



BERMUDA

MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2024

BR 34 / 2024

TABLE OF CONTENTS

1	Citation
2	Interpretation
3	Application
4	Commercially operated large vessels complying with Code of Practice
5	Commercially operated small vessels complying with Code of Practice
6	Equivalent provisions
7	Penalties
8	Power to detain

The Minister responsible for Maritime Administration, after consulting the persons referred to in section 94(3) of the Merchant Shipping Act 2002, in exercise of the powers conferred by section 93(1) of that Act, makes the following Regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2024.

Interpretation

2 (1) In these Regulations—

“large vessel” means a vessel which is not a small vessel;

“load line length” means the length of a ship as defined in the International Convention on Load Lines 1966;

MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2024

“pleasure vessel” has the meaning given in regulation 2 of the Merchant Shipping (Registration of Ships) Regulations 2003;

“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% 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 tons;

“tons” means gross tons, measured in accordance with the Merchant Shipping (Tonnage) Regulations 2008.

(2) References to Codes of Practice in these Regulations are references to the Codes of those names published (or treated as published) by the Maritime and Coastguard Agency of the United Kingdom or the Bermuda Shipping and Maritime Authority and includes any document amending the same which the Minister considers relevant.

Application

3 (1) Subject to paragraph (3), these Regulations apply to—

- (a) any vessel used for sport or pleasure which is not a pleasure vessel;
- (b) Bermuda vessels wherever they may be; and
- (c) other vessels operating from Bermuda ports whilst in Bermuda waters.

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

(3) Vessels that comply with the relevant Merchant Shipping Regulations 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.

Commercially operated large vessels complying with Code of Practice

4 (1) This regulation applies only to large vessels.

(2) In this regulation, "Code of Practice" means the Red Ensign Group Yacht Code, published (or treated as published) by the Maritime and Coastguard Agency of the United Kingdom or the Bermuda Shipping and Maritime Authority or such other Code as may be prescribed in substitution.

(3) Vessels shall comply with the Code of Practice and accordingly, any provision of the Code of Practice expressed in the conditional (i.e., "should") shall be a mandatory requirement.

MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2024

(4) Where the provisions of the Code specified in paragraph (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, or where a vessel is operating under the phase-in arrangements of a Code, then the relevant Merchant Shipping Regulations that would otherwise apply to the vessel shall not apply.

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

Commercially operated small vessels complying with Code of Practice

5 (1) This regulation applies only to small vessels.

(2) In this regulation "Code" means either "The Safety of Small Commercial Motor Vessels - A Code of Practice" or "The Safety of Small Commercial Sailing Vessels - A Code of Practice", including any amendments thereto, published (or treated as published) by the Maritime and Coastguard Agency of the United Kingdom or the Bermuda Shipping and Maritime Authority or such other Code as may be prescribed in substitution.

(3) Vessels shall comply with a Code of Practice and accordingly, any provision of a Code of Practice expressed in the conditional (i.e., "should") shall be a mandatory requirement.

(4) Where one of the Codes specified in paragraph (2) has 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 relevant Merchant Shipping Regulations that would otherwise apply to the vessel shall not apply.

(5) Where a vessel has been surveyed in accordance with one of the Codes specified in paragraph (2), and the appropriate certificates issued, the vessel shall not be operated unless—

- (a) the certificate is 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 certificate is displayed in some conspicuous place on board, or, if this is not reasonably practicable, is available for inspection on board.

MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS 2024

Equivalent provisions

6 (1) Where these Regulations or a Code of Practice 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 Minister shall 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 by trial or otherwise, that such other fitting, material, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by these Regulations or a Code of Practice.

(2) For the purpose of these Regulations, the Minister may accept the results of verifications and tests carried out by the bodies and laboratories of other accepted countries offering suitable and satisfactory guarantees of technical and professional competence and independence to the Minister's satisfaction.

Penalties

7 (1) A contravention of these Regulations shall be an offence by the owner and the master of the vessel, which shall render both of them liable on summary conviction to a fine not exceeding \$10,000, or on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine of \$50,000, or both.

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

Power to detain

8 In any case where a vessel does not comply with the requirements of these Regulations, the vessel is liable to be detained and section 242 of the Merchant Shipping Act 2002 (which relates to the detention of a ship) shall have effect in relation to the vessel, subject to the modification that, for the words "this Act" wherever they appear, there were substituted "the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 2024".

Made this 28th day of March 2024

Minister of Transport

[Operative Date: 28 March 2024]