



VIRGIN ISLANDS SHIPPING REGISTRY

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THE MERCHANT SHIPPING (SAFETY OF COMMERCIAL SAILING AND MOTOR VESSELS) REGULATIONS, 2004 (‘Blue Code’, ‘Yellow Code’, MGN 280)

GUIDANCE NOTE No.1 / 2009

(1) **Application**

The above regulations apply to ‘small commercial sailing and motor vessels’ which are Virgin Islands (BVI) vessels wherever they may be; and other (foreign) small commercial sailing and motor vessels whilst they are operating from a harbour in the Virgin Islands or are in Virgin Islands waters. These regulations came into force on 1st February 2005.

The Code applies to all small commercial vessels including bareboat charter vessels which are engaged in carrying up to twelve (12) passengers.

(2) **Definitions**

i. (a) “Small Commercial Sailing Vessel” means a sailing vessel that is less than twenty four (24) metres in load line length and in commercial use for sport or pleasure and which does not carry cargo or more than twelve (12) passengers;

(b) “Small Commercial Motor Vessel” means a motor vessel that is less than twenty four (24) metres in load line length and in commercial use for sport or pleasure and which does not carry cargo or more than twelve (12) passengers;

ii. **Codes**

(a) Code of Practice entitled, The Safety of Small Commercial **Sailing** Vessels (‘Blue Code’)

(b) Code of Practice entitled, The Safety of Small Commercial **Motor** Vessels (‘Yellow Code’)

(3) **Compliance**

Subject to paragraph 5 (Exceptions) below,

(a). **Vessel requirements**

A vessel to which a Code of Practice applies;

i. must be examined in accordance with the relevant Code; (Sailing vessels-‘Blue Code’, Motor vessels-‘Yellow Code’);

ii. must hold a “Small Commercial Vessel Certificate” (Certificate) issued in accordance with the relevant Code

iii. the Certificate must be currently in force with Annual Endorsements as applicable;

iv. the Certificate must be displayed in a conspicuous place on board;

(b). **Operational requirements**

i. Safety Management – Safety Plan, Documented safety procedures, Safety training and drills;

ii. Safe Manning;

iii. Certification for skipper and crew;

iv. Vessel maintenance – Annual vessel examinations, Annual EPIRB testing;

(4) **Procedure for compliance**

i. The Owner of each vessel must obtain a copy of the relevant Code as applicable to his vessel, and a copy of ‘The Merchant Shipping (Safety of Commercial Sailing and Motor Vessels) Regulations, 2004’ and familiarize with the requirements given therein;

(N.B. When reading the code, (a). a reference to the ‘Certifying Authority’ shall be construed as a reference to the ‘Director’, (b). a reference to a ‘United Kingdom vessel’ shall be construed as reference to a Virgin Islands (BVI) vessel)

ii. Conduct an inspection of the vessel to assess the extent of compliance with the Code and identify any deficiencies. Rectify the deficiencies and ensure vessel’s compliance with the Code requirements;

- iii. Assess 'safe manning' requirements for the vessel for the area of operation, ensure that skipper and crew meet the certification standards as required under the Code, and the STCW 78/95 International Convention;
- iv. Submit an Application to Virgin Islands Shipping Registry (**VISR**) requesting an Inspection / Examination of the vessel for the issuance of a "Small Commercial Vessel Certificate";
- v. VISR will schedule the required Inspection, in the order in which the applications have been received;
- vi. An Inspector will conduct the requisite inspection in accordance with the provisions of the Code, and if satisfactory VISR will issue the relevant Certificate to the vessel;
- vii. The full-term 'Small Commercial Vessel Certificate' will be valid for a period of five (5) years, subject to completion of satisfactory annual inspections;
- viii. The inspections will cover: the examination of hull, propellers and rudder in the dry dock, vessels structure, tanks and piping systems, machinery, Stability and related documents, Lights & Signals, lifesaving and fire-fighting equipment, navigational and radio equipment, publications and operational requirements, safe manning, skipper and crew certification;
- ix. **Alternatively, the Owner may make an application to a 'Certifying Authority'(CA) named in Paragraph (6), and have the vessel examined by the CA and obtain a Small Commercial Vessel Certificate, issued under its authority, in which case the Owner must advise his intentions to VISR in writing . [see Paragraph (5) (b)]**

(5) Exceptions

- (a). The provisions of Paragraph (4) will not apply to a vessel in respect of which,
 - i. a Certificate has been issued by the UK Government, or by a 'Certifying Authority' (see paragraph 7) approved by the Maritime and Coastguard Agency (MCA) UK or the Director of the Virgin Islands Shipping Registry, and is currently in force, and displayed in a conspicuous position on board;
 - or
 - ii. a Certificate or a Certificate of Inspection that is acceptable to the Administration, as being equivalent to a certificate that has been issued by a Government, or a Competent Authority of a foreign country whose inspection laws are equivalent to those of the relevant Code, and is currently in force;
- (b). Notwithstanding that a vessel may meet the provisions of sub-paragraph (a) &(b), the owner of such a vessel intending to operate his/her vessel in the BVI waters must make an application to VISR as per paragraph 4, requesting an examination for, the Verification of Compliance. On satisfactory verification the vessel will be issued with a "Letter of Compliance" confirming its compliance with the relevant Code and the BVI Laws.

(6) Certifying Authorities

The following organizations have been approved by the MCA and the Virgin Islands Shipping Registry, to undertake Examinations and certification work under the small commercial vessel Codes:

- Bureau Veritas (BV)
- Det Norske Veritas (DNV)
- International Institution of Marine Surveyors
- MECAL Ltd
- Royal Yachting Association
- Sea Fish Industry Authority
- Burness Corlett and Partners Ltd.,
- Germanisher Lloyd (UK Branch)
- Lloyds Register of Shipping (LR)
- Registro Italiano Navale (RINA)
- Yacht Designers & Surveyors Association
- Society of Consulting Marine Engineers and Ship Surveyors

(7) Trade Licences

The owner of a foreign vessel is required to obtain a 'Trade Licence' to enable his vessel to operate in the BVI waters. The trade licence is approved by the Ministry responsible for the trade licenses, and it is issued by the HM Customs.

It must be noted that the Trade Licence is not a statutory safety certificate therefore, a foreign vessel holding a trade licence must obtain a Small Commercial Vessel Certificate issued by the VISR to comply with the above regulations, prior to commencing commercial operations in the BVI waters.

(8) Enforcement

The above regulations are enforced under the provisions of Part XVI of the Merchant Shipping Act, 2001. Under these provisions, a vessel that does not comply with the requirements of above regulations shall be liable to be detained.