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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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MERCHANT SHIPPING (SMALL COMMERCIAL VESSELS) REGULATIONS, 2008

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

- (a) for which the licence is valid during the previous year, and
- (b) the submission of a valid medical fitness certificate issued in accordance with the Act and Regulations made under the Act.

(3) Where a person is unable to produce proof of the experience required under sub regulation (1) or (2) that person shall apply to the Director for an examination of competency.

(4) A licence issued under these Regulations shall remain valid only so long as the holder complies with the standards of competence and the conditions, including conditions as to medical fitness, specified in regulation 13 (2).

18. RECORD AND SURRENDER OF LICENCES. (1) The Director shall make and, during the period of the licence, retain a copy of every licence issued under these Regulations.

- (2) A record of
 - (a) every licence issued under this Part;
 - (b) every suspension, cancellation or alteration of and any other matter affecting such a licence;

shall be kept, in such manner as the Director may require, by the Registrar or by such other person as the Director may direct.

19. LOSS OF LICENCES. (1) Where the holder of a Boatmaster or Boat Engineer licence loses the licence the Director may, on receipt of any fee payable, cause a copy of the licence to be issued to him.

(2) Any copy issued under subregulation (1) shall be certified as a copy by the Registrar or, as the case may be, such other person as the Director may have directed.

20. SUSPENSION OF LICENCE. (1) Where it appears to the Minister that a licenced Boatmaster or Boat Engineer is, unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason, he may cause an inquiry to be held by one or more persons appointed by him and if he does so, may, suspend, pending the outcome of the inquiry, the certificate in question.

(2) A licence so suspended shall be surrendered to the Minister within seven days.

(3) Where the recommendation made after the inquiry referred to in sub-regulation (1), is to withhold, suspend or cancel the certificate it shall be dealt with according to that recommendation.

PART IV HOURS OF WORK

21. INTERPRETATION FOR THIS PART. (1) In this Part unless the context otherwise requires

“crew” includes every person, except masters and pilots, employed or engaged in any capacity on board a vessel;

“employer”, in relation to a master who has command of a vessel in the course of his employment, means the person who employs that master in that employment;

“working day”, in relation to any person to whom these Regulations apply means any period during which the person is on duty which is not followed by an interval for rest of at least eight hours.

(2) For the purposes of this Part a director of a company shall be deemed to be employed by it.

22. DUTY OF OWNER, MASTER, CREW. (1) It shall be the duty of the owner of a commercial vessel to ensure so far as is reasonably practicable, that the master and seamen do not work more hours than is safe in relation to the safety of the vessel, its cargo and persons carried on board.

(2) It shall be the duty of every master of a commercial vessel to ensure, so far as is reasonably practicable, that seamen do not work more hours than is safe in relation to the safety of the vessel, its cargo and persons carried on board.

(3) Every master and seaman, so far as reasonably practicable, shall ensure that he is properly rested when commencing duty on a vessel and that he obtains adequate rest during periods when he is off duty.

23. WORKING HOURS IN VESSELS ON VOYAGES WHICH EXCEED 24 HOURS. (1) This regulation applies to vessels which do not complete a voyage within twenty four hours.

(2) The hours of rest shall not be less than ten (10) hours in every twenty four hour period which may be divided into no more than two periods, one of which shall be at least six hours rest in length and the minimum period of ten hours may be reduced to not less than six consecutive hours on condition that such reduction shall not extend beyond two days, and not less than seventy hours of rest are provided in each seven day period.

(3) The requirements for rest periods specified in subregulation (2) need not be maintained in cases of any emergency including giving assistance to other vessels, a person in distress at sea, or drill or any overriding operational conditions.

24. WORKING HOURS IN VESSELS ON VOYAGES OF LESS THAN 24 HOURS. (1) This regulation applies to vessels which complete a voyage or voyages within twenty-four hours.

(2) References to a person being on duty are references

(a) in the case of a master who has command of a vessel in the course of his employment, to his being on duty, whether for the purpose of having the command of a vessel to which this regulation applies or for other purposes, in the employment of the person who employs him in that employment or in any other employment under that person; and

(b) in the case of a master who has command of a vessel for the purposes of a trade or business carried on by him, to his having command of a vessel to which this regulation applies for the purposes of that trade or business or being otherwise engaged in work for the purposes of that trade or business, being work in connection with such a vessel or the passengers carried by it.

(3) Subject to subregulations (4) and (5):

- (a) the working hours of a master or engineer shall not exceed sixteen hours.
- (b) a master shall not on any working day on a vessel or vessels to which this regulation applies work for periods amounting in the aggregate to more than ten hours.
- (c) where on any working day a master has been on duty
 - (i) for a period of six hours and the end of that period does not mark the end of the working day there shall be an interval of not less than thirty minutes in which the master may obtain rest and refreshment; or
 - (ii) for periods amounting in the aggregate to six hours and there has not been between any of those periods an interval of not less than thirty minutes in which the master was able to obtain rest and refreshment and the end of the last of those periods does not mark the end of the working day, there shall be such an interval at the end of the last of those periods;
- (d) there shall be, between any two successive working days of a master, an interval for rest which shall not be less than eight hours; and, in the case of a master who has command of a vessel in the course of his employment, a period of time shall not be treated as not being an interval for rest by reason only that he may be called upon to report for duty if required.

(4) The requirements for rest period specified in sub-regulation (3) need not be maintained in cases of any emergency including giving assistance to other vessels, person in distress at sea, or drill or any overriding operational conditions.

(5) Where the Minister considers that it would be appropriate to grant an exemption from all or any of the requirements of sub-regulation (3) he may on such terms, if any, as may be specified grant such an exemption; and, subject to giving reasonable notice, the Minister may alter or cancel an exemption so granted.

25. CONTRAVENTION OF REGULATION 24. (1) Subject to subregulation (2) where any of the requirements of regulation 24 is contravened in the case of any master, that master, and any other person, being that master's employer or a person to whose orders that master was subject, who caused or permitted the contravention, commits an offence.

- (2) A person shall not be liable under this regulation where he can prove
- (a) that the contravention was due to an unavoidable delay in the completion of a voyage arising out of circumstances which he could not reasonably have foreseen; or
 - (b) in the case of a person other than the master, that the contravention was due to the fact that the master had for any particular period or periods conned a vessel or vessels or been on duty otherwise than in the employment of the person charged or, as the case may be, otherwise than in the employment in which he was subject to the orders of the person charged, and that the person charged was not, and could not reasonably have become, aware of that fact.

**PART V
MANNING AND TRAINING**

26. **MANNING.** A vessel to which these Regulations apply shall not proceed on a voyage unless the manning of the vessel is in accordance with the Certificate of Inspection or approved by the Director in accordance with paragraph IX/17 of the Code.

27. **TRAINING IN EMERGENCY PROCEDURES.** The owner of a passenger vessel to which these Regulations apply shall

- (a) establish procedures governing actions to be taken during an emergency by the master and crew to assist passengers and to deal with the emergency in general;
- (b) ensure that a the person having command of the vessel and any other person or persons employed or engaged in any capacity on board the vessel has received adequate on board training in the procedures to be observed by that person in the event of an emergency.

**PART VI
PASSENGER DETAILS**

28. **PASSENGER DETAILS.** (1) The owner, charter, managing operator or master of a passenger vessel making a voyage within the waters of Saint Christopher and Nevis shall keep an accurate record of all persons who embark and disembark from the vessel, including the name, gender and age of all persons.

(2) The record referred to in sub-regulation (1) shall be recorded on the prescribed form.

**PART V
MISCELLANEOUS**

29. **PENALTIES.** (1) An owner or a master who contravene any provision of Parts II or III or regulation 26 shall be guilty of an offence and shall be liable to a fine not exceeding level 5 of the standard scale of fines set out in Schedule 5 of the Act or to imprisonment for six months or to both such fine and imprisonment.

(2) Any person who contravenes any provision of Part IV or regulation 27 shall be guilty of an offence and shall be liable to a fine not exceeding level 3 of the standard scale of fines set out in Schedule 5 of the Act.

(3) In any proceedings for an offence under these Regulations it shall be a defence for the person charged to prove that he took all reasonable steps to avoid commission of the offence.

30. **POWER TO DETAIN.** In any case where a vessel does not comply with the requirements of these Regulations, that vessel shall be liable to be detained and section 436 of the Act shall have effect in relation to the vessel.

Made the 29th day of October, 2008.

EARL ASIM MARTIN
Minister responsible for Maritime Affairs