

ANTIGUA AND BARBUDA



**THE ANTIGUA AND BARBUDA MERCHANT SHIPPING (VESSELS IN COMMERCIAL
USE FOR SPORT OR PLEASURE) REGULATIONS, 2022**

STATUTORY INSTRUMENT

2022, No. 37

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THE ANTIGUA AND BARBUDA MERCHANT SHIPPING (VESSELS IN COMMERCIAL USE FOR SPORT OR PLEASURE) REGULATIONS made in exercise of the powers contained in section 7 of the Antigua and Barbuda Merchant Shipping Act, 2006, No. 1 of 2006.

1. Short Title

These Regulations may be cited as the Antigua and Barbuda Merchant Shipping (Vessels in Commercial use for Sport or Pleasure) Regulations, 2022.

2. Definitions

(1) In these Regulations—

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

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

“Caribbean Trading Area” means the Gulf of Mexico and Caribbean Sea proper including the bays and seas therein and that portion of the Atlantic Ocean within the boundary constituted by a rhumb line from a point on the east coast of the United States of America in latitude 32° 00' north to the intersection 200° 00' north, 59° 08' 00' west; thence a rhumb line to the intersection of 70° 20' north, 500 west; thence a rhumb line drawn southwesterly to the eastern boundary of French Guiana.

“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 of more 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, more than 150 gross tonnage;

“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) 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) 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. Ambulatory provision

Any reference in these Regulations to a code or a specific provision in a code is to be construed as—

- (a) a reference to the code or the provision in that code as modified from time to time; and
- (b) if the code is replaced by another instrument, as a reference to the provision in that other instrument.

5. Commercially operated large vessels complying with a Code

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

(2) (a) Commercially operated large vessels shall comply with The Red Ensign Group Yacht Code, (REG Code) Part A Large Yacht Code (up to 12 passengers), The Red Ensign Group Yacht Code Part B Passenger Yacht Code (up to 36 passengers) 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;

- (b) Alternatively, commercially operated large vessel may comply with the Republic of the Marshall Islands (RMI) Yacht Code 2021 and any amendments thereto, published by the flag state administration of the Republic of the Marshall Islands;

- (c) The Director may prescribe such other Code to commercially operated large vessels which are of equivalent standards in substitution thereof.

(3) In these Regulations, a reference to a Code in relation to commercially operated large vessels is a reference to a Code specified in sub regulation (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 sub regulation (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 with a Code specified in sub regulation (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. 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 a Code specified in sub regulation (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 sub regulation (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 with a 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.

7. Vessels operating in a Limited Geographical Area within the Caribbean Region

The Director may permit alternative provisions to be made for vessels solely operating within a limited area within the Caribbean Trading Area, 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.

8. Equivalent Provisions and Exemptions

(1) 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.

(2) An exemption shall only be granted by agreement of the Director. Applications for an exemption shall be submitted and supported by justification for the exemption. The granting of exemptions shall be limited by the extent to which the International Conventions allow and shall in all cases be regarded as exceptional.

9. 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.

10. 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 fifteen thousand dollars (\$15,000.00) or to imprisonment for three months.

(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.

11. 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 sends 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.

12. 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 5.

(2) The Director may under this regulation recognise and endorse a Certificate issued in accordance with the Certification system, as defined in MI-103 Republic of the Marshall Islands Yacht Code 2021, as amended, for Deck and Engineer Officers respectively, as published by the Maritime Administration of the Marshall Islands.

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

13. Repeal of Statutory Instrument

(1) The Merchant Shipping (Commercially Operated Large Vessels) Regulations, 2020, Statutory Instrument No 61 of 2020 is hereby repealed.

Made the 26th day of September, 2022

Hon. Gaston A. Browne,
*Prime Minister and Minister of Finance and
Corporate Governance and Minister responsible for
Merchant Shipping and Ship Registration.*