



## Virgin Islands Shipping Registry

Sebastian's Building, PO Box 4751, Road Town, Tortola, VG1110, British Virgin Islands

Tel: +1 284 468 2902/2903 • Fax: +1 284 468 2913 • Duty Officer: +1 284 468 9646

Website: www.vishipping.gov.vg • General Email: vishipping@gov.vg

# Marine Circular No.1 / 2009

Date of Issue: 1<sup>st</sup> November 2009

## Merchant Shipping (Safety of Commercial Sailing and Motor Vessels) Regulations, 2004

**To: Owners, Operators, Brokers, Charterers, Shipping Agents, Masters, Officers & Crew Members, Inspectors, Surveyors and Managers of Bareboat Charter Vessels and Crewed Yachts, HM Customs, RVIPF–Marine Police, Trade Department, BVI Ports Authority and Interested Parties.**

1. The Merchant Shipping Act, 2001 (No. 13 of 2001);
2. The Merchant Shipping (Safety of Commercial Sailing and Motor Vessels) Regulations, 2004;
3. United Kingdom Safety Codes:
  - “The Safety of Small Commercial Sailing Vessels – A Code of Practice” (*Blue Code*)
  - “The Safety of Small Commercial Motor Vessels – A Code of Practice” (*Yellow Code*)
  - “The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels” (*LY2*)
  - Small Vessels in Commercial Use for Sport or Pleasure, Workboats and Pilot Boats (SCV Code) – Alternative Construction Standards, (*MGN 280 (M)*);
4. Blue and Yellow Code Guidance Note (BVI)

## Background

Following a spate of serious marine accidents in 1980 involving small charter boats, the UK Government introduced a number of measures including the introduction of above ‘Codes of Practice’ to improve the safety of Small Commercial vessels. The results after the introduction of above Codes were positive and very encouraging, and have contributed towards improving the safety standards of small vessels considerably.

With the advice and encouragement of the UK Government, BVI introduced the above safety codes in the BVI to achieve a uniform safety standard for the small commercial vessel fleet operating in the BVI waters.

The Codes were given effect in the BVI through the Merchant Shipping (Safety of Commercial Sailing and Motor Vessels) Regulations, 2004, (S.I. 2004 No.6), which came into force on 1<sup>st</sup> February 2004. These regulations are applicable to BVI vessels wherever they may be, and to other vessels when they are operating in the BVI waters.

However, the strict enforcement of above regulations was delayed to provide the industry with sufficient phasing-in time, to gather experience and resources to enable full compliance with the safety regime in an economical and orderly fashion.

A recent study of the current status of compliance of BVI’s small commercial vessel fleet has revealed that while a large number of vessels have gained the required commercial certification there still exists a substantial number of vessels which have failed to obtain the necessary certification to be able to operate legally, as commercial vessels, in the BVI.

The Administration recognises the efforts made by those owners and operators in getting their vessels certified, and encourages other owners and operators to follow suit as expediently as practicable to avoid enforcement actions being taken against their non compliant vessels by the authorities.

**A Department of the Premier’s Office, Government of the Virgin Islands**

It must be noted that any enforcement action taken may result in the disruption of business activities, and possible legal sanctions against the owner and the master of the vessel, as provided in the Merchant Shipping Act, 2001.

## **Compliance Requirements**

The operation of a vessel commercially, without holding appropriate commercial safety certification is an offence under the above regulations therefore, owners and operators of commercial vessels must ensure their vessels hold valid safety certificates to be able to operate legally in the BVI waters.

Virgin Islands Shipping Registry (VISR) is the Administration responsible for implementation of above regulations and safety Codes in the BVI. VISR has a team of surveyors and inspectors dedicated for Code vessel certification, and are available at all reasonable hours.

The necessary applications for requesting an inspection of a vessel for commercial certification are available at the VISR office. Within three days of receiving an application an inspector will be available to board the vessel for an inspection. Subject to vessel meeting the provisions of the Code and owners providing the relevant documents, a vessel can be issued with a Small Commercial Vessel Certificate, on the same day of successful completion of an inspection. In circumstance where substantial compliance is made without having major deficiencies, a short term certificate could also be issued pending rectification of minor deficiencies.

## **Enforcement Programme**

The Enforcement of above regulations will be conducted under the provisions of Part XVI of the Merchant Shipping Act, 2001 by the officers from the VISR, HM Customs, RVIPF-Marine Police or any Enforcement Officer appointed by the Director.

The commencement date for the enforcement programme will be **1<sup>st</sup> February 2010**.

The enforcement procedure will involve boarding of each commercially operated vessel by an Enforcement Officer for checking the following documents and verifying vessel's compliance:

- Vessel's registration documents
- Small Commercial Vessel Certificate & Record of Safety Equipment on Board (SCV 2)
- Stability Letter or Stability Information Booklet
- Skipper's Qualification and Certificate (with STCW & Commercial Endorsement)
- Crew Certification
- Company/vessel's trade licence

On completion of inspection, a Report of Inspection will be issued to each vessel by the boarding Enforcement Officer.

In circumstances where a vessel fails to provide correct and valid documents, she may be subject to enforcement actions as provided in the Act. The enforcement actions may include; issuance Prohibition Orders, Detention of the vessel, and legal action against the owner and master by the Attorney General.

All parties are requested to be guided accordingly

The Director,  
Virgin Islands Shipping Registry.