
Revised Regulations of Anguilla: M82-3

MERCHANT SHIPPING ACT (R.S.A. c. M82)**SMALL COMMERCIAL VESSELS REGULATIONS**

Note: These Regulations are enabled under section 73 of the Merchant Shipping Act, R.S.A. c. M82.

TABLE OF CONTENTS**PART 1****PRELIMINARY****SECTION**

1. Interpretation
2. Application
3. Exemptions
4. Equivalents

PART 2**REQUIREMENTS FOR VESSELS**

5. Vessels to be surveyed
6. Certificate of Inspection
7. Inspection
8. Responsibilities of owner and master
9. Suspension of Certificate of Inspection
10. Prohibition of proceeding to sea

PART 3**BOAT MASTERS AND BOAT ENGINEERS**

11. Master and engineers
12. Issue of licence, standards and conditions
13. Grades and area restrictions of Boat Master licences
14. Grade and area restrictions of Boat Engineer licences
15. Existing licences
16. Validity and renewal of licences
17. Record and surrender of licences
18. Loss of licences
19. Suspension of licence

PART 4

HOURS OF WORK

20. Interpretation
21. Duty of owner, master, crew
22. Exception for emergencies
23. Working hours in certain ships
24. Contravention of section 23

PART 5

MANNING AND TRAINING

25. Manning
26. Training in emergency procedures

PART 6

MISCELLANEOUS

27. Penalties
 28. Power to detain
 29. Citation
-

PART 1

PRELIMINARY

Interpretation

1. (1) In these Regulations—

“Act” means the Merchant Shipping Act;

“Administration” means the Maritime Administration of Anguilla consisting of the following persons—

- (a) Permanent Secretary, Ministry of Infrastructure, Construction, Utilities and Housing;
- (b) Superintendent;
- (c) Registrar of ships;

“Code” means the Code of Safety for Small Commercial Vessels published by the International Maritime Organization in September 2003 and any subsequent amendments thereto;

“existing vessel” means a vessel which is not a new vessel;

“length” means length overall, the distance between the foreside of the foremost fixed permanent structure and the after side of the aftermost permanent structure;

“master” means a person who has command of a commercial vessel;

“new vessel” means a vessel the keel of which was laid or the construction or lay up was started on or after the date of coming into operation of these Regulations;

“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 1 year of age;

“passenger vessel” means a vessel carrying more than 12 passengers;

“small commercial vessel” means a vessel of 5 or more metres but less than 24 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;

“STCW Convention” means the International Convention on Standards of Training, Certification and Watch keeping for Seafarers, 1978 (as amended in 1995);

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

“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) The Administration shall cause the Code and each updated version thereof to be published in the *Gazette*.

Application

2. Subject to section 3, these Regulations shall apply to—

- (a) Anguilla small commercial vessels; and
- (b) other small commercial vessels whilst in Anguilla waters;

to which the Code applies.

Exemptions

3. (1) The Administration 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 it may so specify.

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

Equivalents

4. Where these Regulations or the Code 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 Administration may permit any other piece of equipment or machinery to be provided or carried, or any other provision to be made, where it 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 or the Code.

PART 2

REQUIREMENTS FOR VESSELS

Vessels to be surveyed

5. Every vessel shall be surveyed for the issue of a Certificate of Inspection in accordance with section 6 not later than 9 months after 1st July 2004.

Certificate of Inspection

6. (1) Application for a Certificate of Inspection shall be made in writing to the Administration, 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 Administration following a satisfactory inspection for compliance with the Code, which shall remain valid for a period not exceeding 3 years from the date of inspection, unless revoked by the Administration, provided that the vessel successfully completes annual inspections within that period.

Inspection

7. (1) An initial or renewal inspection shall include an inspection of the hull and related items on dry dock, structure, machinery, electrical equipment, life-saving equipment, fire protection equipment, pressure vessels and boilers, steering systems, miscellaneous equipment and systems, sanitation and required operational practices including the competence and composition of the crew.

(2) The scope of an annual inspection shall be the same as for an inspection for issue of a Certificate of Inspection but in less detail.

(3) An annual inspection shall be conducted between the 10th to 14th month of the anniversary date of the issuance of the Certificate of Inspection.

(4) An inspection for the renewal of a Certificate of Inspection shall be conducted up to 2 months prior to the expiry of the certificate and, where a vessel is inspected not more than 30 days before the date of expiry of a Certificate of Inspection, the new certificate shall be dated from the expiry date.

(5) The Administration may, at any time where it is considered 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 Administration and shall be accompanied by such information relating to the vessel as the Administration may require for the purpose of the survey and the prescribed fee.

Responsibilities of owner and master

8. The owner or master of every vessel 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 Administration; 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 Administration 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 Anguilla the master or owner shall, in addition, make such a report immediately to the proper authorities of the country in which the port is situated.

Suspension of Certificate of Inspection

9. (1) In any case where a vessel does not comply with the requirements of these Regulations or the Code, the Administration may suspend the validity of the Certificate of Inspection.
- (2) Where the Administration 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 Administration is satisfied that corrective action has been taken it shall restore the validity of the certificate of inspection and return the certificate of inspection issued in relation to the vessel to the master.

Prohibition of proceeding to sea

10. A vessel shall not proceed or attempt to proceed to sea or on a voyage 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 of inspection;
 - (c) the certificate of inspection is displayed in some conspicuous place on board.

PART 3**BOAT MASTERS AND BOAT ENGINEERS****Master and engineers**

11. (1) A vessel shall carry in command a person who is qualified as follows—
- (a) he is the holder of a licence issued by the Administration under section 12 stating that he is qualified to have command of such a vessel;

- (b) 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

- (c) 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

- (d) he is the holder of a certificate of competency as a master issued in accordance with the provisions of the STCW Convention.

(2) A vessel fitted with main propulsion machinery of up to 750 KW shall, where an engineer is required by the Administration or Table 6 in regulation IX/6 of the Code, carry as engineer a person who is qualified as follows—

- (a) he is the holder of a licence issued by the Administration under section 12 stating that he is qualified to be in charge of the engines and machinery of such a vessel;

- (b) the licence is in force and is of a grade appropriate in respect of the waters in which the vessel is being navigated;

and

- (c) 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

- (d) 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 Administration, vessels with engines of higher power shall carry engineers qualified in accordance with the STCW Convention.

Issue of licence, standards and conditions

12. (1) The Administration may issue licences as Boat Master or Boat Engineer, as appropriate, to persons who meet the requirements of this section on application and in such form as he may from time to time specify.

(2) Subject to subsection (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 Annex 5 of the Code or those which may from time to time be specified by the Administration in a Shipping Notice.

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

Grades and area restrictions of Boat Master licences

13. (1) A licence as a master issued under section 12 shall bear the title “Boat Master Licence” and shall be of one of the following grades, which shall be stated in the licence—

- (a) Boat Master Licence, Grade 1;
- (b) Boat Master Licence, Grade 2;
- (c) Boat Master Licence, Grade 3.

(2) The grade of licence appropriate in respect of a vessel shall be determined in accordance with regulation IX/5 of the Code.

(3) A Boat Master Licence of any grade shall be subject to such restriction as the Administration 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.

Grade and area restrictions of Boat Engineer licences

14. (1) A licence as engineer issued under section 12 shall bear the title “Boat Engineer Licence” and shall be of one of the following grades, which shall be stated in the licence—

- (a) Boat Engineer Licence, Grade 1;
- (b) Boat Engineer Licence, Grade 2.

(2) The grade of licence appropriate in respect of a vessel shall be determined in accordance with regulation IX/6 of the Code.

(3) A Boat Engineer Licence of any grade shall be subject to such restriction as the Administration 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.

Existing licences

15. The Administration shall on the application of the holder of an existing licence 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 area or areas of operation, and
 - (ii) the size of vessel which in the period of 12 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 area or areas of operation.

Validity and renewal of licences

16. (1) Licences shall be subject to revalidation every 3 years for persons up to 65 years of age and such revalidation shall be subject to the holder providing proof that he has had at least 45 days service in vessels for which the licence is valid during the previous 3 years, and the submission of a valid medical fitness certificate issued in accordance with such requirements as the Administration may from time to time determine.

(2) Licences held by persons 65 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 15 days service in a vessel for which the licence is valid during the previous year, and the submission of a valid medical fitness certificate issued in accordance with such requirements as the Administration may from time to time determine.

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

(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 section 12(2).

Record and surrender of licences

17. (1) The Administration 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; and

(b) every suspension, cancellation or alteration of and any other matter affecting such a licence;

shall be kept by the Administration.

Loss of licences

18. (1) Where the holder of a Boat Master or Boat Engineer licence loses the licence the Administration may, on receipt of any fee payable, cause a copy of the licence to be issued to them.

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

Suspension of licence

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

(2) A licence so suspended shall be surrendered to the Administration within 7 days.

(3) Where the inquiry recommends the suspension or cancellation of the licence, it shall be cancelled, withheld or returned to the owner accordingly.

PART 4

HOURS OF WORK

Interpretation

20. (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 he is on duty which is not followed by an interval for rest of not less than 8 hours.

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

Duty of owner, master, crew

21. (1) Subject to section 22, it shall be the duty of the owner 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 and the master’s and the seamen’s performance of their duties.

(2) Subject to section 22, it shall be the duty of every master of a 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 and the master’s or seamen’s performance of their duties.

(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.

(4) The hours of rest shall not be less than 10 hours in every 24-hour period which may be divided into no more than 2 periods, one of which shall be at least 6 hours rest in length and the minimum period of 10 hours may be reduced to not less than 6 consecutive hours on condition that in such reduction shall not extend beyond 2 days, and not less than 70 hours of rest are provided in each 7 day period.

Exception for emergencies

22. The requirements for rest periods specified in section 21(4) need not be maintained in cases of any emergency including giving assistance to other vessel/vessels, a person in distress at sea, or drill or any overriding operational conditions.

Working hours in certain ships

23. (1) Notwithstanding the provisions of section 21, this section applies to vessels which complete a voyage or voyages within 24 hours.

(2) Reference 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 section 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 section 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 subsection (4)—

- (a) the working hours of a master or engineer shall not exceed 16 hours;
- (b) a master shall not on any working day con a vessel or vessels to which this section applies for periods amounting in the aggregate to more than 10 hours;
- (c) where on any working day a master has been on duty—
 - (i) for a period of 6 hours and the end of that period does not mark the end of the working day, or
 - (ii) for periods amounting in the aggregate to 6 hours and there has not been between any of those periods an interval of not less than 30 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—
 - (A) as respects the period mentioned in subparagraph (i), at the end of that period, or
 - (B) in the case of the periods mentioned in subparagraph (ii), at the end of the last of those periods; and
- (d) there shall be, between any 2 successive working days of a master, an interval for rest which shall not be of less than 8 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) Where the Administration considers that it would be appropriate to grant an exemption from all or any of the requirements of subsection (3) it may on such terms, if any, as may be specified grant such an exemption; and, subject to giving reasonable notice, the Administration may alter or cancel an exemption so granted.

Contravention of section 23

24. (1) Subject to subsection (2), where any of the requirements of section 23 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 section 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 5

MANNING AND TRAINING

Manning

25. A vessel shall not proceed to sea or on a voyage unless the manning of the vessel is in accordance with the Certificate of Inspection or subsequently approved by the Administration in accordance with regulation IX/13 of the Code.

Training in emergency procedures

26. The owner of a passenger vessel shall—

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

PART 6

MISCELLANEOUS

Penalties

27. (1) If a vessel proceeds or attempts to proceed to sea or on a voyage in contravention of any provision of Parts 2 or 3 or section 25 the owner and master shall each be guilty of an offence and are liable to a fine of \$5,000 or to imprisonment for 6 months or to both.

(2) Any person who contravenes any provision of Part 4 or section 26 is guilty of an offence and is liable to a fine of \$2,000.

(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.

Power to detain

28. In any case where a vessel does not comply with the requirements of these Regulations, that vessel shall be liable to be detained and any enactment which relates to the detention of a vessel shall have effect in relation to the vessel, as if for the words “this Act” wherever they appear, there were substituted the words “Small Commercial Vessels Regulations”.

Citation

29. These Regulations may be cited as the Small Commercial Vessels Regulations, Revised Regulations of Anguilla M82-3.