

CAYMAN ISLANDS



Merchant Shipping Law

MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS, 2002

(SL 9 of 2002)

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Arrangement of Regulations

Regulation	Page
1. Citation	5
2. Definitions.....	5
3. Application.....	6
4. Commercially operated large vessels complying with a Code	6
5. Commercially operated small vessels complying with a Code	7
6. Equivalent provisions	7
7. Acceptance of results of verifications and tests.....	8
8. Offences.....	8
9. Power to detain.....	8

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The Governor in Council, in exercise of the powers conferred on him by sections 174(1), 206(1) and 459 of the Merchant Shipping Law (2001 Revision), makes the following Regulations:

Citation

1. These Regulations may be cited as the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations, 2002.

Definitions

2. In these Regulations —

“**gross tonnage**” means the gross tonnage as determined under the International Convention on Tonnage Measurement of Ships, 1969, as amended, or under any regulations relating to tonnage measurement made under the Law, as the case may be and where a ship has alternative gross tonnages, means the larger of those tonnages;

“**large vessel**” means a vessel that is not a small vessel;

“**load line length**” means the length of a ship as defined in the International Convention on Load Lines, 1966, as amended;

“**similar stage of construction**” means a stage at which —

- (a) construction identifiable with a specific vessel begins; and
- (b) assembly of that vessel, comprising at least 1 percent of the estimated mass of all structural material has commenced; and

“**small vessel**” means a vessel of less than 24 metres in load line length or, in the case of a vessel the keel of which was laid or which was at a similar stage of construction before 21 July 1968, less than 150 gross tonnage.

Application

3. (1) Subject to paragraph (3), these Regulations apply to any vessels when used commercially for sport or pleasure in respect of —
- (a) Cayman Islands vessels wherever they may be; and
 - (b) other vessels operating within Cayman Islands waters.
- (2) These Regulations do not apply to vessels carrying more than twelve passengers.
- (3) Vessels that comply with the relevant Merchant Shipping Regulations which would have otherwise applied if the vessels were not in compliance with the respective Codes referred to in these Regulations shall be deemed to be in compliance with these Regulations.

Commercially operated large vessels complying with a Code

4. (1) This regulation applies only to large vessels.
- (2) In this regulation, “Code” means “The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels”, including any amendments thereto, published (or treated as published) by the Maritime and Coastguard Agency of the United Kingdom, or such other Code as may be prescribed in substitution therefor.
- (3) Vessels shall comply with the provisions of the Code.
- (4) Where a provision of the Code is expressed in the conditional (i.e., “should”), it shall be construed as a mandatory requirement.
- (5) Where the provisions of the Code specified in paragraph (2) have been applied to a vessel under this regulation, and in respect of which appropriate certificates have been issued in accordance with the Code, then the provisions of relevant Merchant Shipping Regulations that would otherwise apply to the vessel shall not apply.
- (6) Where a vessel has been surveyed in accordance with the Code specified in paragraph (2), and the appropriate certificates issued, the vessel shall not be operated unless —
- (a) the certificates are currently in force;



- (b) the vessel complies with the applicable requirements of the Code (including any requirements as to operation, manning and maintenance); and
- (c) the certificate is displayed in some conspicuous place on board, or, if this is not reasonably practicable, is available for inspection on board.

Commercially operated small vessels complying with a Code

5. (1) This regulation applies only to small vessels.
- (2) In this regulation “Code” means either “The Safety of Small Commercial Motor Vessels -A Code of Practice” or “The Safety of Small Commercial Sailing Vessels -A Code of Practice”, including any amendments thereto, published (or treated as being published) by the Maritime and Coastguard Agency of the United Kingdom, or such other Code as may be prescribed in substitution therefor.
 - (3) Vessels shall comply with the provisions of the Code.
 - (4) Where a provision of a Code is expressed in the conditional (i.e., “should”), it shall be construed as a mandatory requirement.
 - (5) Where the provisions of one of the Codes specified in paragraph (2) have been applied to a vessel under this regulation, and in respect of which appropriate certificates have been issued in accordance with the applicable Code, or where a vessel is operating under the phase-in arrangements of a Code, then the provisions of relevant Merchant Shipping Regulations that would otherwise apply to the vessel shall not apply.
 - (6) Where a vessel has been surveyed in accordance with one of the Codes specified in paragraph (2), and the appropriate certificates issued, the vessel shall not be operated unless —
 - (a) the certificate is currently in force;
 - (b) the vessel complies with the requirements of the relevant Code (including any requirements as to operation, manning and maintenance); and
 - (c) the certificate is displayed in some conspicuous place on board, or, if this is not reasonably practicable, is available for inspection on board.

Equivalent provisions

6. Where these Regulations or a Code require that a particular piece of equipment or machinery shall be provided or carried in a vessel to which these Regulations apply, or that any particular provision shall be made, the Director may permit any other piece of equipment or machinery to be provided or carried or any other provision to be made in that vessel if he is satisfied that such other fitting, material, appliance or apparatus or type thereof, or provision is at least as effective as that required by these Regulations or the Code.

Acceptance of results of verifications and tests

7. For the purposes of these Regulations, the Director may accept the results of verifications and tests carried out by the bodies and laboratories of States offering suitable guarantees of technical and professional competence and independence to the satisfaction of the Director.

Offences

8. (1) Contravention of these Regulations is an offence by the owner and the master of the vessel which shall render both of them liable on summary conviction to a fine of fifty thousand dollars or on conviction on indictment to imprisonment for two years and a fine of fifty thousand dollars.
- (2) It shall be a defence to a charge under this regulation to prove that the person charged took all reasonable steps to avoid commission of the offence.

Power to detain

9. In any case where a vessel does not comply with the requirements of these Regulations, the vessel shall be liable to be detained and section 439 of the Law shall have effect in relation to the vessel, subject to the modification that for the words “this Law” wherever they appear, there are substituted the words “the Merchant Shipping (Vessels in Commercial use for Sport or Pleasure) Regulations, 2002”.

Made in Executive Council the 8th day of January, 2002.

Carmena H. Watler
Clerk of the Executive Council

