

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 15 of 2008

**MERCHANT SHIPPING (INTERNATIONAL SAFETY MANAGEMENT (ISM)
CODE) REGULATIONS, 2008**

Arrangement of Regulations

Regulations

1. Citation.
2. Interpretation.
3. Application.
4. Duty to comply with the ISM Code.
5. Duty to hold certificates.
6. Duty to carry certificates.
7. Duty of master.
8. Designated person.
9. Issue of Document of Compliance and Safety Management Certificate.
10. Interim Document of Compliance.
11. Interim Safety Management Certificate.
12. Issue and endorsement of Safety Management Certificate by another government.
13. Issue of certificates on behalf of other governments .
14. Annual audit of Document of Compliance.
15. Intermediate audit of Safety Management Certificate.
16. Renewal of certificates.
17. Powers of audit and inspection.
18. Powers of suspension of services and detention.
19. Exemptions.
20. Suspension or cancellation of Documents of Compliance and Safety Management Certificates.
21. Offences and penalties.
22. Defence.
23. Repeal.

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 15 of 2008

MERCHANT SHIPPING (INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE) REGULATIONS, 2008.

In exercise of the power conferred under section 171 (5) of the Merchant Shipping Act, No. 24 of 2002, the Minister responsible for Maritime Affairs makes these Regulations:

[Published 19th June 2008, Official Gazette No. 27 of 2008]

1. **CITATION.** These Regulations may be cited as the Merchant Shipping (International Safety Management (ISM) Code) Regulations, 2008.

2. **INTERPRETATION.** (1) In these Regulations

“Act” means the Merchant Shipping Act, No. 24 of 2002;

“audit” means a systematic and independent examination to determine whether the safety management system is suitable to meet the objectives set out in section 1 of the ISM Code, and, so far as the system has been operated, that the system has been implemented effectively. Such audits shall take into account the Guidelines on the Implementation of the ISM Code by Administrations, adopted by IMO pursuant to Assembly Resolution A. 788 (19);

“authorised person” means a person authorised in writing by or on behalf of the Director for the purpose of these Regulations;

“bulk carrier” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“cargo ship” means a cargo ship within the meaning of section 168 of the Act;

“chemical tanker” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“company” has the meanings given by Regulation 1 of Chapter IX of the Safety Convention;

“Director” means the Director of Maritime Affairs;

“Document of Compliance” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“gas carrier” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“high speed craft” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“IMO” means the International Maritime Organisation;

“ISM Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by IMO by Resolution A.741 (18);

“mobile offshore drilling unit” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“oil tanker” has the meaning given by Regulation 1 of Chapter IX of the Safety Convention;

“passenger ship” means a ship carrying more than twelve passengers;

“Register” means the Register of Saint Christopher and Nevis ships for the purposes of section 11 of the Act;

“Safety Convention” has the meaning given in section 168 of the Act;

“Safety Management Certificate” means the Safety Management Certificate referred to in Regulation 4 of Chapter IX of the Safety Convention;

“safety management system” means a structured and documented system enabling company personnel to effectively implement the company safety and environmental protection policy;

“Saint Christopher and Nevis ship” has the meaning given in section 3 of the Act;

“tons” means gross tonnage, and a reference to tons in relation to a ship having alternative gross tonnages is a reference to the larger of those two tonnages.

(2) In interpreting the ISM Code, references to the Administration shall, in relation to Saint Christopher and Nevis ships, be references to the Minister.

3. APPLICATION. (1) Subject to sub-regulations (2) and (3), these Regulations apply to -

- (a) Saint Christopher and Nevis ships wherever they may be; and
- (b) other ships while they are within Saint Christopher and Nevis waters.

(2) These Regulations apply to -

- (a) passenger ships;
- (b) oil tankers, chemical tankers, gas carriers, bulk carriers, and cargo high-speed craft, of 500 tons or more, which engage in international voyages; and
- (c) other cargo ships and mobile offshore drilling units of 500 tons or more which engage in international voyages.

(3) These Regulations apply to every company operating a ship to which these Regulations apply.

4. **DUTY TO COMPLY WITH THE ISM CODE.** Every company shall comply with the requirements of the ISM Code as it applies to that company and to any ship owned by it or for which it has responsibility.

5. **DUTY TO HOLD CERTIFICATES.** (1) A company shall not operate a ship, to which these Regulations apply, unless that company holds a valid Document of Compliance.

(2) A company shall not operate a ship to which these Regulations apply unless there is in force in respect of that ship a valid Safety Management Certificate.

(3) A Saint Christopher and Nevis ship to which these Regulations apply shall not be operated unless:

(a) the company holds a Document of Compliance issued by or accepted on behalf of the Director; and

(b) there is in force in relation to the ship a Safety Management Certificate issued by or accepted on behalf of the Director.

(4) For the purposes of this regulation a Document of Compliance or Safety Management Certificate is not valid if it has not been endorsed, in the circumstances required by the ISM Code, showing, in the case of a Document of Compliance satisfactory annual audits, or in the case of a Safety Management Certificate, a satisfactory intermediate audit.

6. **DUTY TO CARRY CERTIFICATES.** It shall be the duty of every company to ensure that a valid Safety Management Certificate and a copy of the Document of Compliance is carried on board each ship to which these Regulations apply.

7. **DUTY OF MASTER.** The master of every ship shall operate his ship in accordance with the safety management system on the basis of which the Safety Management Certificate was issued.

8. **DESIGNATED PERSON.** (1) A company shall designate a person who shall be responsible for monitoring the safe and efficient operation of each ship with particular regard to the safety and pollution prevention aspects.

(2) In particular, the designated person shall -

(a) take such steps as are necessary to ensure compliance with the company safety management system on the basis of which the Document of Compliance was issued; and

(b) ensure that proper provision is made for each ship to be so manned, equipped and maintained that it is fit to operate in accordance with the safety management system and with statutory requirements.

(3) A company shall ensure that the designated person -

(a) is provided with sufficient authority and resources; and

(b) has appropriate knowledge and sufficient experience of the operation of ships at sea and in port,

to enable him to comply with sub-regulations (1) and (2).

9. ISSUE OF DOCUMENT OF COMPLIANCE AND SAFETY MANAGEMENT CERTIFICATE. (1) Where the Director is satisfied that a company operating Saint Christopher and Nevis ships complies with the requirements of the ISM Code he may issue a Document of Compliance valid for a period not exceeding five years.

(2) Where the Director is satisfied that a ship is operated by a company to which he has issued a Document of Compliance and that the company and its shipboard management operate in accordance with the safety management system he has approved, he shall issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

(3) Where a company operating ships which are registered in more than one country, but at least one of which is registered in Saint Christopher and Nevis, complies with the requirements of the ISM Code the Director may accept a Document of Compliance issued by the government of one of those countries to which the Safety Convention applies if prior to the issue of that document he has agreed to accept it.

(4) Conditions for acceptance, under sub-regulation (3), may include completion of a satisfactory audit of the company by an authorised person.

(5) Where a company newly registers a ship in Saint Christopher and Nevis, the Director may accept a Document of Compliance issued by the government of a country to which the Safety Convention applies in which ships operated by the company are registered.

(6) Conditions for acceptance, under sub-regulation (5), may include completion of a satisfactory audit by an authorised person.

(7) Where the Director is satisfied that a Saint Christopher and Nevis ship is operated by a company which has a Document of Compliance accepted by the Director under sub-regulation (3) or (4) and that its shipboard management operates in accordance with a safety management system which complies with the ISM Code he shall issue in respect of that ship a Safety Management Certificate valid for a period not exceeding five years.

10. INTERIM DOCUMENT OF COMPLIANCE. (1) Where a company is newly established, or the company assumes, for the first time, the responsibility for operating a ship type not covered by a Document of Compliance the company already holds, an interim Document of Compliance may be issued to facilitate implementation of the ISM Code.

(2) An interim Document of Compliance may be issued to a company following a demonstration that the company has a safety management system that meets the objectives of section 1.2.3 of the ISM Code.

(3) The interim Document of Compliance shall be valid for a maximum period of one year.

(4) The company shall demonstrate plans to implement a safety management system meeting the full requirements of the ISM Code within the period of validity of the interim Document of Compliance.

11. INTERIM SAFETY MANAGEMENT CERTIFICATE. (1) The Director may issue an interim Safety Management Certificate in respect of a new ship, when a company takes on the responsibility for the management of a ship which is new to the company or when a ship is transferred between flag states.

(2) The interim Safety Management Certificate shall be valid for a maximum period of six months.

(3) The Director may, as he considers appropriate, extend the validity of the interim Safety Management Certificate for a further six months.

(4) An interim Safety Management Certificate shall only be issued when the Director is satisfied that -

- (a) the Document of Compliance, or the interim Document of Compliance, is relevant to that ship type;
- (b) the safety management system provided by the company for the ship includes all key elements of the ISM Code and has been assessed during the audit for issuance of the Document of Compliance or issuance of the interim Document of Compliance;
- (c) the master and relevant senior officers are familiar with the safety management system and the planned arrangements for its implementation;
- (d) instructions which have been identified as essential to be provided prior to sailing have been given;
- (e) plans for audit, by the company of the ship within three months, exist; and
- (f) the relevant information on the safety management system is given in a working language or languages understood by the ship's personnel.

12. ISSUE AND ENDORSEMENT OF SAFETY MANAGEMENT CERTIFICATE BY ANOTHER GOVERNMENT. (1) The Director may request, through a proper officer or otherwise, the government of a country to which the Safety Convention applies -

- (a) to conduct an audit of the safety management system operated onboard a Saint Christopher and Nevis ship; and
- (b) where satisfied that the requirements of the ISM Code are complied with, to issue to the ship a Safety Management Certificate or authorise such issue or, where appropriate endorse such certificates in accordance with the requirements of the Safety Convention after intermediate audit.

(2) A certificate issued in accordance with paragraph (1) (b) shall contain a statement that it has been so issued and shall have the same effect as if it was issued by the Director.

13. ISSUE OF CERTIFICATES ON BEHALF OF OTHER GOVERNMENTS. (1) The Director may, at the request of a government of a country to which the Safety Convention applies audit the safety management systems of companies and ships registered in that country and if satisfied that the requirements of the ISM Code

are complied with and that the audit has been satisfactorily completed in accordance with these Regulations, issue to the company a Document of Compliance or in respect of the ship a Safety Management Certificate or, where appropriate, endorse such certificates in accordance with the requirements of the Safety Convention after annual or intermediate audits.

(2) A certificate issued in accordance with sub-regulation (1) shall contain a statement that it has been so issued and shall have the same effect as if it was issued by that government and not by the Director.

14. ANNUAL AUDIT OF DOCUMENT OF COMPLIANCE. The Director shall carry out an annual audit of the safety management system of every company to which he has issued a Document of Compliance, within three months of the anniversary date of the Document of Compliance.

15. INTERMEDIATE AUDIT OF SAFETY MANAGEMENT CERTIFICATE. The Director shall carry out an intermediate audit of each ship to ensure that the conditions for the continued validity of the Safety Management Certificate are being met between the second and third anniversaries of the Safety Management Certificate issued by him and at other appropriate times.

16. RENEWAL OF CERTIFICATES. Before the renewal of a certificate the Director shall carry out a renewal audit of the company or ship during the six month period preceding the expiry date of the Document of Compliance or Safety Management Certificate as the case may be to ensure that compliance with the requirements of the ISM Code is maintained.

17. POWERS OF AUDIT AND INSPECTION. (1) An authorised person may audit the safety management system of a company.

(2) An authorised person may inspect any ship, and any such inspection may include an audit of its safety management system.

18. POWERS OF SUSPENSION OF SERVICES AND DETENTION. (1) Where an authorised person considers that a company, notwithstanding that it holds a Document of Compliance, is unable to operate ships without creating a risk of -

- (a) serious danger to safety of life; or
- (b) serious damage to property; or
- (c) serious harm to the environment,

or that the company does not hold a Document of Compliance, he may suspend the operation of ships by that company until such time as any such risk is removed or a valid Document of Compliance is held.

(2) Where a service is to be suspended pursuant to sub-regulation (1) the authorised person shall serve on the company a notice stating that the operation of the service specified in the notice shall be suspended.

(3) Where an authorised person is satisfied on inspecting a ship that there is a failure to comply in relation to that ship with the requirements of regulation 4 or 5 he may detain the ship.

(4) In any case where a ship is liable to be detained, section 260 of the Act shall have effect in relation to the ship.

(5) Where a ship is detained in relation to a failure to comply with a requirement of these Regulations,

- (a) section 419 and 420 of the Act shall apply to the notice of detention as they apply to a detention notice under section 417,
- (b) references to the ship being dangerously unsafe will be substituted for references to it being in breach of these Regulations.

(3) An authorised person, as described in section 412 of the Act, exercising functions under this regulation shall have the powers conferred on an inspector by section 414 of the Act.

19. EXEMPTIONS. The Director may grant exemptions from all or any of the provisions of these Regulations for classes of cases or individual cases on such terms as may be specified, and may, subject to giving reasonable notice, alter or cancel any such exemption.

20. SUSPENSION OR CANCELLATION OF DOCUMENTS OF COMPLIANCE AND SAFETY MANAGEMENT CERTIFICATES. (1) The Director may by notice in writing suspend or cancel any Document of Compliance or Safety Management Certificate issued by him or at his request under these Regulations where he has reason to believe that:

- (a) the certificate was issued on false or erroneous information; or
- (b) the management structure of either the company or ship has changed substantively, since an audit required by these Regulations was conducted or where any audit of a company or ship has revealed a failure to comply with regulation 4.

(2) A notice referred to in sub-regulation (1) shall contain the grounds for the suspension or cancellation of the certificate.

(3) A notice referred to in sub-regulation shall not be given unless the holder has been given the opportunity to make representations, except where the Director considers that urgent safety or pollution prevention considerations require the notice to be given immediately.

(4) The Director may require that any Document of Compliance or Safety Management Certificate, issued by him under these Regulations, which has expired or has been suspended or cancelled, be surrendered as directed.

(5) A person shall not:

- (a) intentionally alter a Document of Compliance or Safety Management Certificate;
- (b) in connection with any audit conducted pursuant to these Regulations, knowingly or recklessly furnish false information;
- (c) with intent to deceive, use, lend or allow to be used by another, a Document of Compliance or Safety Management Certificate;

- (d) fail to surrender a Document of Compliance or Safety Management Certificate required to be surrendered under sub-regulation (2); or
- (e) forge any Document of Compliance or Safety Management Certificate.

21. OFFENCES AND PENALTIES. (1) A company which contravenes regulations 4, 5, 6 or 8 commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the Standard Scale of Fines as set out under section 452 (4) of the Act.

(2) The master of a ship who contravenes regulation 7 commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the Standard Scale of Fines as set out under section 452 (4) of the Act.

(3) A designated person who contravenes regulation 8 (2) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the Standard Scale of Fines as set out under section 452 (4) of the Act.

(4) A company which operates a ship on a service after the service is suspended under regulation 17 (1) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the Standard Scale of Fines as set out under section 452 (4) of the Act.

(5) A person who contravenes regulation 20 (5) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the Standard Scale of Fines as set out under section 452 (4) of the Act.

22. DEFENCE. It shall be a defence for a person charged with an offence under these Regulations to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

23. REPEAL. The Merchant Shipping (International Safety Management (ISM) Code) Regulations No. 35 of 2007 is hereby repealed.

Made the 17th day of June, 2008.

EARL ASIM MARTIN
Minister responsible for Maritime Affairs