

MONTSERRAT

STATUTORY RULES AND ORDERS

S.R.O. 41 OF 2026

**PROTECTION OF THE SEAS (CIVIL LIABILITY FOR BUNKER
OIL POLLUTION DAMAGE) REGULATIONS 2026**

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MONTserrat

STATUTORY RULES AND ORDERS

NO. 41 OF 2026

**PROTECTION OF THE SEAS (CIVIL LIABILITY FOR BUNKER
OIL POLLUTION DAMAGE) REGULATIONS 2026**

**THE PROTECTION OF THE SEAS (CIVIL LIABILITY FOR
BUNKER OIL POLLUTION DAMAGE) REGULATIONS 2026
MADE BY THE GOVERNOR, ACTING ON THE ADVICE OF
CABINET, UNDER SECTIONS 116 AND 123 OF THE MERCHANT
SHIPPING (REGISTRATION) ACT (CAP. 7.11).**

PART 1 - PRELIMINARY

1. Citation

These Regulations may be cited as the Protection of the Seas
(Civil Liability for Bunker Oil Pollution Damage) Regulations
2026.

2. Commencement

These Regulations come into force on publication.

3. Bunkers Convention to have effect

The provisions of the Bunkers Convention, which is given the
force of law in Montserrat by section 122(1) and (2)(k) of the
Act, have effect, subject to and in accordance with the
provisions of these Regulations.

4. Interpretation: general

(1) In these Regulations, except where the context otherwise
requires—

“**the Act**” means the Merchant Shipping (Registration) Act
(Cap 7.11);

“**act**” includes omission;

“**Article**” has the meaning assigned to it in by regulation 5(2);

“**authorised officer**” has the meaning assigned to it in
regulation 7;

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“**Bunkers Convention**” means the International Convention on Civil Liability for Bunker Oil Pollution Damage 2001;

“**bunker oil**” means—

- (a) any hydrocarbon mineral oil, including lubricating oil, which is used or intended to be used for the operation or propulsion of a ship, and
- (b) any residues of oil falling within paragraph (a);

“**controlled waters**” means in relation to a Convention State other than Montserrat, that State’s —

- (a) territory,
- (b) territorial sea, and
- (c) exclusive economic zone established in accordance with international law, or, if the State has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of the State’s territorial sea is measured;

“**Convention State**” means a State which is a party to the Bunkers Convention, and includes a reference to a territory to which the Convention has been extended;

“**the court**” means the High Court;

“**damage**” has the meaning assigned to it in regulation 6;

“**escape**” in relation an escape of oil from a ship includes a reference to discharge of oil from a ship;

“**foreign ship**” has the meaning given in section 2(1) of the Act;

“**government commercial ship**” means a State-owned or State-operated ship being used for a commercial or non-public service;

“**government non-commercial ship**” means a State-owned or State-operated ship used for a non-commercial public service;

“**incident**” means an occurrence which—

- (a) causes pollution damage, or
- (b) creates a serious and imminent threat of pollution damage;

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and a reference to an incident includes a reference to a multiple incident;

“**insurance**” includes security;

“**insurance certificate**” means a certificate for the purposes of regulation 14;

“**insurer**” means a person who provides insurance (or security);

“**Limitation of Liability Convention**” means the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the Protocol of 1996;

“**Maritime Administration**” means the Maritime Administration established under section 3A(2) of the Act; and includes a surveyor organisation authorised to act on behalf of the Maritime Administration under and in accordance with section 125(1) of the Act;

“**Minister**” means the Minister responsible for maritime affairs in Montserrat;

“**Montserrat**” has the meaning given in section 2(1) of the Interpretation Act (Cap. 1.02);

“**Montserrat controlled waters**” means—

(a) Montserrat waters, and

(b) the fisheries zone contiguous to the territorial sea established by the Fishery Limits Proclamation made on the 1 February 1983 (S.R.O. 14/1983, as amended by S.R.O. 27/1983) made under section 2 of the Fisheries Act (Cap. 9.01).

“**Montserrat ship**” has the meaning given in section 2(1) of the Act;

“**Montserrat waters**” has the meaning given in section 2(1) of the Act;

“**multiple incident**” means an incident consisting of a series of occurrences with the same origin;

“**oil**” means any persistent hydrocarbon mineral oil (including crude oil, fuel oil, heavy diesel oil and lubricating oil);

“**owner**”, in relation to a ship, includes a registered owner, bareboat charterer, manager and operator of the ship;

“**person**” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions;

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“**pollution damage**” has the meaning assigned to it in regulation 6;

“**port**”, in relation to a State, includes a terminal installation (including a terminal installation in the territorial sea of the State);

“**registered**”, in relation to a ship registered in a State, includes a reference to an unregistered ship which is entitled to fly the flag of the State;

“**registered owner**” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or person owning the ship; and, in the case of a ship owned by a State and operated by a person which in that State is registered as the ship’s operator, includes that person;

“**Registrar**” means the Registrar of Montserrat ships appointed under section 3 of the Act;

“**servant**” includes agent;

“**ship**” has the meaning given in section 2(1) of the Act, and includes—

(a) a ship in the process of construction from the time that it is capable of floating, and

(b) a ship that has been stranded, wrecked or sunk and any part of a ship that has broken up,

but does not include an air cushion vehicle or a floating platform constructed for the purpose of exploring or exploring the natural resources or the subsoil of the sea-bed;

“**State**” includes a territory;

“**threat of contamination**” means a grave and imminent threat of pollution damage from a ship which arises from an incident as a result of potential contamination if oil escapes from the ship;

“**terminal installation**” means a site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to a site of that kind;

“**year**” means calendar year.

(2) In these Regulations, a reference to entering or leaving a port in a State—

(a) includes a reference to attempting to enter or leave a port, and

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- (b) includes a reference to arriving at or leaving a terminal installation in the territorial sea of the State.

5. Interpretation, etc.: Bunkers Convention

- (1) The provisions of these Regulations are to be construed in accordance with the Bunkers Convention.
- (2) A reference in these Regulations to a numbered (or lettered) Article is a reference to that numbered (or lettered) Article in the Bunkers Convention (except where the context otherwise requires).
- (3) A reference in these Regulations to the Bunkers Convention, or to a provision of or Annex to the Convention, is to be construed—
 - (a) as a reference to the Convention, provision or Annex as modified from time to time, and
 - (b) if the Convention, provision or Annex is replaced, as a reference to the replacement.
- (4) Except as otherwise required in accordance with the Bunkers Convention, no modification or replacement affects a right or liability arising before the date on which the modification or replacement takes effect.
- (5) The text of the Bunkers Conventions (as it has effect when these Regulations are made) shall be published by the Maritime Administration in such manner as the Maritime Administration thinks fit.
- (6) The Maritime Administration shall publicise a modification or replacement of the Bunkers Convention (or any provision, including an Annex or other attachment) in such manner as the Maritime Administration thinks fit.

6. Interpretation: pollution damage

- (1) In these Regulations “**pollution damage**” (or “**damage**”) means—
 - (a) loss or damage caused by a ship by contamination resulting from the escape of bunker oil from the ship,
 - (b) the costs of preventive measures, and
 - (c) further loss or damage caused by preventive measures.
- (2) For the purposes of subregulation (1)—
 - (a) in calculating loss and damage, compensation for impairment of the environment, other than loss of profit, is limited to the costs of reasonable measures of reinstatement actually undertaken or to be undertaken,

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- (b) “**preventive measures**” means any reasonable measures taken by any person after an incident has occurred to prevent or minimise pollution damage,
- (c) it is immaterial where the escape of oil occurs,
- (d) a reference to escape of oil from a ship includes a reference to escape of bunker oil carried in the bunkers of the ship (whether in a bunker fuel tank or otherwise),
- (e) where more than one escape of oil results from the same occurrence or from a series of occurrences having the same origin, they are treated as one, but any measures taken after the first of them are deemed to have been taken after the escape, and
- (f) where a relevant threat of contamination results from a series of occurrences having the same origin, they are treated as a single occurrence.

7. Authorised officers

- (1) For the purpose of these Regulations the following are authorised officers—
 - (a) customs officers;
 - (b) constables or other members of the Royal Montserrat Police Service appointed under the Police Act;
 - (c) the Registrar, and any person acting under the Registrar’s express or implied authority;
 - (d) the Harbour Master;
 - (e) the Port Manager;
 - (f) any other person authorised by the Maritime Administration with the relevant skills and experience to perform the functions required under these Regulations.
- (2) An authorised officer may exercise powers under these Regulations—
 - (a) on or in respect of premises in Montserrat;
 - (b) on or in respect of a ship in Montserrat or in Montserrat controlled waters;
 - (c) on or in respect of a Montserrat ship (whether or not in Montserrat or Montserrat controlled waters).
- (3) For the purpose of exercising a function under these Regulations, an authorised officer has the powers of an inspector conferred by sections 126 to 128 of the Act.

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**PART 2 - IMPLEMENTATION OF THE BUNKERS
CONVENTION**

Application

8. Application

- (1) These Regulations apply to—
 - (a) a ship mentioned in subregulation (2), and
 - (b) in relation to pollution damage mentioned in subregulation (3).
- (2) Subject to subregulation (4), these Regulations apply to—
 - (a) a Montserrat ship wherever it may be, and
 - (b) a foreign ship in Montserrat and Montserrat controlled waters.
- (3) Subject to subregulation (5) these Regulations apply in relation to—
 - (a) pollution damage caused in Montserrat or Montserrat waters, and
 - (b) measures, wherever taken, to prevent or minimise pollution damage in Montserrat or Montserrat waters.
- (4) These Regulations do not apply to—
 - (a) warships;
 - (b) naval auxiliaries;
 - (c) other ships owned or operated by a State and used, for the time being, only on government non-commercial service.
- (5) These Regulations do not apply to pollution damage to which the **Protection of the Seas (Civil Liability for Oil Pollution Damage) Regulations 2026** applies, whether or not compensation is payable in respect of it under those Regulations.

Liability

9. Liability for pollution by bunker oil

- (1) Where bunker oil escapes from a ship as a result of an incident, the owner of the ship is liable—
 - (a) in the case of a ship in Montserrat or Montserrat controlled waters—
 - (i) for any damage caused by the ship in Montserrat or Montserrat controlled waters by contamination resulting from the escape of bunker oil,
 - (ii) for the cost of any measures reasonably taken after the escape of bunker oil for the purpose of preventing or minimising any damage so caused in

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- Montserrat or Montserrat controlled waters by contamination,
- (iii) for any damage caused in Montserrat or Montserrat controlled waters by measures taken, and
- (b) in the case of a Montserrat ship in the controlled waters of another Convention State, for any damage or cost mentioned in subregulation (a) in respect of those waters.
- (2) Where a grave and imminent threat of damage from a ship arises from an incident as a result of potential contamination that might result if bunker oil escapes from the ship, the owner is liable—
- (a) in the case of a ship in Montserrat or Montserrat controlled waters—
- (i) for the cost of any measures reasonably taken for the purpose of preventing or minimising damage in Montserrat or Montserrat controlled waters, and
- (ii) for any damage caused by any measures taken;
- (b) in the case of a Montserrat ship in the controlled waters of another Convention State, for any damage or cost mentioned in subregulation (a) in respect of those waters.
- (3) For the purposes of this regulation a reference to the owner of a ship is a reference to—
- (a) the owner at the time of the incident, or
- (b) in the case of a multiple incident, the owner at the time of the first occurrence.
- (4) This regulation is subject to other provisions of these Regulations.

10. Exceptions from liability for damage by bunker oil

- (1) No liability is incurred by the owner under regulation 9 by reason of an escape of bunker oil or a threat of contamination if the owner proves that the escape or threat—
- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon,
- (b) was due wholly to an act carried out by another person with intent to do damage, or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.
- (2) No liability is incurred under regulation 9 by the owner of a ship (“O”) to another person (“P”) in respect of pollution

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damage if O proves that the damage was due wholly or partially to an act carried out—

(a) by P with intent to cause damage, or

(b) as a result of P's negligence.

(3) Nothing in these Regulations prejudices any right of recourse of the owner of a ship against a third party.

(4) No claim for compensation for damage within the meaning of these Regulations may be made against the owner of a ship otherwise than in accordance with these Regulations.

11. Joint liability of owners

(1) This regulation applies where damage occurs as a result of an incident involving two or more ships.

(2) Any liability under regulation 9 is shared by the owners of all the ships jointly and severally.

(3) Subregulation (2) does not apply in respect of any damage which is reasonably separable.

12. Limitation of liability

Nothing in these Regulations affects the right of an owner, or a person providing insurance, to limit liability under and in accordance with—

(a) the Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations 2026, or

(b) any other applicable law.

Insurance

13. Compulsory insurance against liability for pollution from bunker oil

(1) This regulation applies to any ship to which these Regulations apply with a gross tonnage greater than 1,000 tons.

(2) A Montserrat ship may not enter or leave a port in Montserrat or elsewhere unless the owner has insurance in respect of the ship satisfying subregulation (4).

(3) A foreign ship may not enter or leave a port in Montserrat unless the owner has insurance in respect of the ship satisfying subregulation (4).

(4) Insurance satisfies this subregulation—

(a) if it satisfies the requirements of Article 7 (requirement to maintain insurance or other financial security which covers the liability of the owner for pollution damage in an amount equal to the limits of liability), and

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- (b) a certificate has been issued attesting that insurance or other financial security is in force in accordance with the provisions of the Bunkers Convention and which—
 - (i) contains the information set out in Article 7(2), and
 - (ii) is in the form of the model certificate in the Annex to the Bunkers Convention (which may be in electronic format).
- (5) In this regulation, “**tonnage**” in relation to a ship means its gross tonnage calculated in accordance with the International Convention on Tonnage Measurements of Ships 1969, as amended from time to time.

14. Insurance certificate

- (1) This regulation applies to a certificate for the purposes of regulation 13 (an “insurance certificate”).
- (2) It shall be issued—
 - (a) in the case of a Montserrat ship, by the Maritime Administration,
 - (b) in the case of a ship registered in a Convention State other than Montserrat, by or under the authority of its government, or
 - (c) in any other case, by the Maritime Administration, or by or under the authority of the government of a Convention State.
- (3) The owner and master of a ship shall—
 - (a) ensure the certificate is carried on board the ship,
 - (b) ensure that the certificate is deposited with the ship’s registry, and
 - (c) produce, on demand, the certificate to an authorised officer.
- (4) The Maritime Administration shall issue a certificate, on an application in respect of a Montserrat ship, if satisfied that satisfactory insurance will be in force in respect of the ship, throughout the period for which the certificate is sought.
- (5) Insurance is satisfactory for the purposes of subregulation (4) if it satisfies the requirements of Article 7.
- (6) The Maritime Administration may refuse to issue the certificate if the Maritime Administration is not satisfied that—
 - (a) the person providing the insurance will be able to meet the obligations under the certificate, or

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- (b) the insurance will cover the owner's liability under regulation 9.
- (7) A certificate issued under this regulation shall—
 - (a) be in English,
 - (b) contain the information set out in Article 7(2), and
 - (c) be in the form of the model certificate in the Annex to the Bunkers Convention (which may be in electronic format).
- (8) A certificate issued or certified by or under the authority of the government of a Convention State other than Montserrat, which meets the requirements of Article 7, has the same force as a certificate issued by the Maritime Administration (even if issued or certified in respect of a ship not registered in another Convention State).

15. Cancellation and delivery up of certificates

- (1) This regulation applies at any time while a certificate issued under regulation 14 is in force.
- (2) Where the person to whom the certificate has been issued ceases to be the owner of the ship to which the certificate relates, that person shall forthwith deliver up the certificate to the Maritime Administration and in such a case the certificate shall be cancelled by the Maritime Administration.
- (3) Where it is established in any legal proceedings that the contract of insurance or other security in respect of which the certificate was issued is or may be treated as invalid, the certificate may be cancelled by the Maritime Administration and, if so cancelled, shall on demand forthwith be delivered up to the Maritime Administration by the person to whom it was issued.
- (4) Where circumstances arise in relation to the insurer or guarantor named in the certificate (or, where more than one is so named, to any of them) such that, if the certificate were applied for at that time, the Maritime Administration would be entitled to refuse the application under regulation 14(6), the certificate may be cancelled by the Maritime Administration and, if so cancelled, shall on demand forthwith be delivered up to the Maritime Administration by the person to whom it was issued.

16. Rights of third parties against insurers

- (1) This regulation applies where it is alleged that—
 - (a) the owner of a ship has incurred a liability under regulation 9 as a result of an escape of bunker oil or a threat of contamination, and

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- (b) an insurance certificate was in force in relation to the liability.
- (2) Proceedings to enforce a claim in respect of the liability may be brought against the insurer.
- (3) In proceedings brought against an insurer under this regulation it is a defence (in addition to any defence affecting the owner's liability) to prove that the escape or threat of contamination was due to the wilful misconduct of the owner.
- (4) The insurer may limit liability in respect of claims under this regulation in the same way as an owner may limit liability under regulation 9 (irrespective of whether or not the escape or threat of contamination resulted from an act of the owner, as mentioned in Article 4 of the Limitation of Liability Convention).
- (5) The defendant to proceedings under this regulation may require the owner to be joined to the proceedings.
- (6) Where both the owner and the insurer limit liability under these Regulations, any sum paid into court in pursuance of either's liability shall be treated as paid also in pursuance of the other's liability.
- (7) This section has effect despite any other enactment relating to third party rights against insurers.

Claims for liability

17. Jurisdiction

- (1) A claim in respect of liability under regulations 9 or 16 shall only be brought in a court of a Convention State.
- (2) The court may hear a claim under the Bunkers Convention in relation to an incident in—
 - (a) Montserrat or Montserrat controlled waters;
 - (b) any other Convention State's controlled waters.

18. Notice

A claimant in respect of liability under these Regulations shall give reasonable notice of the claim to the defendant in accordance with the applicable rules of the court.

19. Extinguishment of claims

- (1) This regulation applies to claims in respect of liability under regulation 9.
- (2) An action on a claim may not be brought—
 - (a) after the period of 3 years beginning with the date on which the claim arose, or

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- (b) after the period of 6 years beginning with the date of the incident giving rise to the liability (irrespective of when the claim arose).

20. Recognition and enforcement of judgments

- (1) The United Kingdom Administration of Justice Act 1956 (admiralty jurisdiction: any claim for damage done by ship), as applied in Montserrat by the Admiralty Jurisdiction (Montserrat) Order 1968 (S.I. 1968 No 1647), shall be construed as extending to any claim in respect of liability incurred under these Regulations.
- (2) Subregulation regulation (3) applies where—
 - (a) any bunker oil is discharged or escapes from a ship but does not result in any damage caused by contamination in Montserrat and Montserrat controlled waters and no measures are reasonably taken to prevent or minimise such damage in that territory, or
 - (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in Montserrat and Montserrat controlled waters.
- (3) Where this subregulation applies, no court in Montserrat shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—
 - (a) against the owner of the ship, or
 - (b) against any person listed in regulation 10(2),
unless any such damage or cost resulted from anything done or omitted to be done as mentioned in regulation 10(2)(a) or (b).
- (4) In this regulation, “**relevant damage or cost**” means—
 - (a) in relation to any such discharge or escape as is mentioned in subregulation (2)(a), any damage caused in the territory of another Convention State by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Convention State,
 - (b) in relation to any such threat of contamination as is mentioned in subregulation (2)(b), any cost incurred in taking measures to prevent or minimise such damage in the territory of another Convention State, or
 - (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b).
- (5) The Reciprocal Enforcement of Judgements Act (Cap 2.15) shall apply, whether or not it would so apply apart from this

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regulation, to any judgment given by a court in a Convention State to enforce a claim in respect of a liability incurred under any provision corresponding to regulation 9.

State-owned ships

21. Government commercial ships

- (1) These Regulations apply to a government commercial ship.
- (2) In relation to a government commercial ship, the provisions of regulation 13 are to be treated as satisfied if there is in force a certificate—
 - (a) issued by the government of the relevant State, and
 - (b) showing that the ship is owned by that State and that any liability for pollution damage as defined in Article 1 will be met up to the limits in Chapter II of the Limitation of Liability Convention.
- (3) A Convention State is to be treated as having submitted to the jurisdiction of the court for the purposes of any claim in respect of liability under these Regulations.
- (4) Rules of court may make provision in connection with proceedings to which a Convention State is a party.
- (5) The court may not authorise the issue of execution against the property of a State for the purposes of satisfying liability under these Regulations.

PART 3 - ENFORCEMENT

22. Detention of ship

- (1) An authorised officer who believes that a person is attempting to navigate a ship out of a port in Montserrat in contravention of these Regulations may detain the ship.
- (2) Sections 134 and 135 of the Act (power to detain; enforcing detention of a ship) shall have effect in relation to the detention of a ship under this regulation, as if the detention under these Regulations was a detention under the Act.

23. Offences

- (1) The master and owner of a ship each commit an offence if the ship contravenes regulation 13(2) or (3) or 14(3).
- (2) A person who fails to comply with regulation 15(1), (2) or (3) commits an offence.
- (3) A person who commits an offence under this regulation is liable on summary to a fine not exceeding \$100,000.

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PART 4- SUPPLEMENTAL

24. Conversion from special drawing rights

- (1) This regulation applies where special drawing rights are mentioned in the Bunkers Convention for the purpose of converting sums from such rights into Eastern Caribbean Dollars.
- (2) The conversion is to be made at the rate fixed by the International Monetary Fund.
- (3) Where these Regulations provide for the conversion to be made as at a specified day and no sum is fixed for that day, the conversion is to be made as at the last day before that day for which a sum was fixed.
- (4) A certificate given by or on behalf of the Minister of Finance is conclusive evidence for the purposes of these Regulations if it states—
 - (a) that a specified rate for conversion into Eastern Caribbean Dollars was fixed for a specified day, or
 - (b) that no rate was fixed for a specified day and that a specified rate for conversion into Eastern Caribbean Dollars was the last rate fixed for a previous day.
- (5) A document purporting to be a certificate mentioned in subregulation (4) is in any legal proceedings—
 - (a) to be received in evidence, and
 - (b) unless the contrary is proved, to be deemed to be such a certificate.

25. Certificates etc

- (1) Any provision in these Regulations that requires that—
 - (a) an approval, direction, notice or similar matter shall be in writing, or
 - (b) a certificate be issued,shall be satisfied where the text of the approval, direction, notice or certificate issued complies with the requirements of subregulation (2).
- (2) The requirements are that the approval, direction, notice or certificate—
 - (a) is transmitted by electronic means,
 - (b) is received in legible form,
 - (c) is capable of being used for subsequent reference, and

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- (d) in the case of a certificate, complies with all requirements for electronic certificates established by the International Maritime Organization.

26. Savings

Except as provided expressly, nothing in these Regulations affects any claim, or the enforcement of any claim, a person incurring any liability under any enactment may have against any other person in respect of the matters giving rise to that liability before these Regulations come into force.

27. Negative resolution

These Regulations are subject to negative resolution.

Made by the Governor acting on the advice of Cabinet this 3rd day of September, 2026.

(Sgd.) Alasdair Bain
Cabinet Secretary

Published by exhibition by the Cabinet Secretary at the Office of the Legislature, Farara Plaza, Brades, Montserrat, MSR1110, this 26th day of October, 2026.

(Sgd.) Alasdair Bain
Cabinet Secretary