certifying authority.

(5) A certifying authority other than the Administration is not a servant or agent of the Government of Barbados, and does not enjoy any status, immunity or privilege of the Government, nor is its property the property of, or held on behalf of, the Government of Barbados.

Application

5.(1) Subject to paragraph (2) and unless provided otherwise, these Regulations apply to a ship that is

- (a) a Barbados ship;
- (b) a ship not entitled to fly the Barbados flag that operates under the authority of Barbados; and

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- (c) any other ship that enters a port in Barbados or is at an offshore terminal in Barbados waters.
- (2) These Regulations do not apply to
- (a) a warship;
 - (b) a naval auxiliary ship; or
 - (c) a ship owned or operated by a state that is being used only on government non-commercial service.

PART II

SURVEY AND CERTIFICATION

Surveyors and issuance of certificates

- 6.(1) A ship of 400 gross tonnage or more engaged in international voyages is subject to the following surveys by the Authority or a certifying authority:
- (a) an initial survey before the ship is put into service or before the International Anti-Fouling Systems Certificate is issued for the first time; and
 - (b) another survey when the anti-fouling system is changed or replaced.
- (2) Paragraph (1) does not apply to a fixed or floating platform, floating storage unit or floating production storage or off-loading unit.

AFS certificates for ships 400 GT and above

- 7.(1) This regulation applies in relation to a ship that is of 400 gross tonnage or above, but does not apply to a fixed or floating platform, a floating storage unit or a floating production storage and off-loading unit.

- (2) A ship shall not be put into service for the first time, shall not proceed on a voyage or, if she is already on a voyage, continue on the voyage, unless
- (a) the ship has been surveyed in accordance with Annex 4 to the Convention;
 - (b) there is in force in relation to the ship an International Anti-Fouling Systems Certificate or other certificate referred to in Regulation 2(1) of Annex 4 of the Convention; and
 - (c) an International Anti-Fouling Systems Certificate or other certificate is carried on board the ship.

AFS declarations for ships of less than 400 GT

8.(1) This regulation applies in relation to a ship that is of less than 400 gross tonnage but of 24 metres or more in length, but does not apply to a fixed or floating platform, a floating storage unit or a floating production storage and off-loading unit.

- (2) A ship shall not proceed on a voyage or, if she is already on a voyage, continue on the voyage, unless there is carried on board the ship a Declaration on Anti-Fouling Systems and an International Anti-Fouling Systems Certificate
- (a) accompanied by appropriate documentation, such as a paint receipt or a contractor's invoice; or
 - (b) that contains an endorsement, where applicable, in the form as shown in the *Third Schedule*.

Arbitration

9.(1) If an applicant is dissatisfied for any reason with the outcome of a survey carried out for the purposes of paragraph 1 of Annex 4 of the Convention, the applicant may serve a written notice on the responsible person within 21 days of receiving notification of that outcome

- (a) stating that there is a dispute between them; and

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- (b) requesting that the dispute be referred to a single arbitrator.
- (2) Subject to paragraph (3), an arbitrator shall be appointed by agreement between the applicant and the responsible person.
- (3) In default of an agreement between the applicant and the responsible person, the arbitrator may be appointed by the Chairman of the Chartered Institute of Arbitrators (Barbados Branch) or a recognized maritime industry-specific body or association, following a request made by
- (a) a party, after giving written notice to the other party; or
 - (b) the parties jointly.
- (4) A person shall not be an arbitrator for the purposes of this regulation, unless that person is
- (a) a person who holds a certificate of competency as a Class 1 Deck Officer;
 - (b) a person who holds a certificate of competency as a Class 1 Marine Engineer Officer;
 - (c) a person who holds a certificate of competency equivalent to a certificate referred to in subparagraph (a);
 - (d) a naval architect;
 - (e) a practising barrister of not less than 5 years standing;
 - (f) a person with special experience in shipping matters, of the fishing industry, or of activities carried on in ports; or
 - (g) a member of the Chartered Institute of Arbitrators, Barbados Branch.
- (5) An arbitrator appointed under this regulation has the powers of an inspector conferred by section 1058 of the Act.
- (6) The rules for arbitration set out in a merchant shipping notice apply, unless alternative procedures are agreed between the applicant and the responsible person before the commencement of arbitration proceedings.

(7) In this regulation,

“applicant” means a person who makes an application for a survey required by the Convention;

“merchant shipping notice” means a notice described as such and issued under the Act, as amended from time to time; and

“responsible person” means the certifying authority responsible under Regulation 1 of Annex 4 for the issuance or endorsement of an International Anti-Fouling Systems Certificate or other certificate in connection with which a survey is carried out.

Certificate cancellations

10.(1) This regulation applies in relation to an International Anti-Fouling Systems Certificate or other certificate issued by, or at the request of, the Government of Barbados pursuant to Annex 4 of the Convention.

(2) The Administration may cancel a certificate where it has reason to believe that

(a) the certificate was issued on the basis of false or erroneous information; or

(b) since a survey required under the Convention, any coating forming a barrier to organotin compounds leaching from underlying non-compliant anti-fouling systems and borne by the ship has sustained damage or is otherwise deficient.

(3) The Administration may require that a certificate that has expired or has been cancelled be surrendered within such time and in such a manner as the Administration may in writing direct.

(4) A person shall not

(a) intentionally alter a certificate;

(b) intentionally make a false certificate;

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- (c) knowingly or recklessly provide false information in connection with a survey required by the Convention;
 - (d) with intent to deceive, use or lend a certificate or permit a certificate to be used by another person; or
 - (e) fail to surrender a certificate when required to do so under paragraph (3).

Availability of certificates and other documents

11.(1) An International Anti-Fouling Systems Certificate or other certificate referred to in the Convention shall be readily available for examination at all times on board every ship to which regulation 7 applies.

(2) A Declaration on Anti-Fouling Systems and the appropriate documentation or endorsement referred to in regulation 8(2) shall be readily available for examination at all times on board every ship to which regulation 8 applies.

PART III

INSPECTIONS, DETENTIONS AND OFFENCES

General provisions on ship inspections

12.(1) Subject to paragraph (6), for the purpose of checking compliance with the Convention and these Regulations, the following persons have the power to inspect ships:

- (a) a surveyor;
- (b) a ship superintendent; and
- (c) any other person appointed by the Administration, either generally or in a particular case, to exercise powers under section 1057(1) of the Act.

(2) A person referred to in paragraph (1) may at any time go on board a ship and inspect the ship and its equipment, or any part of it, and any articles on board or any document required by the Convention to be carried on the ship.

(3) Section 1057 of the Act applies in relation to paragraph (2) as if references in that section to “subsection (1)” and “this section” were to paragraph (2).

(4) Subject to paragraph (7), the powers conferred by paragraph (2) are, if the ship is a Barbados ship, also exercisable outside Barbados waters, and may be so exercised by a proper officer as well as the persons referred to in paragraph (1).

(5) Subject to paragraph (7), sections 1058(1), (2), (5), (7) and (9) to (11) of the Act apply in relation to the inspection of a ship for the purpose of checking compliance with the Convention and these Regulations in the same manner as they apply in relation to the inspection of a ship, and for the purposes of checking compliance with the Act, as if

- (a) references in those sections, to “this Act” were to these Regulations;
- (b) for section 1058(1)(b), there were substituted “a ship referred to in regulation 5 of the *Merchant Shipping (Anti-fouling Systems) Regulations, 2025* (S. I. 2025 No. 26)”; and
- (c) in section 1058(2)(h)(iii), “or any instrument made under it” were omitted.

(6) Sections 1060 and 1061 of the Act apply in relation to improvement notices and prohibition notices to be served in relation to a ship in the same manner as they apply in relation to improvement notices and prohibition notices to be served under the Act in relation to other ships, as if

- (a) references in those sections to “a relevant statutory provision” were to Articles 4 and 5 of the Convention, and regulations 7(2) and (3) and 8(2); and
- (b) section 1060(4) of Act were omitted.

(7) The power to inspect a ship and her equipment, any part of the ship, any articles on board and any document carried in the ship is limited to

- (a) verifying whether the ship holds a valid International Anti-Fouling Systems Certificate or an International Anti-Fouling Systems Certificate; and
- (b) briefly sampling the ship's anti-fouling systems in a way that does not affect the integrity, structure or operation of those systems;

except where there are clear grounds for believing that the ship is in violation of these Regulations.

(8) In this regulation,

“powers” means the powers conferred by paragraph (1) or (4), or by section 1053 of the Act as applied by paragraph (5);

“proper officer” has the same meaning as in the Act; and

“ship superintendent” means a person exercising the functions outlined in sections 27 and 28 of the Act.

Inspection of ships following a government request

13. Where a ship is inspected under regulation 12 following the receipt by the Administration of a request for an investigation of the ship from the government of a party to the Convention, the Administration shall send a report of the inspection

- (a) to the government that requested the investigation; and
- (b) where the ship operates under the authority of the government of a state other than Barbados, to that government.

General provisions on detention

14.(1) Subject to paragraph (2), where a surveyor has clear grounds for believing that, in relation to a ship,

- (a) an International Anti-Fouling Systems Certificate, or other certificate referred to in regulation 2(1) of Annex 4 to the Convention, is required to have been issued in respect of the ship but has not been issued, or has been issued but is not valid;
- (b) an International Anti-Fouling Systems Certificate is required to be carried on board the ship, but is not carried;
- (c) where an International Anti-Fouling Systems Certificate is required to be carried, documentation referred to in regulation 8(2)(a) is not carried on board the ship, and the International Anti-Fouling Systems Certificate does not contain an appropriate endorsement; or
- (d) an offence under regulation 17 is being committed in respect of the ship;

the ship is liable to be detained until a surveyor is satisfied that it can proceed to sea without presenting an unreasonable threat of harm to the marine environment.

(2) A person who has the power to detain a ship may permit a ship that is liable to be detained under paragraph (1) to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(3) Where a surveyor has clear grounds for believing that an offence under regulation 17(1) has been committed in respect of a ship in circumstances other than those set out in paragraph (1), the ship is liable to be detained.

(4) A power under this regulation to detain a ship may be exercised only if the ship is

- (a) a Barbados ship;
- (b) in a port or shipyard in Barbados;

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- (c) at an offshore terminal in Barbados waters;
 - (d) a fixed platform in Barbados waters; or
 - (e) a floating platform, a floating storage unit, or a floating production storage and off-loading unit, in Barbados waters, other than a platform or unit that is in transit.
- (5) Section 1221 of the Act applies to a ship that is liable to be detained under this Regulation, as if
- (a) references to the detention of a ship under the Act were references to the detention of the ship in question under this regulation; and
 - (b) section 1221(5) of the Act were omitted.
- (6) Where a ship is to be detained under this regulation, the person detaining the ship shall serve on the master of the ship a detention notice that
- (a) states the grounds for the detention; and
 - (b) requires the terms of the notice to be complied with until the ship is released by a person referred to in section 1221(1) of the Act.
- (7) Where a ship other than a Barbados ship is detained, the Administration shall immediately inform the consul or diplomatic representative of the state whose flag the ship is entitled to fly or the appropriate maritime authorities of that state.
- (8) Where a ship is detained under paragraph (3), a person who has the power to detain the ship shall, at the request of the owner or master, immediately release the ship if
- (a) no proceedings for an offence under regulation 17(2) are instituted within 7 days from the day on which the ship is detained;
 - (b) proceedings for an offence under that regulation are instituted within that period and are concluded without the owner or master being convicted;

- (c) either
 - (i) the sum of \$50 000 is paid to the Administration by way of security; or
 - (ii) security that, in the opinion of the Administration, is satisfactory and is for an amount not less than \$50 000 is given to the Administration;
 - (d) the owner or master is convicted of an offence under regulation 17(1) and any costs or expenses ordered to be paid by that person, and any fine imposed on that person, have been paid; or
 - (e) the release is ordered by a court or tribunal referred to in Article 292 of the United Nations Convention on the Law of the Sea 1982, and any bond or other financial security ordered by the court or tribunal is posted.
- (9) The Administration shall repay any sum paid under paragraph (8)(c), or release any security given,
- (a) if no proceedings for an offence under regulation 17(1) are instituted within 7 days from the day on which the sum is paid; or
 - (b) if proceedings for that offence were instituted within that period and are concluded without the owner or master being convicted.
- (10) Where a sum has been paid, or security has been given, by a person under paragraph (8)(c) and the owner or master is convicted of an offence under regulation 17(1), the sum paid or the amount made available under the security shall be applied as follows:
- (a) first, in payment of any costs or expenses ordered by the court to be paid by the owner or master;
 - (b) next, in payment of any fine imposed by the court; and
 - (c) then in repayment of any balance to the person who paid the sum or gave the security.

Right of appeal and compensation

15. Sections 15 to 17 of the *Merchant Shipping (Port State Control) Regulations, 2025* (S. I. 2025 No. 40) apply in relation to a detention notice served under these Regulations, except that

- (a) references to “inspector” are to be taken as references to the authority detaining the ship; and
- (b) references to “access refusal notice”, “service of an access refusal notice” and “refusal of access” are to be omitted.

Biocides

16.(1) No person shall apply or use organotin compounds that act as biocides in an anti-fouling system on a Barbados ship in any waters or on a foreign ship when it is in Barbados waters.

(2) A ship that has an organotin compound that acts as a biocide in its anti-fouling system shall not operate in Barbados waters unless it bears a coating that forms a barrier to such compounds leaching from the underlying antifouling system.

Offences

17.(1) Where a person or ship contravenes regulation 16, the owner and master of the ship each commit an offence.

(2) The owner and the master of a ship that contravenes regulation 7(2) or (3), 8(2) or 11(1) or (2) commits an offence.

(3) A person who contravenes regulation 10(4) commits an offence.

(4) A person who commits an offence under these Regulations is liable

- (a) on summary conviction, to a fine of \$50 000; or
- (b) on conviction on indictment, to a fine of \$100 000.

Service of documents on foreign companies

18. Section 609 of the Act applies to proceedings for an offence under regulation 17 in the same manner as it applies to proceedings for an offence under section 1055 of the Act.

Enforcement and application of fines

19. Section 1211(1) of the Act applies to a fine for an offence under regulation 17, as if the reference to proceedings against the owner or master of a ship for an offence under Division 2 of Part XXV of the Act were a reference to proceedings against the owner or master for an offence under regulation 17.

Offences committed due to the act or default of another person

20. Where an offence under regulation 17 is committed, or would be committed but for the operation of regulation 22, by a person due to the act or default of another person, the other person also commits the offence and may be charged with and convicted of the offence whether or not proceedings are taken against the first-mentioned person.

Offences by officers of bodies corporate

21.(1) Where a body corporate commits an offence under regulation 17 and the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in such a capacity, that person also commits an offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with any management functions of that person as if he were a director of the body corporate.

Defences

22. In any proceedings for an offence under regulation 17, it is a defence for the person charged to prove that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

Made by the Minister this 23rd day of April, 2025.

G.P.I. GOODING-EDGHILL
Minister responsible for Shipping