

ANTIGUA AND BARBUDA



THE MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT  
OR PLEASURE) REGULATIONS, 2011

STATUTORY INSTRUMENT

2011, No. 49

[ Printed in the Official Gazette Vol. XXXI No. 37  
dated 14th July, 2011. ]

Printed at the Government Printing Office, Antigua and Barbuda,  
by Eric T. Bennett, Government Printer  
— By Authority, 2011.

*The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations, 2011.*

2

2011, No. 49

**THE MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT  
OR PLEASURE) REGULATIONS, 2011**

**ARRANGEMENT OF REGULATIONS**

1. Short Title
2. Definitions
3. Application
4. Commercially operated large vessels complying with a Code
5. Commercially operated small vessels complying with a Code
6. Vessels operating in a Limited Geographical Area within the Caribbean Region
7. Equivalent provisions
8. Acceptance of results and verifications and tests
9. Offences
10. Power to detain
11. Safe Manning

**ANTIGUA AND BARBUDA**

**THE MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS, 2011**

**2011, No. 49**

The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations made by the Minister in exercise of the powers contained in section 7 of the Antigua and Barbuda Merchant Shipping Act, 2006.

**1. Short Title**

These Regulations may be cited as the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations, 2011.

**2. Definitions**

In these Regulations—

“the Act” means the Antigua and Barbuda Merchant Shipping Act, 2006;

“Director” means the Director of ADOMS, appointed under section 6 of the Act;

“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 Act, 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;

“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.

(2) References in these Regulations to any Code are references to that Code with the necessary modifications for Antigua and Barbuda, such modifications to be determined by the Director.

### **3. Application**

(1) Subject to subregulation (2), these Regulations apply to any vessel when used commercially for sport or pleasure in respect of—

- (a) Antigua and Barbuda vessels wherever they may be; and
- (b) other vessels operating within Antigua and Barbuda waters.

(2) These Regulations do not apply to vessels carrying more than twelve passengers.

(3) Vessels that comply with relevant Regulations relating to the safety of shipping or the prevention of pollution of the sea 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.

### **4. Commercially operated large vessels complying with a Code**

(1) This regulation applies only to commercially operated large vessels.

(2) Commercially operated large vessels shall comply with “The Large Commercial Yacht Code” MSN 1792, and any amendments thereto, published by the Maritime and Coastguard Agency of the United Kingdom, or such other Code as may be prescribed in substitution therefor.

(3) In these Regulations, a reference to a Code in relation to commercially operated large vessels is a reference to the Code specified in subregulation (2).

(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 subregulation (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 the relevant Regulations relating to the safety of shipping or the prevention of pollution of the sea that would otherwise apply to the vessel shall not apply.

(6) Where a vessel has been surveyed in accordance with the Code specified in subregulation (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 certificates are displayed in some conspicuous place on board, or, if this is not reasonably practicable, are available for inspection on board.

#### **5. Commercially operated small vessels complying with a Code**

(1) This regulation applies only to commercially operated small vessels.

(2) Commercially operated small vessels shall comply with “The Small Commercial Vessel and Pilot Boat Code (The Harmonised Code)” applied through Marine Guidance Note 280 (Small Vessels in Commercial Use for Sport or Pleasure, Workboats and Pilot Boats - Alternative Construction Standards), and any amendments thereto, published by the Maritime and Coastguard Agency of the United Kingdom, or such other Code as may be prescribed in substitution therefor.

(3) In these Regulations, a reference to a Code in relation to commercially operated small vessels is a reference to the Code specified in subregulation (2).

(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 subregulation (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 the relevant Regulations relating to the safety of shipping or the prevention of pollution of the sea that would otherwise apply to the vessel shall not apply.

(6) Where a vessel has been surveyed in accordance 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 requirements of the relevant Code (including any requirements as to operation, manning and maintenance); and
- (c) the certificates are displayed in some conspicuous place on board, or, if this is not reasonably practicable, is available for inspection on board.

## **6. Vessels operating in a Limited Geographical Area within the Caribbean Region**

(1) The Director may permit alternative provisions to be made for vessels solely operating within a limited area within the Wider Caribbean Region, where he is satisfied that these provisions together with the appropriate service limitation provide an equivalent level of safety to these Regulations or the applicable Code.

(2) In this regulation, "Wider Caribbean Region" has the same meaning as in regulation 5(1)(h) of Annex V of the International Convention for the Pollution from Ships 1973, as amended.

## **7. Equivalent Provisions**

Where these Regulations or a Code referred to in these Regulations 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, and or service limitation, or provision is at least as effective as that required by these Regulations or the Code.

## **8. Acceptance of results of verifications and tests**

For the purposes of these Regulations, the Director may accept the results of verifications and tests carried out by the bodies and laboratories of other Flag State Administrations (States) or IACS Member Classification Societies offering suitable guarantees of technical and professional competence and independence to the satisfaction of the Director.

## **9. Offences**

(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 (\$50,000.00) or to imprisonment for two years.

(2) It is a defence to a charge under this regulation to prove that the person charged took all reasonable steps to avoid commission of the offence.

## **10. Power to detain**

(1) In any case where a vessel does not comply with the requirements of these Regulations, the vessel shall be liable to be detained, and any person generally or specially authorised by the Director may detain the vessel.

(2) If the vessel, after detention or after service on the master of any notice of an order for detention, proceeds to sea before it is released by a competent authority, the master of the vessel, and also

the owner and any person who send the vessel to sea, if that owner or person is party or privy to the master's offence, commits an offence and is liable on conviction to a fine not exceeding five thousand dollars.

(3) Where under these Regulations a vessel is detained, the Comptroller of Customs shall refuse to grant port clearance”.

## **II. Safe Manning**

(1) The requirement for certification, safe manning, hours of work and watchkeeping in respect of pleasure yachts in commercial use under 3000 GT shall be in accordance with the relevant provisions of the Code referred to in regulation 4.

(2) The Director may under this regulation recognise and endorse a Certificate issued in accordance with the Certification system, as defined in MSN 1802 and MGN 156, as amended, for Deck and Engineer Officers respectively, as published by the Maritime and Coastguard Agency of the United Kingdom.

(3) Where the director recognises a Certificate under paragraph (2) he shall endorse such a Certificate to attest to its recognition.

Made the 30th day of June, 2011

**The Honourable Baldwin Spencer,**  
*Prime Minister and Minister responsible  
for Merchant Shipping and Registration.*