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SAINT CHRISTOPHER AND NEVIS

**STATUTORY RULES AND ORDERS**

**No. 32 of 2008**

**MERCHANT SHIPPING (SMALL COMMERCIAL VESSELS) REGULATIONS, 2008**

**Arrangement of Regulations**

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In exercise of the power conferred under section 456 of the Merchant Shipping Act, No. 24 of 2002, the Minister responsible for Maritime Affairs makes these Regulations:

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**PART I  
PRELIMINARY**

1. **CITATION.** These Regulations may be cited as the Merchant Shipping (Small Commercial Vessels) Regulations, 2008.
2. **INTERPRETATION.** (1) In these Regulations
  - “Act” means the Merchant Shipping Act 2002;
  - “Code” means the Code of Safety for Small Commercial Vessels;
  - “Department” means the Department of Maritime Affairs;
  - “Director” means the Director of Maritime Affairs appointed pursuant to section 411 of the Act;
  - “existing licence” means a licence to operate a commercial vessel of less than twenty four metres in length, issued prior to the coming into force of these Regulations;
  - “fishing vessel” has the meaning given in section 2(1) of the Act;
  - “master” means a person who has command of a commercial vessel;
  - “owner” means, in relation to a vessel, the person who owns the vessel;
  - “passenger” means any person carried in a vessel, except
    - (a) a person employed or engaged in any capacity on board the vessel on the business of the vessel;
    - (b) a person on board the vessel in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstance that neither the master nor the owner nor the charterer, if any, could have prevented or forestalled; or
    - (c) a child under one year of age;
  - “passenger vessel” means a vessel carrying more than twelve passengers;

“Registrar” means the Registrar of Shipping and Seamen appointed under section 446(1) of the Act;

“small commercial vessel” means a vessel of less than twenty four metres in length in commercial use and includes a passenger vessel and a vessel that is provided for the transport or entertainment of lodgers at any institution, hotel, boarding house or guest house or other establishment, but does not include a fishing vessel;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping, 1978 and amendments to this Convention;

“surveyor” means a marine surveyor nominated by the Minister to undertake the surveys required by these Regulations and includes any marine surveyor of the Department;

“voyage” includes an excursion.

(2) Where a vessel is managed by a person other than the owner, whether on behalf of the owner or some other person, or on his own behalf, a reference in these Regulations to the owner shall be construed as including a reference to that person.

3. **APPLICATION.** Subject to regulation 4, these Regulations shall apply to Saint Christopher and Nevis’ small commercial vessels and other small commercial vessels whilst in Saint Christopher and Nevis waters.

4. **EXEMPTIONS.** (1) The Minister may grant exemptions from all or any of the provisions of these Regulations, as may be specified in the exemption, for classes or cases or individual cases on such terms, if any, as he may so specify.

(2) Any approval or exemption given pursuant to these Regulations shall be in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

5. **EQUIVALENT STANDARDS.** Where these Regulations require that a particular piece of equipment or machinery shall be provided or carried in a vessel 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, where he is satisfied by trials thereof or otherwise that such other piece of equipment or machinery or provision is at least as effective as that required by these Regulations.

## **PART II REQUIREMENTS FOR VESSELS**

6. **VESSEL TO BE INSPECTED WITHIN ONE YEAR.** Every vessel to which these Regulations apply shall be inspected for the issue of a Certificate of Inspection in accordance with regulation 8 not later than one year after these Regulations come into operation.

7. **CERTIFICATE OF INSPECTION.** (1) An application for a Certificate of Inspection shall be made in writing to the Department of Maritime Affairs and such application

for a vessel being newly constructed or converted shall be submitted prior to the start of the construction or conversion.

(2) A Certificate of Inspection shall be issued by the Department following a satisfactory inspection for compliance with the Code, which shall remain valid for a period not exceeding three years from the date of inspection, unless revoked by the Department, provided that the vessel successfully completes an annual inspection.

8. **INSPECTIONS.** (1) An initial or renewal inspection shall include an inspection of the hull and related items on dry dock, structure, machinery, electrical equipment, lifesaving equipment, fire protection equipment, pressure vessels and boilers, steering systems, miscellaneous equipment and systems, sanitation and operational practices including the competence and composition of the crew, to ensure that the vessel complies with the relevant requirements of the Code.

(2) The annual inspection shall be such as to ensure that the ship and its equipment has been maintained in accordance with the Code and is in satisfactory working order.

(3) An inspection for the renewal of a Certificate of Inspection shall be conducted within the period two months prior to the expiry of the certificate and where a vessel is inspected in the thirty days before the date of expiry of a Certificate of Inspection, the new certificate shall be dated from the expiry date.

(4) An annual inspection shall be conducted between the tenth to fourteenth month of the anniversary date of the issuance of the Certificate of Inspection.

(5) The Director may, at any time where he considers it necessary, require a dry-dock inspection to be carried out on a vessel

(6) Every application for the inspection of a vessel under these Regulations shall be made by or on behalf of the owner of the vessel to the Director and shall be accompanied by such information relating to the vessel as the Director may require for the purpose of the survey, and the prescribed fee.

9. **RESPONSIBILITIES OF OWNER AND MASTER.** The owner or master of every vessel to which these Regulations apply shall ensure that

- (a) the condition of the safety equipment is maintained so as to comply with the Code;
- (b) after any survey required by these Regulations has been completed, no material change shall be made in the safety equipment subject to such survey without the approval of the Director; and
- (c) whenever an accident occurs to a vessel or a defect is discovered, either of which affects the safety of the vessel or the efficiency or completeness of its safety equipment, it shall be reported at the earliest opportunity to the Director who shall cause investigations to be initiated to determine whether a survey is necessary and shall in that event require such a survey to be carried out and where the vessel is in a port outside of Saint Christopher

and Nevis, the master or owner shall, in addition, make such a report immediately to the appropriate authorities of the country in which the port is situated.

**10. SUSPENSION OF CERTIFICATE OF INSPECTION.** (1) In any case where a vessel does not comply with the requirements of these Regulations or the Code, the Minister may suspend the validity of the Certificate of Inspection.

(2) Where the Minister suspends the validity of a Certificate of Inspection the owner or master shall thereupon deliver up the certificate issued in relation to the vessel.

(3) When the Minister is satisfied that corrective action has been taken he shall restore the validity of the certificate and return the certificate issued in relation to the vessel, to the master.

**11. PROHIBITION ON PROCEEDING TO SEA.** A vessel to which these Regulations apply shall not proceed or attempt to proceed to sea unless

- (a) the Certificate of Inspection is currently in force;
- (b) the vessel complies with the requirements of the Code, including any requirements as to operation, manning and maintenance and is operated in accordance with any conditions as specified in the certificate;
- (c) the certificate is displayed in some conspicuous place on board.

### **PART III BOATMASTERS AND BOAT ENGINEERS**

**12. MASTER AND ENGINEERS.** (1) A vessel to which these Regulations apply shall have in command of it a person who is qualified as follows:

- (a) he is the holder of a licence issued by the Minister under regulation 13 stating that he is qualified to have command of such a vessel, where
  - (i) the licence is in force and is of a grade appropriate in respect to the waters in which the vessel is being navigated, the size of the vessel and the number of passengers carried; and
  - (ii) the vessel is in an area specified in the licence as one in which a vessel may be navigated under the command of the holder; or
- (b) he is the holder of a certificate of competency as a deck officer issued in accordance with the provisions of the STCW Convention.

(2) A commercial vessel fitted with main propulsion machinery of up to 750 KW shall, where an engineer is required by the Minister, or Table IX/8.2 of the Code, carry as engineer a person who is qualified as follows:

- (a) he is the holder of a licence issued by the Minister under regulation 13 stating that he is qualified to be in charge of the engines and machinery of such a vessel where

- (i) the licence is in force and is of a grade appropriate in respect both of the waters in which the vessel is being navigated; and
  - (ii) the vessel is in an area specified in the licence as one in which a vessel may be operated under the charge of the holder; or
- (b) he is the holder of a certificate of competency as an engineer officer issued in accordance with the provisions of the STCW Convention
- (3) Except as authorised by the Director, vessels with engines of higher power shall have on board engineers qualified in accordance with the STCW Convention.

**13. ISSUE OF LICENCE, STANDARDS AND CONDITIONS.** (1) The Minister may issue licences either as Boatmaster or Boat Engineer, as appropriate, to persons who meet the requirements of this regulation on application and receipt of any fee payable, in such form as he may from time to time specify.

(2) Subject to subregulation (3):

- (a) the standards of competence to be attained and the conditions, including conditions as to medical fitness, to be satisfied by a person in order for a licence to be issued to him under these Regulations;
- (b) any exceptions applicable with respect to any such standards or conditions;
- (c) the manner in which the attainment of any such standards or the satisfaction of any such conditions is to be evidenced; and
- (d) the conduct of any examinations and the conditions of admission to them;

shall be those specified in paragraphs IX/5 to IX/7 and IX/9 to IX/11 of the Code or those which may from time to time be specified by the Minister by Notice.

(3) Notwithstanding that an applicant for a licence under this regulation complies with the standards and satisfies the conditions specified in subregulation (2), the Minister shall not issue such a licence to the applicant unless he is satisfied, having regard to all the relevant circumstances, that the applicant is a fit person to be the holder of such a licence.

**14. GRADE AND AREA RESTRICTIONS OF BOATMASTER LICENCES.** (1) A licence as a master issued under regulation 13 shall bear the title "Boatmaster Licence" and shall be of one of the following grades, which shall be stated in the licence

- Boatmaster Licence, Grade 1
- Boatmaster Licence, Grade 2
- Boatmaster Licence, Grade 3.

(2) The grade of licence appropriate in respect of a vessel shall be determined in accordance with paragraph IX/4 of the Code.

(3) A Boatmaster licence of any grade shall be subject to such restriction as the Minister may determine as to the area or areas in which a vessel may be navigated under the command of the holder; and every such restriction shall be stated in the licence.

**15. GRADE AND AREA RESTRICTIONS ON BOAT ENGINEER LICENCE.** (1) A licence as engineer issued under regulation 13 shall bear the title "Boat Engineer Licence " and shall be of one of the following grades, which shall be stated in the licence.

Boat Engineer Licence, Grade 1

Boat Engineer Licence, Grade 2

(2) The grade of licence appropriate in respect of a vessel shall be determined in accordance with regulation IX/8 of the Code.

(3) A Boat Engineer licence of any grade shall be subject to such restriction as the Minister may determine as to the area or areas in which a vessel may be operated under the charge of the holder; and every such restriction shall be stated in the licence.

**16. EXISTING LICENCES.** The Minister shall on the application by a person who holds a licence on the date of the commencement of these Regulations and on receipt of any fee payable, issue to him a licence under these Regulations and the licence shall

- (a) be of the grade which is appropriate in respect of
  - (i) a vessel when being navigated or operated in waters in the area or areas stated in the existing licence as the approved area or areas of operation; and
  - (ii) the size of vessel which in the period of twelve months before the coming into force of these Regulations was navigated or operated in that area under the command or charge of the holder of the existing licence; and
- (b) state the area or areas in which a vessel may be navigated or operated under the command or charge of the holder, as the area or areas stated in the existing licence as the approved area or areas of operation.

**17. VALIDITY AND RENEWAL OF LICENCES.** (1) Licences shall be subject to revalidation every three years for persons up to sixty-three years of age and such revalidation shall be subject to

- (a) the holder providing proof that he has had at least forty five days service in vessels for which the licence is valid during the previous three years, and
- (b) the submission of a valid medical fitness certificate issued in accordance with the Act and Regulations made under the Act.

(2) Licences held by persons sixty-three years of age and over shall be subject to revalidation annually and such revalidation shall be subject to the holder providing proof that he has had at least fifteen days service in a vessel