

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

Circular to: Owners, Operators, Brokers, Charterers, Shipping Agents, Masters, Officers & Crewmembers, Inspectors, Surveyors, Managers of Bareboat Charter Vessels and Crewed Yachts, Commercial vessel Licencing Authorities, BVI Ports Authority and Interested Parties.

1. The Merchant Shipping Act, 2001 (No. 13 of 2001);
2. The Merchant Shipping (Safety of Commercial Sailing and Motor Vessels) Regulations, 2004;
3. United Kingdom Safety Codes:
 - “The Safety of Small Commercial Sailing Vessels – A Code of Practice” (*Blue Code*)
 - “The Safety of Small Commercial Motor Vessels – A Code of Practice” (*Yellow Code*)
 - “The Code of Practice for Safety of Large Commercial Sailing and Motor Vessels” (*LY2*)
 - Small Vessels in Commercial Use for Sport or Pleasure, Workboats and Pilot Boats (SCV Code) – Alternative Construction Standards, (*MGN 280 (M)*);
4. Blue and Yellow Code Guidance Note (BVI)
5. Marine Circular No.1 /2009 dated 1st November 2009.

Background

Reference is made to Virgin Islands Shipping Registry (VISR) Marine Circular No.1 /2009 issued on 1st November 2009 concerning Safety of Commercial Vessels operating in the British Virgin Islands waters.

Following the publication of above Marine Notice a number of queries have been received from interested parties in relation to compliance requirements under the Codes. In order to clarify the requirements concerning the three main issues raised, this Marine Notice No.3 /2009 is issued for the benefit of all parties.

1) LIFERAFTS

- a) This is a requirement under the Code hence a blanket waiver cannot be given;
- b) Short Range yachts operating in Blue and Yellow Code Area Categories 3 or 4, that is up to 20 miles from a safe haven, may be considered for granting of a waiver from the requirement for carrying liferafts, provided there are on board such vessels appropriate life saving appliances (eg. buoyant apparatus etc..) which could provide equivalent safety standards;
- c) Any waiver must be applied for by the vessel’s owner. The adequacy of the alternative equipment would then be assessed during the compliance inspection.
- d) In a case where an equivalent standard has been approved, the vessel will be granted an exemption from the liferafts requirement, subject to any conditions as applicable.

2) STABILITY

- a) It is a requirement under the commercial vessel Code (**Blue Code, Yellow Code, MGN 280**), that commercial vessels must comply with the Stability requirements as described in the relevant Code, prior to being granted a Small Commercial Vessel Certificate, for undertaking commercial operations;
- b) Stability requirements may differ from vessel to vessel based on the area of operation, number of persons carried on board, type of vessel (sailing or motor), construction (mono hull, multi-hulls) etc.;
- c) Most new vessels are provided with basic stability particulars by the builders. In cases where stability information is not found on board, yacht owners have often been successful in obtaining it from the yards concerned. Vessels that are EC-Type approved, that is, vessels of a type that is 'CE' certified to European Recreational Craft Directive (RCD) 94/25/EC*, will already have had their stability assessed to a standard recognised by VISR. The Owners of such vessels can apply for a VISR stability letter by submitting proof of EC-Type approval with relevant documents. It should be noted however that multihull sailing vessels, in addition to being EC-Type approved, will also require an approved Stability Information Booklet (see f);
- d) In instances where a motor vessel does not have the requisite stability document, one can be produced after carrying out a simple inclining test. This can be performed by a person/company/organisation approved by VISR. Such a service is available in BVI;
- e) The stability of a sailing mono-hull vessel which is to operate up to 60 miles from a safe haven and which is not EC-Type approved, can be assessed by the RYA's STOPS numerals method, without the need for an inclining test. The RYA should be contacted directly for this stability assessment**;
- f) With regard to multihull sailing vessels, a Stability Information Booklet showing the maximum safe wind speeds for different sail configurations is required. Where a Stability Information Booklet is not available from the yacht manufacturer, it is recommended that a Naval Architect be engaged to take the necessary measurements and produce the relevant stability documents. Any party interested in obtaining further information on this subject may contact VISR;
- g) In cases where a stability letter or stability particulars cannot be produced for an existing vessel, a temporary waiver of up to six months may be obtained by applying to VISR at the time of initial compliance examination.

**Compliance to RCD 94/25/EC became mandatory for all vessels sold in Europe after 16 June 1998. Such vessels should have a 'CE' plate located in the cockpit*

***The RYA can be contacted at technical@rya.org.uk*

3) SKIPPER'S QUALIFICATIONS

- a) Under the safety of commercial vessels regulations, to operate a Commercial Vessel under the Codes, the skipper must hold a valid commercial vessel operator's licence.
- b) The acceptable qualifications and licences are:
 - i) Yacht Master Certificate (MCA/RYA) with commercial endorsement;
 - ii) BVI Boatmaster Licence;
 - iii) UK STCW Master (Yacht) Certificate;
 - iv) STCW Certificates (Officer in Charge of a Navigation Watch or higher) issued by a Party to STCW Convention , with appropriate STCW National Endorsements;
 - v) US Coast Guard Licence, (50 GT, 100 GT or above) with appropriate STCW Endorsements
 - vi) International Yacht Training (IYT) Master Yacht Certificate;
 - vii) Certificate of Competency issued by a National Government of a State acceptable to BVI;
- c) Holders of any of the above qualifications (except the BVI Boatmaster Licence) may make an application with the relevant supporting documents to VISR for verification of the qualifications, and issuance of an equivalent BVI Licence;
- d) A persons having experience as a skipper in operating commercial vessels for a period of at least four years, but having no formal qualifications may apply for a BVI Boat master licence examination by forwarding the relevant application and the supporting documents. Such a candidate may be issued with a Boatmaster licence (Grade 2 or 3) following an oral examination.

4) ANY OTHER ISSUES

Owners of small commercial vessels who wish to operate their vessels in the BVI waters may contact VISR for further information on any of the above matters or any other relevant matters pertaining to certification of commercial vessels or skippers qualifications.

All parties are requested to be guided accordingly

Director,
Virgin Islands Shipping Registry
Road Town
Tortola
British Virgin Islands.