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MARITIME SECURITY REGULATIONS 2021

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The Cabinet makes the following Regulations under Section 36 of the *Maritime Security Act 2019*:

PART 1 – PRELIMINARY

1 Citation

These Regulations may be cited as the *Maritime Security Regulations 2021*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Interpretation

In these Regulations:

'Authority' means the Nauru Maritime and Port Authority established under the *Ports and Navigation Act 2019*;

'MSIC' means a Maritime Security Identification Card;

'port facility security plan' means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship stores within the port facility from the risks of a security incident;

'security level 1' means the level for which minimum appropriate protective security measures shall be maintained at all times;

'security level 2' means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident;

'security level 3' means the level for which further specific protective security measures shall be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target;

'ship security plan' means a plan developed to ensure the application of measures on board the ship designed to protect persons on board, cargo, cargo transport units, ship's stores or the ship from the risks of a security incident; and

'SOLAS' means the *International Convention for the Safety of Life at Sea*, done at London on 1 November 1974; and includes:

- (a) the Annex and Appendix to that Convention;
- (b) all amendments of that Convention; and
- (c) all protocols to that Convention.

PART 2 - DECLARATION OF SECURITY

4 Requirements and requests to be acknowledged

Every requirement or request for a declaration of security made under Section 8 of the Act shall be acknowledged:

- (a) if made to a ship, by the master or ship security officer; or
- (b) if made to a Nauru port, by the port security officer.

5 Making of declaration of security

A declaration of security shall be made:

- (a) if by a ship, by the master, ship security officer or other senior officer authorised by the Master; or
- (b) if by a Nauru port, by the port security officer or other person authorised by the port operator.

6 Specification of responsibility

A declaration of security shall specify:

- (a) the security requirements for which a ship and a port, or a ship and another ship, are separately responsible;
- (b) the security requirements for which a ship and a port, or a ship and another ship, are to share responsibility;
- (c) any specific responsibilities for which a ship and a port, or a ship and another ship, have in relation to security requirements that are to be shared; and
- (d) the duration of the declaration of security.

7 Retention of records

- (1) Every Nauruan ship that has made a declaration of security shall keep the same for the next ten port calls.
- (2) Every Nauru port that has made a declaration of security shall keep the same with that port's port security plan for twelve months after the date on which the declaration of security has ended.

PART 3 - SHIP SECURITY

8 Threats to ships

For the purposes of Section 7(4) of the Act, the Director shall advise the master and the flag state of at least:

- (a) the current security level;
- (b) any security measures that the ship may implement in response to the threat; and
- (c) any security measures to be implemented by the Authority in response to the threat.

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9 Security levels

- (1) Unless a different security level is set under Section 7(1) of the Act, every Nauruan ship shall operate at security level 1.
- (2) When setting security levels under Section 7(1) of the Act, the Authority shall advise the master of a ship of:
 - (a) any security measures that should be taken by the ship; and
 - (b) if appropriate, any security measures that have been taken in respect of the ship.
- (3) At security level 1, a ship shall carry out, through appropriate measures, the following activities to identify and take preventive measures against security incidents:
 - (a) ensure the performance of all ship security duties;
 - (b) control access to the ship;
 - (c) control the embarkation of persons and their effects;
 - (d) monitor restricted areas to ensure that only authorised personnel have access;
 - (e) monitor deck areas and areas surrounding the ship;
 - (f) supervise the handling of cargo and stores; and
 - (g) ensure that security communication is readily available.
- (4) At security level 1, a ship shall implement the security measures and procedures for security level 1 as specified in its approved plan.
- (5) At security level 2, a ship shall implement the additional protective measures specified in its approved plan for each activity specified in subregulation (3).
- (6) At security level 3, a ship shall implement the additional protective measures specified in its approved plan for each activity specified in subregulation (3).
- (7) A ship whose security level is set as, or changed to, security level 2 or security level 3 shall:
 - (a) acknowledge that setting or change to the Authority; and
 - (b) promptly implement that security level.
- (8) Where the Authority sets security level 2 or security level 3 for a Nauruan ship while in a foreign port, it shall promptly advise the port state.
- (9) Before entering a Nauru port or while in a Nauru port, a ship whose security level is security level 2 or security level 3 shall:
 - (a) start implementing appropriate measures and procedures specified in its approved plan;

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- (b) in the case of security level 3, start implementing such further protective measures specified by the Authority; and
- (c) inform the port security officer that it has started to implement the measures under paragraphs (a) and (b).

10 Non-compliance

- (1) A ship that is unable to comply with the Act or these Regulations or to meet the requirements set for its security level shall notify the port security officer of a Nauru port before:
 - (a) conducting any ship-port interface at a Nauru port; or
 - (b) entering a Nauru port,whichever occurs first.
- (2) Where a ship has any difficulty implementing the security measures required by Regulation 0(9), the ship security officer shall, as soon as practicable, inform the port security officer of those difficulties, in which event the ship security officer and port security officer shall liaise about, and co-ordinate an appropriate response to, those difficulties.

11 Ships having higher security level than ports

- (1) A foreign ship whose security level is higher than the security level of the Nauru port it proposes to enter shall first advise the Authority.
- (2) A Nauru ship whose security level is higher than the security level of the foreign port it proposes to enter shall first advise the port state.
- (3) If a situation described in subregulation 0 or (2) occurs, the ship security officer and the port security officer shall promptly liaise about, and co-ordinate an appropriate response to, that situation.

12 Ship security plans

- (1) The review of ship security plans under Section 18(a) of the Act shall, if performed by the company or ship personnel, be performed by persons independent of the activities being reviewed or audited.
- (2) Subregulation 0 does not apply if, due to the size or nature of the company or ship, it would be impracticable.

PART 4 - PORT SECURITY

13 Security levels

- (1) Every Nauru port shall operate at security level 1 unless a different security level is set under Section 7(1) of the Act.
- (2) At security level 1, a port operator shall carry out, through appropriate measures, the following activities to identify and take preventive measures against security incidents:

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- (a) ensure the performance of all port security duties;
 - (b) control access to the port;
 - (c) control the embarkation of persons and their effects;
 - (d) monitor the port, including anchoring and berthing areas;
 - (e) monitor port security areas to ensure that access is granted only to authorised persons;
 - (f) supervise the handling of cargo and ship stores; and
 - (g) ensure that security communication is readily available.
- (3) At security level 1, a port operator shall implement the security measures and procedures for security level 1 as specified in the approved plan.
- (4) At security level 2, a port operator shall implement the additional protective measures specified in the approved plan for each activity specified in subregulation (2).
- (5) At security level 3, a port operator shall:
- (a) implement the additional protective measures specified in the approved plan for each activity specified in subregulation (2); and
 - (b) respond to and immediately implement any security instructions given by the Authority.

14 Port security plans

- (1) Without limitation to the matters that a port security plan may contain, a port facility security plan shall include:
- (a) the matters described in SOLAS regulation XI-2/16.3; and
 - (b) the name and 24-hour contact details of the port security officer.
- (2) The review of port security plans under Section 6(1)(f) of the Act, shall be performed by persons independent of the activities being reviewed or audited.
- (3) Subregulation (2) does not apply if, due to the size or nature of the port, it would be impracticable.

15 Port operator personnel

- (1) A port operator shall ensure that personnel having duties and responsibilities for port security, as described in the port security plan:
- (a) understand those duties and responsibilities;
 - (b) have the ability to perform those duties and responsibilities; and
 - (c) have adequate knowledge of, and receive appropriate training in, the following matters, as applicable:

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- (i) current threats;
 - (ii) the recognition and detection of weapons;
 - (iii) the recognition of characteristics and behavioural patterns of persons likely to pose a threat;
 - (iv) the techniques used to circumvent security measures;
 - (v) crowd management and control techniques;
 - (vi) security-related communications;
 - (vii) the operation of security equipment and systems;
 - (viii) inspection, control, monitoring techniques; and
 - (ix) screening techniques.
- (2) A port operator shall ensure that personnel are familiar with the following matters:
- (a) the meaning of, and requirements associated with, each of security level 1, security level 2 and security level 3;
 - (b) the recognition and detection of weapons;
 - (c) the recognition of characteristics and behavioural patterns of persons likely to pose a threat; and
 - (d) the techniques used to circumvent security measures.

16 Drills and exercises

- (1) For the purposes of Section 24(1)(d) of the Act, the port operator shall carry out:
- (a) a drill, at least every 4 months; and
 - (b) an exercise, at least once in each year.
- (2) The drills and exercises shall test the proficiency of personnel in assigned security duties at all security levels and the effective implementation of the port security plan such that the port security officer is able to identify any deficiencies.
- (3) A drill shall test the separate elements of the port security plan and cover all possible threats to the port, taking into account the guidance in Part B of the Code.
- (4) An exercise shall test communication, co-ordination, resource availability and response, taking into account the guidance in Part B of the Code.
- (5) The Authority may require a port operator to facilitate:
- (a) observation by the Authority of drills and exercises; and
 - (b) participation in drills and exercises by the Authority or by emergency services.

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17 Screening

(1) In this Regulation:

'outer clothing' includes a coat, jacket, jumper, cardigan or similar item; and

'pat down search' means:

- (a) a search of a clothed person in which the person conducting the search does any of the following:
 - (i) runs or pats their hands over the body of the person, whether outside or inside the clothing, other than the underclothing, of the person;
 - (ii) inserts their hands inside a pocket or pouch in the clothing, other than the underclothing, of the person; or
 - (iii) directs the person to do any of the following for the purpose of a visual inspection:
 - (A) open their mouth;
 - (B) display the palms their hands;
 - (C) display the soles of their feet; or
 - (D) lift or rub their hair; and
 - (b) may include a search of:
 - (i) an item in the possession of the person;
 - (ii) the person's outer clothing removed for the search; and
 - (iii) gloves, footwear, including socks or stockings, head coverings, belts, jewellery or other accessories removed for the search.
- (2) A person authorised by the Act to conduct screening may do so by directing a person to do any of the following:
- (a) remove, raise, lower or open the person's outer clothing, unless the person has no other clothing or only underclothing, under the outer clothing;
 - (b) remove gloves, footwear, including socks or stockings, head coverings, belts, jewellery and other accessories; or
 - (c) allow the person conducting screening to conduct a pat down search.
- (3) A female person shall be screened by an authorised female officer unless conducted only by a mechanical, electrical, electronic or other similar device.

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18 Signage

A port operator shall, affix signs on the perimeter of port security areas in such manner as the Authority may direct from time to time.

19 MSIC

- (1) A person may apply to be issued an MSIC in such form as the Authority may from time to time require.
- (2) The Authority shall conduct appropriate checks on the identity, background and criminal history of all applicants for a MSIC.
- (3) For the purposes of Section 15(1)(a)(iii) and (b) of the Act, the Authority may issue an MSIC to a person when that person satisfies the Authority that he or she:
 - (a) has an operational need to hold an MSIC;
 - (b) has produced documents sufficient to verify their identity;
 - (c) is a citizen of the Republic or has been granted the status of a permanent resident;
 - (d) in the case of persons described in Section 15(1)(b) of the Act, is such a person; and
 - (e) does not pose a threat.
- (4) The Authority may, without limitation, specify:
 - (a) the dimensions of an MSIC and each of its parts;
 - (b) the information that shall be included on the front or the back of an MSIC;
 - (c) the security features that shall be incorporated into an MSIC; and
 - (d) the kind of photograph of the holder of an MSIC that shall be included on the MSIC, including the size and quality of the photograph.
- (5) Every MSIC shall be indorsed with:
 - (a) a unique number;
 - (b) its date of issue; and
 - (c) its date of expiry, being not longer than 2 years from the date of issue.
- (6) An MSIC may be issued subject to conditions, in which case the Authority shall notify:
 - (a) the applicant; and
 - (b) if the applicant is a person described in Section 15(1)(b), the agency of which the applicant is a member,of the conditions in writing.

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- (7) An MSIC may be suspended by the Authority if the holder of MSIC:
- (a) is charged with a reportable crime;
 - (b) is charged with an offence under the Act; or
 - (c) is reasonably suspected of a material misstatement or non-disclosure in connection with the person's application for MSIC.
- (8) An MSIC shall be cancelled by the Authority if the holder of an MSIC:
- (a) is convicted of a reportable crime;
 - (b) is convicted of an offence under the Act;
 - (c) it is discovered that MSIC was not issued in accordance with the Act or these Regulations;
 - (d) has ceased to be a citizen of the Republic or have the status of a permanent resident;
 - (e) has ceased to have an operational need to hold MSIC; or
 - (f) is reasonably suspected of a material misstatement or non-disclosure in connection with the person's application for MSIC.
- (9) The Authority shall keep a register of each MSIC containing at least the following current information in relation to each holder of MSIC:
- (a) their name and telephone number;
 - (b) a duplicate of the photograph that appears on the MSIC;
 - (c) their residential address; and
 - (d) a copy of the MSIC application and any supporting documents.

20 Prohibited items

For the purposes of Sections 22 and 30 of the Act, the items listed in the Schedule are prohibited items.

SCHEDULE

[Sections 22 and 30; Regulation 20]

PROHIBITED ITEMS

No.	Items
1.	Part of weapons, weapon accessories, ammunition cartridges
2.	Detonators, fuses, blasting caps, detonating cords or similar articles
3.	Night vision devices
4.	Metal detectors or magnetic materials
5.	Replica weapons or compressed air devices capable of firing a projectile
6.	Fireworks or other incendiary device
7.	Infectious substances
8.	Poisons and biological agents
9.	Highly flammable, corrosive or toxic substance
10.	Matches or cigarette lighter
11.	Strong acids or alkali
12.	Oxidising substances and organic peroxide
13.	Herbicide, fungicide, insecticide, fertilisers containing ammonium nitrate
14.	Intoxicating substances such as alcohol or illicit drugs
15.	Radioactive materials
16.	Compressed and liquefied gases
17.	Objects with sharpened points or edges (other than workers' tools)
18.	Drones