
Revised Merchant Shipping Act

1. Purpose

- 1.1. This Technical Alert describes the forthcoming entry into force of the Merchant Shipping Act, 2021 ('the new Act') and the main changes from the current Merchant Shipping Act, 1976 ('the old Act').

2. Introduction

- 2.1. The new Act is scheduled to enter into force on **01 April 2026**.
- 2.2. The Merchant Shipping Act, 1976 and the Merchant Shipping (Maritime Claims Limitation of Liability) Act, 1989 will be repealed on entry into force of the new Act.
- 2.3. When the new Act enters into force, as per Section 228 (Transitional Provisions):
- i. any notice, certificate or licence issued under the repealed Merchant Shipping Act, 1976 or the repealed Merchant Shipping (Maritime Claims Limitation of Liability) Act, 1989 continues to be valid under the terms and for the period stated in the notice, certificate or licence;
 - ii. all subsidiary legislation made under the repealed Merchant Shipping Act, 1976 or the repealed Merchant Shipping (Maritime Claims Limitation of Liability) Act, 1989, and in force before the commencement of the new Act, so far as it is not inconsistent with the new Act continue in force until subsidiary legislation is made under the new Act (see paragraph 2.5 below);
 - iii. any person appointed by the Minister or Authority under the repealed Merchant Shipping Act, 1976 shall be deemed appointed under the new Act;
 - iv. any staff appointed by the Director under the repealed Merchant Shipping Act, 1976 shall be deemed appointed under the new Act;
 - v. a ship registered in The Bahamas under the repealed Merchant Shipping Act, 1976 is deemed to be a ship registered in The Bahamas under the new Act;
 - vi. Any reference in any other written law to the Merchant Shipping Act or the Merchant Shipping (Maritime Claims Limitation of Liability) Act shall be a reference to the new Act;
 - vii. Where the provisions of any enactments relating to shipping are inconsistent with the provisions of the new Act, the provisions of the new Act shall take precedence over such enactments.

- 2.4. Subsidiary legislation made under the new Act (usually Regulations) to replace existing subsidiary legislation will enter into force on the same date as the new Act, as outlined in this Alert. The subsidiary legislation they replace will be repealed on the same date.
- 2.5. All other existing subsidiary legislation made under the old Act will remain in force under Section 228 of the new Act, as outlined above.
- 2.6. This Notice describes the main changes between the old Act and the new Act.

3. Registration

- 3.1. Under the old Act, provisions relating to registration, ownership, mortgages, and the powers of the Registrar were dispersed and in some cases, were designed for earlier procedural practices and did not correspond to present-day administrative and technological practices and processes.
- 3.2. The new Act consolidates and modernises the statutory framework for ship registration, clearly setting out the functions and powers of the Registrar, the legal status of the register, and the effect of registration on title, ownership, and nationality.
- 3.3. Explicit provision is made for the maintenance of the register in electronic form, including the issuance of electronic certificates of registry and the use of such electronic records, when issued by the register, to be treated as *prima facie* evidence for the purposes of registration, ownership, and mortgage interests.
- 3.4. The new Act provides clearer statutory treatment of:
 - i. bareboat charter registration (both in and out);
 - ii. registration of small commercial vessels and pleasure craft (where applicable);
 - iii. the registration, priority, transfer, and discharge of mortgages; and
 - iv. the powers of the Registrar to refuse, suspend, or close registration in defined circumstances.
- 3.5. Supplementary to the new Act, it should be noted that provisions with respect to the registration of ships and mortgages thereon, bareboat registration, change of ownership, etc. have been distilled from the old Act and are now consolidated in the new regulations (the "Registration Regulations").
- 3.6. The Registration Regulations are situated within the context of a compliant legal framework that is consistent with international practice and standards and more conducive to the timely adoption of International Conventions to which it is desirable and auspicious for The Bahamas to adhere and generally to make regulations

prescribing any other matter under Part II of the new Act as determined by the Minister.

- 3.7. **Existing registrations, certificates of registry, and recorded mortgages issued under the old Act remain valid *mutatis mutandis* by virtue of the transitional provisions in section 228 of the new Act.**

4. Inspections & Surveys

4.1. Tonnage

- 4.1.1. The Merchant Shipping (Tonnage) Regulations 1982 are repealed and replaced by the Merchant Shipping (Tonnage) Regulations 2026.
- 4.1.2. The 2026 regulations update the 1982 regulations and align with the 1969 Tonnage Convention, with clearer treatment of re-measurement, changes of use, and transitional tonnage.

4.2. Load Lines

- 4.2.1. Load Lines were previously addressed within the body of the old Act and its schedules. There was limited clarity on equivalents, novel designs, and the role of Recognised Organisations.
- 4.2.2. Load Lines provisions are now in the dedicated Merchant Shipping (Load Lines) Regulations 2026, with explicit incorporation of the 1966 Convention and 1988 Protocol. Clear provisions are included for equivalents, exemptions and novel features and the role of Recognised Organisations in surveys and certification is clearly recognised.

4.3. Flag State Inspections

- 4.3.1. Provisions relating to flag State inspections were scattered across various sections of the old Act and included a fixed annual inspection for all ships except pleasure craft (i.e. private yachts) with limited procedural clarity. There was no provision for exempting ships from the inspection requirements, which meant that inspections were required for some ships where an inspection was of limited value (e.g. unmanned non-self-propelled barges, submersibles).
- 4.3.2. The Merchant Shipping (Flag State Inspection) Regulations 2026 consolidate the inspection provisions with clear scope. The annual inspection requirement is changed to periodic inspection as determined by the BMA, with a view to adopting risk-based inspections in the future. The new regulations do not apply to submersibles or

unmanned non-self-propelled barges and provide for exemptions for a specific ship or type of ship, giving greater flexibility.

4.4. *Yachts*

4.4.1. The Merchant Shipping (Yachts) Regulations are updated to provide flexibility to the BMA in determining the technical standards that may be applied to certain types of charter yacht.

4.5. *Surveyors and Recognised Organisations*

4.5.1. Under the old Act, surveyors were appointed directly by the Minister on a personal statutory basis to carry out surveys and inspections. This practice was largely obsolete and rarely used – the BMA having appointed Recognised Organisations to act on its behalf under IMO provisions and the Bahamas Maritime Authority Act.

4.5.2. The new Act provides for surveyors to be appointed by the BMA and, separately, for Recognised Organisations to be authorised to act on the BMA's behalf under formal written delegation arrangements, with that authorisation subject to defined scope, conditions, oversight, and suspension or withdrawal. This more closely aligns with actual BMA practice and IMO provisions.

4.5.3. **All current Recognised Organisation appointments remain valid and continue in force, in accordance with the individual agreements between the BMA and each Recognised Organisation. Similarly, all current Yacht Survey Organisation and Aviation Inspection Body authorisations remain valid and continue in force.**

4.6. *Approved Nautical Inspectors*

4.6.1. Under the old Act, inspectors (nautical inspectors) were appointed directly by the Minister to exercise statutory inspection and enforcement powers on a personal appointment basis. All current inspectors are appointed under section 169(1) of the old Act.

4.6.2. **All current inspector appointments made under the old Act remain valid, in accordance with the individual agreements between the BMA and each Inspection Company.**

4.6.3. Inspectors appointed after the entry into force of the new Act will be appointed by the BMA under section 180(1) of the new Act.

4.7. **Enforcement Powers and Compliance**

- 4.7.1. The new Act modernises enforcement provisions, including clearer powers relating to:
- i. detention of ships;
 - ii. directions to masters, owners, and operators;
 - iii. compliance and corrective action; and
 - iv. offences and penalties, with updated drafting and clearer allocation of responsibility.

5. **Seafarers & Manning**

5.1. **STCW**

- 5.1.1. The Merchant Shipping (Training, Certification, Manning and Watchkeeping) Regulations 2012 are repealed and replaced by the Merchant Shipping (Training, Certification, Manning and Watchkeeping) Regulations 2026.
- 5.1.2. The 2026 regulations expressly exclude the training and certification of Masters and crew employed on vessels registered under the Boat Registration Act.
- 5.1.3. The 2026 regulations further provide that a certificate of competency, proficiency or endorsement, a Seafarer's Record Book, or any other certificate as may be determined by the Administration, may be issued in electronic form bearing the electronic signature of the issuer. In respect of such electronic certificates or documents, no official seal, photograph, or seafarer's signature shall be required, and verification shall be effected through an approved application, authorised data-storage system, unique tracking number, seafarer identification number, Quick Response (QR) code, or any combination thereof. A seafarer holding a valid electronic certificate issued in accordance with this Regulation shall be deemed to hold an original certificate.
- 5.1.4. A clear requirement is now established for all passenger ships, irrespective of gross tonnage, to carry a minimum safe manning certificate, resolving the previously undefined position under the Regulations 2012 concerning vessels under 500 gross tonnage.
- 5.1.5. The 2026 regulations further bring into force, from their date of implementation, prescribed limits on blood and breath alcohol concentration as part of the required procedures for preventing alcohol abuse, whereby 'alcohol abuse' is defined as consumption resulting in a blood alcohol concentration exceeding 0.05%, a breath alcohol concentration exceeding 0.25 mg/l, or any level of consumption that impairs masters, officers, or other seafarers in the performance of designated safety, security, or marine environmental protection duties.

5.2. **MLC**

- 5.2.1. The Merchant Shipping (Maritime Labour Convention) Regulations 2012 are repealed and replaced by the Merchant Shipping (Maritime Labour Convention) Regulations 2026.
- 5.2.2. The 2026 regulations provide enhanced clarity regarding the interpretation of certain terms previously used, including the definitions of 'seafarer', 'ship', 'employment agreement', and 'shipowner', as applied within the remit of the Convention.
- 5.2.3. A further new provision extends the application of the MLC requirements to non-Bahamian ships while operating within Bahamian waters where:
- i. the flag State has not ratified or implemented the Convention, or
 - ii. although the Convention has been brought into force by the flag State, the vessel does not carry a Maritime Labour Certificate or an interim Maritime Labour Certificate.
- 5.2.4. The 2026 regulations further clarify the regulatory requirements governing the application for and renewal of Part I of the Maritime Labour Compliance, including the obligation to ensure that a DMLC Part I is maintained in force at all times and is not more than five years old.
- 5.2.5. The 2026 regulations further give effect to the 2018 amendments to the Maritime Labour Convention, under which a seafarer's employment agreement shall continue to remain in force while the seafarer is held captive, on or off the ship, as a result of acts of piracy or armed robbery.
- 5.2.6. The 2026 regulations introduce a requirement that an owner's financial security shall remain in full force and effect until the expiry of its validity and may not be terminated or withdrawn earlier unless the financial security provider has given the BMA no less than thirty days' prior written notice, and further provide that, where an owner intends to cancel or terminate such financial security, the owner must give prior notification to the seafarers and notify the financial security provider accordingly.
- 5.2.7. The 2026 regulations introduce a further provision stipulating that, where a seafarer's employment agreement does not specify a repatriation destination and no agreement has been reached between the seafarer and the shipowner, the seafarer shall be entitled to repatriation to an international airport of the seafarer's choice located either at the place where the employment agreement was entered into or in the seafarer's country of residence.

6. Investigations

- 6.1. The new Act does not substantively change how The Bahamas conducts or manages marine safety investigations but modernises the legislative framework that The Bahamas Maritime Authority operates in. As well as allowing for the introduction of the marine investigation regulations, the New Act creates a clear separation between marine investigations (in line with the Casualty Investigation Code) and formal investigations for judiciary or disciplinary purposes.
- 6.2. The new Act allows for the appointment of “marine investigators,” formalises the powers of marine investigators and introduces additional duties of persons to cooperate with investigations and the direction of a marine investigator.
- 6.3. The Merchant Shipping (Marine Safety Investigations) Regulations, 2026 codify the purpose of a marine safety investigation, introduces and defines the functional independence of a marine investigator and mandates investigations into certain marine casualties and marine incidents. The Regulations formalise the need to conduct marine safety investigations in accordance with the IMO’s Casualty Investigation Code and to take full account of the IMO guidelines on the fair treatment of seafarers.
- 6.4. For the master, company or responsible person, The Merchant Shipping (Marine Safety Investigations) Regulations, 2026 confirms the duty to report marine casualties and incidents including the new duty to immediately notify of a very serious marine casualty. The regulations also require the preservation and retention of evidence, along with information related to marine casualties or marine incidents.
- 6.5. The Regulations outline offences for contravening requirements to report marine casualties and marine incidents, preserve evidence or provide requested evidence. The regulations stipulate that the Director shall recover from a shipowner all costs incurred for a marine safety investigation.
- 6.6. Marine Notice 04 – Reporting Requirements (v3.0) has been adapted to reflect changes in the new Act and the requirements of the Regulations.

7. Finance

- 7.1. The new Act provides an updated statutory basis for the imposition, recovery, and enforcement of fees, charges, and other sums payable in connection with registration, surveys, inspections, certification, and related services.
- 7.2. The Act enables fees and charges to be prescribed or adjusted through subsidiary legislation or administrative instruments, providing flexibility to reflect the cost of service provision and changes in international practice.

7.3. Details of standard fees are provided in BMA Marine Notice 50.

8. Other Notable Changes

8.1. *Limitation of Liability*

8.1.1. The new Act incorporates provisions relating to the limitation of liability for maritime claims, replacing the separate Merchant Shipping (Maritime Claims Limitation of Liability) Act, 1989, and consolidating limitation provisions within a single legislative framework.

8.2. *Digitalisation and Modern Administration*

8.2.1. In addition to specific provisions for electronic seafarer certification, the new Act supports modern administrative practices, including the use of electronic documents, records, and systems across registration, certification, and compliance functions.

8.3. *Wreck and Salvage*

8.3.1. The new Act consolidates and updates provisions relating to wreck, salvage, and wreck removal, including clearer statutory powers in relation to the marking, removal, and disposal of wrecks and the recovery of associated costs, and aligns domestic law with applicable international conventions.

9. Validity

9.1. This Technical Alert is valid until further notice.

10. Queries

10.1. Any queries on this Notice may be addressed as follows:

- i. Registration (including mortgages, and insurance for BUNKER, CLC and Wreck) – reg@bahamasmaritime.com
- ii. Inspections & Surveys – tech@bahamasmaritime.com
- iii. Seafarers & Manning/MLC (including insurance for MLC Financial Security) – stcw@bahamasmaritime.com
- iv. Investigations – casualty@bahamasmaritime.com
- v. Finance – finance@bahamasmaritime.com