



BVI MARITIME ADMINISTRATION

MINISTRY OF COMMUNICATIONS & WORKS

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GUIDANCE NOTE

Regulations

THE MERCHANT SHIPPING (SAFETY OF SMALL COMMERCIAL SAILING AND MOTOR VESSELS) REGULATIONS, 2004

(‘Blue Code’, ‘Yellow Code’ and ‘Mega-Yacht Code’ Regulations)

(1) Application

The above regulations apply to ‘small commercial sailing and motor vessels’ which are Virgin Islands (BVI) vessels; and other (foreign) small commercial sailing and motor vessels to which a relevant ‘Code of Practice’ applies, whilst they are operating from a harbour in the Virgin Islands or are in Virgin Islands (BVI) waters.

The Codes apply to all small vessels engaged in carrying passengers on commercial basis, and carrying any number of passengers from one to twelve.

The Code and the Regulations apply to existing vessels as well as new vessels.

(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. Code

(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) Date of enforcement

These regulations take effect from 1st February 2005.

(4) Compliance

Subject to paragraph 6 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;
- iv. the Certificate must be displaced in a conspicuous place on board;

(b). Operational requirements

- i. Operational Procedures
- ii. Safe Manning
- iii. Qualifications of master and crew
- iv. Vessel maintenance

(5) 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 Small 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 to identify any deficiencies. Rectify the deficiencies and ensure vessel’s compliance with the Code.
- iii. Assess the ‘safe manning’ requirements for the vessel, ensure that Master and crew meet the certification standards required under the Code, and the STCW 1995 International Convention;
- iv. Submit an application to BVI Maritime Administration (Administration) requesting an Inspection / Examination of the vessel for the issuance of a “Small Commercial Vessel Certificate”;
- v. Administration will schedule the required Inspection, in the order of receiving the application from the vessel or the owner;
- vi. An Administration Inspector will conduct the requisite inspection in accordance with the provisions of the Code, and if satisfactory the Administration 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 annual inspections;
- viii. The inspection will cover the examination of hull & propulsion machinery, Stability and related documents, Lights & Signals, lifesaving and fire-fighting equipment, navigational and radio equipment, operational requirements, safe manning, master and crew qualifications;
- ix. Alternatively, the Owner may make an application to a ‘Certifying Authority’ named in Paragraph (7), and obtain the necessary certification, in which case the Owner must advise his intentions in writing to the Administration.
[see Paragraph (6) (b)]

(6) 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 BVI Maritime Administration, and is currently in force;
 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), the owner of such a vessel must make an application to the Administration as required under paragraph 5, requesting an examination for the verification of compliance. On satisfactory verification the vessel will be issued with a letter confirming its compliance with the Code.

(7) *‘Certifying Authorities’*

The following organizations have been approved by the MCA and the BVI Maritime Administration, to undertake survey and certification work under the small commercial vessel Codes:

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| - American Bureau of Shipping (ABS) | - Bureau Veritas (BV) |
| - Burness Corlett and Partners Ltd., | - Germanischer Lloyd (UK Branch) |
| - International Institution of Marine Surveying | - Lloyds Register of Shipping (LR) |
| - MECAL Ltd | - Registro Italiano Navale (RINA) |
| - Royal Yachting Association | - Yacht Designers & Surveyors Association |
| - Society of Consulting Marine Engineers and Ship Surveyors | |

(8) *Trade Licences*

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

The Trade Licence is not a safety certificate therefore, a foreign vessel holding a trade licence will be required to comply with these regulations and hold a valid Certificate issued under the provisions of the Code.

(9) *Other “Codes of Practice” in force*

- i. “The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels” (applies to vessels greater than 24 meters in load line length) (**Mega-Yacht Code or White Code**). This Code is also enforced under the above regulations.
- ii. “Code of Safety for Small Commercial Vessels Operating in the Caribbean” (SCV Code). This is an IMO sponsored Code which has been given effect in the BVI through ‘The Merchant Shipping (Caribbean Small Commercial Vessels) Regulations 2004. This Code is applicable to small cargo vessels and small passenger vessels which carry more than twelve and up to 150 passengers.

(10) *Enforcement*

The above regulations are enforced under the provisions 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.