

VIRGIN ISLANDS
MERCHANT SHIPPING (SAFETY OF COMMERCIAL SAILING AND
MOTOR VESSELS) REGULATIONS, 2004

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VIRGIN ISLANDS

STATUTORY INSTRUMENT 2004 NO. 6

**MERCHANT SHIPPING ACT, 2001
(No. 13 of 2001)**

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

[Gazetted 29th January, 2004]

The Governor in Council, in exercise of the powers conferred by sections 459 and 467 of the Merchant Shipping Act, 2001 (No. 13 of 2001), makes the following Regulations:

Citation and commencement.

1. These Regulations may be cited as the Merchant Shipping (Safety of Commercial Sailing and Motor Vessels) Regulations, 2004 and shall come into force on the 1st day of February, 2004.

Interpretation.

2. In these Regulations,

“certificate” means

- (a) a Small Commercial Vessel Certificate issued pursuant to the Code of Practice mentioned in regulation 3(1) or (2); or
- (b) a Certificate of Compliance for a Large Charter Yacht issued pursuant to the Code of Practice mentioned in regulation 3(3);

“competent authority”, in relation to any country or territory, means a person, department, agency or body authorised by the law of that country or territory to issue certificates or certificates of inspection or compliance, as the case may be;

“large commercial sailing or motor vessel” means a ship that is not less than twenty-four metres in load line length and is in commercial use for sport or pleasure and which does not carry cargo or more than twelve passengers, provided that it is not a ship to which either the International Code of Safety for High Speed Craft or the Code of Safety for Dynamically Supported Craft is applicable;

“load line length” means either 96% of the total length on a waterline or 85% of the least moulded depth measured from the top of the keel, or the length from the fore side of the stem to the axis of the rudder stock on that waterline, whichever is the greater, provided that in the case of a ship designed with a rake of keel, the waterline on which this length is measured is parallel to the design waterline;

“motor vessel” means a power driven ship which is not a sailing vessel;

“sailing vessel” means a ship which is designed to be navigated under wind power alone and for which any motor power provided is an auxiliary means of propulsion or a ship which possesses a non-dimensional ratio of sail area divided by volume of displacement of more than 9;

“small commercial motor vessel” means a motor vessel that is less than twenty-four metres in load line length and in commercial use for sport or pleasure and which does not carry cargo or more than twelve passengers;

“small commercial sailing vessel” means a sailing vessel that is less than twenty-four metres in load line length and in commercial use for sport or pleasure and which does not carry cargo or more than twelve passengers.

3. (1) The Code of Practice entitled “The Safety of Small Commercial Sailing Vessels – A Code of Practice” as updated and published from time to time by the Department of Transport, or other relevant department or agency, of the Government of the United Kingdom shall have effect, subject to subregulation (4) and such necessary changes as the Director may determine, in relation to

Application of certain Codes of Practice.

- (a) small commercial sailing vessels which are Virgin Islands ships, wherever they may be, or
- (b) other small commercial sailing vessels which are operating from a harbour in the Virgin Islands or are in Virgin Islands waters.

(2) The Code of Practice entitled “The Safety of Small Commercial Motor Vessels – A Code of Practice” as updated and published from time to time by the Department of Transport, or other relevant department or agency, of the Government of the United Kingdom shall have effect, subject to subregulation (4) and such necessary changes as the Director may determine, in relation to

- (a) small commercial motor vessels which are Virgin Islands ships, wherever they may be; and

- (b) other small commercial motor vessels which are operating from a harbour in the Virgin Islands or are in Virgin Islands waters.

(3) The Code of Practice entitled “The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels” as updated and published from time to time by the Maritime and Coastguard Agency, or other relevant department or agency, of the the Government of the United Kingdom shall have effect, subject to such necessary changes as the Director may determine, in relation to

- (a) large commercial sailing or motor vessels which are Virgin Islands ships, wherever they may be; and
- (b) other large commercial sailing or motor vessels which are operating from a harbour in the Virgin Islands or are in Virgin Islands waters.

(4) For the purposes of the Codes of Practice mentioned in subregulations (1) and (2),

- (a) a reference to the Certifying Authority shall be construed as a reference to the Director; and
- (b) a reference to a United Kingdom vessel shall be construed as a reference to a Virgin Islands ship.

(5) The Director shall cause the Codes mentioned in subregulations (1), (2) and (3) and each updated version thereof to be published in the *Gazette*.

Ships to comply with relevant Code of Practice.

4. (1) Subject to subregulation (2) and the provisions of the relevant Code of Practice, a ship to which a Code of Practice mentioned in regulation 3 applies

- (a) shall be examined in accordance with the relevant Code of Practice; and
- (b) shall not proceed or attempt to proceed to sea unless
 - (i) a certificate has been issued in respect of it in accordance with the relevant Code of Practice and the certificate is currently in force;
 - (ii) it complies with the requirements of the relevant Code of Practice, including any requirements as to operation, manning and maintenance, and is

- operated in accordance with any conditions as specified in the certificate; and
- (iii) the certificate is displayed in a conspicuous place on board.

(2) Subregulation (1) does not apply to a ship in respect of which

- (a) a certificate has been issued by the Government, or a competent authority, of the United Kingdom or of an overseas territory of the United Kingdom, or
- (b) a certificate of inspection or compliance which is recognised by the Director as being equivalent to a certificate has been issued by the Government, or a competent authority, of a foreign country or territory whose inspection laws are equivalent to those of a Code of Practice mentioned in regulation 3,

where the Director is satisfied that that certificate, or that certificate of inspection or compliance, as the case may be, is currently in force and is displayed in a conspicuous place on board the ship, unless the Director has reason to believe that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate, or that certificate of inspection or compliance, or is such that the ship is not fit to proceed to sea without presenting an unreasonable threat to the safety of the ship or its crew and passengers or the environment.

(3) For the purposes of subregulation (1)(b)(ii), a provision of the relevant Code of Practice that is expressed in the conditional shall be a requirement.

(4) Where the Director issues a certificate in respect of a ship, no material change shall be made to the ship, its machinery or equipment without the prior approval of the Director.

5. An approval or exemption given under these Regulations or pursuant to a Code of Practice mentioned in regulation 3 shall be given in writing and shall specify the date on which it takes effect and the conditions, if any, on which it is given.

Approvals and exemptions to be in writing.

6. Without prejudice to the provisions of any enactment, these Regulations may be enforced in accordance with Part XVI of the Merchant Shipping Act, 2001.

Enforcement. No. 13 of 2001

Made by the Governor in Council this 22nd day of January, 2004.

HADASSAH WARD,
Clerk of the Executive Council.