CHAPTER 6.02

MERCHANT SHIPPING ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 August 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

MERCHANT SHIPPING ORDINANCE
Amended by Ordinance 13 of 2004  .. in force 25 June 2004

MERCHANT SHIPPING (SMALL COMMERCIAL VESSELS) REGULATIONS - Sections 58, 59, 67 and 68

MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY) REGULATIONS – Section 71
Legal Notice 15/2004  .. in force 2 July 2004

Page 3

Page 55

Page 75
CHAPTER 6.02
MERCHANT SHIPPING ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 August 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

MERCHANT SHIPPING ORDINANCE
Amended by Ordinance 13 of 2004 .. in force 25 June 2004

MERCHANT SHIPPING (SMALL COMMERCIAL VESSELS) REGULATIONS - Sections 58, 59, 67 and 68

MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY) REGULATIONS – Section 71
Legal Notice 15/2004 .. in force 2 July 2004
Published in 2011
On the authority and on behalf of the Government of the Turks and Caicos Islands
By
The Regional Law Revision Centre Inc.

Available for purchase from—

Attorney General’s Chambers
Waterloo Plaza
Airport Road
Grand Turk
Turks and Caicos Islands
British West Indies

Tel: (649) 946-2096
Fax: (649) 946-1329
Email: attorneygeneral@tciway.tc

Printed on the authority and on behalf of the Government of the Turks and Caicos Islands
by
The Regional Law Revision Centre Inc.
P.O. Box 1626, Hannah-Waver House, The Valley, AI-2640, Anguilla
Authorised Printers for this Revised Edition
CHAPTER 6.02

MERCHANT SHIPPING ORDINANCE

ARRANGEMENTS OF SECTIONS

PART I

PRELIMINARY

SECTION

1. Short title
2. Interpretation

PART II

REGISTRATION OF SHIPS

Registration

3. Islands ship
4. Qualifications for owning an Islands ship
5. Entitlement of ship to be registered under this Ordinance
6. Representative person
7. Refusal of registration
8. Termination of registration
9. Penal liability

Procedure for registration

10. Directions to Registrar
11. Register
12. Entries in register
13. Survey and measurement of ships
14. Marking of ship
15. Application for registration
16. Declaration of eligibility
17. Evidence of title on first registry
18. Entry of particulars in register
19. Documents to be retained by Registrar
20. Port of registry
21. Certificate of registry
22. Custody of certificate
23. Penalty for use of improper certificate
24. Power to grant new certificate
25. Duplicate certificates
26. Endorsement of change of ownership
27. Provisional certificate for ship becoming entitled to be registered while abroad

**Bareboat charter registration**

28. Registration of ships bareboat chartered to a qualified person
29. Consequences of registration under section 28(1)
30. Application of this Ordinance where a ship is registered under section 28
31. Transfer of rights and obligations of charterer under bareboat charter
32. Rights and obligations relating to interests in ships registered under section 28(1)
33. Dispensations for ships bareboat chartered and registered outside the Islands
34. Termination and revocation of dispensations granted under section 33
35. Flag to be used where a dispensation has been granted under section 33

**Name of ship**

36. Rules as to name of ship
37. Failure to observe rules as to name of ship

**Registration of alterations and registration anew**

38. Registration of alterations
39. Failure to register an alteration
40. Procedure for registration of alterations
41. Registration anew or change of ownership
42. Procedure for registration anew

**Transfer of registration between the Islands and United Kingdom or relevant British possession**

43. Transfer of registration from port of registry in the Islands
44. Transfer of registration to port of registry in the Islands

**Tonnage measurement**

45. Tonnage of ships of foreign countries adopting Tonnage Convention
46. Tonnage Regulations
Unregistered ships

47. Liabilities of unregistered ships

Miscellaneous

48. Termination of overseas registration
49. Trusts, equitable interests and liabilities of beneficial interests
50. Registrar may dispense with declaration or evidence
51. Fees
52. Returns to be made by Registrar
53. Evidence of certificate of registry and other documents
54. Forms of documents
55. Instructions as to registration
56. Forgery of documents
57. False declarations
58. Registration regulations
59. Matters to be prescribed in registration regulations
60. Certified copy of entry in register to be evidence

PART III

NATIONAL CHARACTER AND FLAG

61. National character of ship to be declared before clearance
62. Offences relating to Islands character of ship
63. Penalties
64. National colours and penalty for carrying improper colours or not showing colours
65. Proceedings on forfeiture of a ship

PART IV

PROPRIETARY INTERESTS IN REGISTERED SHIPS

66. Private law provisions for registered ships and liability as owner

PART V

SAFETY AND ENVIRONMENTAL PROTECTION

67. Safety and health on ships and control of pollution from ships
68. Provisions supplementary to section 67
PART VI

SAFETY OF LIFE AT SEA

69. Interpretation
70. Application of Safety Convention and exceptions and exemptions thereto
71. Regulations relating to safety at sea

PART VII

SUPPLEMENTAL

72. Savings
73. Transitional provisions
74. Offences

SCHEDULE 1: Instruments and Documents for which Forms are to be Prescribed or Approved
SCHEDULE 2: Private Law Provision for Registered Ships
CHAPTER 6.02

MERCHANT SHIPPING ORDINANCE

(Ordinances 1 of 2002 and 13 of 2004)

AN ORDINANCE TO AMEND AND RESTATE THE LAW RELATING TO THE REGISTRATION OF SHIPS AND RELATED MATTERS; TO MAKE PROVISION FOR SAFETY OF SHIPS AND CONTROL OF POLLUTION FROM SHIPS; AND FOR CONNECTED PURPOSES.

Commencement

[1 January 2004]

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Merchant Shipping Ordinance.

Interpretation

2. (1) In this Ordinance—

“British citizen”, “British Dependent Territories citizen”, “British Overseas citizen”, and “Commonwealth citizen” have the same respective meanings as in the British Nationality Act 1981;

“British ship” has the meaning given in section 1(1) of the Merchant Shipping Act 1995 of the United Kingdom;

“commissioned military officer” means a commissioned officer in Her Majesty’s land forces on full pay;

“commissioned naval officer” means a commissioned officer in Her Majesty’s Navy on full pay;

“consular officer”, in relation to a foreign country, means the officer recognized by Her Majesty as a consular officer of that foreign country;

“fishing vessel” means a vessel for the time being used or intended to be used, for or in connection with fishing for sea fish other than a vessel used or intended to be used for fishing otherwise than for profit or a vessel for the time being used or intended to be used wholly for the purpose of conveying persons wishing to fish for pleasure;
“Islands ship” means a ship registered in the Islands under this Ordinance, and
“Islands vessel” and “Islands fishing vessel” shall be construed accordingly;
“length” has the same meaning as may be prescribed in the Tonnage Regulations;
“master” includes every person except a pilot having command or charge of a
ship and in relation to a fishing vessel, means the skipper;
“Minister” means the Minister responsible for maritime affairs in the Islands;
“owner”, in relation to a ship, or “shipowner” means, in respect of a registered
ship, the registered owner and includes a bareboat charterer and a
managing owner or a managing agent;
“passenger” means any person carried on a ship, except—
(a) a person employed or engaged in any capacity on the business of
the ship;
(b) a person on board the ship either under 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; and
(c) a child under one year of age;
“passenger ship” means a ship carrying more than twelve passengers;
“pleasure vessel” means—
(a) any vessel including a dive boat which at the time it is being used
is—
(i) in the case of a vessel wholly owned by an individual or
individuals, used only for the sport or pleasure of the owner
or the immediate family or friends of the owner; or
(ii) in the case of a vessel owned by a body corporate, one on
which the persons are employees, officers or shareholders of
the body corporate, or their immediate family or friends; and
(iii) on a voyage or excursion for which the owner does not
receive money for or in connection with operating the vessel
or carrying any person, other than as a contribution to the
direct expenses of the operation of the vessel incurred during
the voyage or excursion; or
(b) any vessel wholly owned by or on behalf of a club formed for the
purpose of sport or pleasure which, at the time it is being used, is
used only for sport or pleasure of members of the club or their
immediate family, and for the use of which any charges levied are
paid into club funds and applied for the general use of the club, and
in the case of any vessel referred to in paragraph (a) or (b), no other
payments are made by or on behalf of the users of the vessel, other than
by the owner; and in this definition, “immediate family” means, in relation to an individual, the husband or wife of the individual, and a relative of the individual or the relative’s husband or wife, and “relative” means brother, sister, ancestor or lineal descendant, and “owner” includes charterer;

“port” includes place;

“proper officer” means, in relation to a port in the United Kingdom, a relevant British possession, the Republic of Ireland, or a country mentioned in Schedule 3 to the British Nationality Act 1981, an officer exercising in that port functions similar to those of a superintendent, and in relation to another port, a consular officer appointed by Her Majesty’s government in the United Kingdom;

“Registrar” means the Registrar of Ships appointed by the Governor;

“registration regulations” means regulations made under sections 58 and 59;

“relevant British possession” means—

(a) the Isle of Man;

(b) any of the Channel Islands; and

(c) any part of Her Majesty’s dominions outside the British Islands except—

(i) countries having fully responsible status within the Commonwealth;

(ii) territories for whose external relations a country other than the United Kingdom is responsible;

(iii) associated states;

“ship” includes every description of vessel used in navigation;

“small ship” means a ship less than twenty-four metres in length;

“superintendent” means an official exercising functions similar to those of a superintendent in the United Kingdom;

“Tonnage Convention” means the International Convention on Tonnage Measurement of Ships, 1969 as amended;

“Tonnage Regulations” means regulations made under section 46;

“wages” includes emoluments.

(2) In this Ordinance—

(a) “Islands waters” means the sea or other waters within the seaward limits of the territorial sea of the Islands; and

(b) “national waters”, in relation to the Islands means Islands waters landward of the baselines for measuring the breadth of the territorial sea.
PART II

REGISTRATION OF SHIPS

Registration

Islands ship

3. (1) A ship shall be an Islands ship for the purposes of this Part if the ship is registered in the Islands under this Part.

(2) A ship registered in the Islands under Part I of the Merchant Shipping Act 1894 of the United Kingdom shall be deemed to be a ship registered in the Islands under this Ordinance.

Qualifications for owning an Islands ship

4. (1) In this section “place of business” means the place where meetings of the directors of the body corporate are regularly held and, in the case of a meeting held by electronic or other mechanical means, the place where the majority of members of the body corporate taking part in the meeting are present.

(2) For the purposes of this Ordinance the following are persons qualified to be owners of Islands ships—

(a) Belongers;

(b) persons holding a permanent residence certificate;

(c) British citizens;

(d) British Dependent Territories citizens;

(e) British Overseas citizens;

(f) British subjects;

(g) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas);

(h) persons, other than those referred to in paragraphs (a) to (f), who are nationals of a Member State of the European Union or European Economic Area, including the overseas territories of such a Member State;

(i) bodies corporate incorporated in any Member State of the European Union or European Economic Area, including the United Kingdom;

(j) bodies corporate incorporated in any relevant British possession, including the Islands, or in any overseas territory of a Member State of the European Union or the European Area, and having a place of business in any such possession or overseas territory; and
(k) bodies corporate incorporated in a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States and registered in the Islands.

(3) A person who is not qualified under subsection (1) to be an owner of an Islands ship may nevertheless be one of the owners of such a ship if—

(a) a majority interest in the ship, within the meaning of section 5, is owned by persons who are qualified to be owners of Islands ships; and

(b) the ship is registered in accordance with section 5.

Entitlement of ship to be registered under this Ordinance

5. (1) Subject to sections 7 and 8, this section has effect for the purpose of determining whether a ship is entitled to be registered in the Islands under this Ordinance.

(2) Subject to subsection (3), a ship shall be entitled to be registered if a majority interest in the ship is owned by one or more persons qualified to be owners of Islands ships under section 4.

(3) Where—

(a) a ship falling within subsection (2) is twenty-four metres or seventy-eight feet or more in length; and

(b) the person or each of the persons, by whom the majority interest is owned is not resident in the Islands,

the ship shall only be entitled to be registered if a representative person resident in the Islands is appointed in relation to the ship.

(4) For the purposes of this section—

(a) one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons taken together, the legal title to thirty-three or more, or all of the sixty-four shares into which the property in the ship is divided, for the purpose of registration in accordance with section 12;

(b) for the purposes of paragraph (a) there shall be kept out of account any share in which any beneficial interest is owned by a person who is not qualified to be an owner of an Islands ship; and

(c) a body corporate shall be treated as resident in the Islands if it is incorporated in the Islands and has a place of business there.

(5) A ship shall not be entitled to be registered in the Islands if such registration is precluded by an Order under section 11 of the Merchant Shipping Act 1988 or section 18 of the Merchant Shipping Act 1995 of the United Kingdom.
Representative person

6. (1) Where the entitlement of a ship to be registered is, by virtue of section 5, conditional on the appointment of a representative person in relation to the ship, the owner of the ship shall—

(a) before applying for the ship to be registered, appoint an individual or body corporate satisfying the prescribed requirements to be the representative person in relation to the ship; and

(b) ensure that so long as the ship remains registered, an individual or body corporate satisfying those requirements is so appointed.

(2) For the purposes of subsection (1), the prescribed requirements are—

(a) that the representative person is either—

(i) an individual resident in the Islands; or

(ii) a body corporate incorporated in the Islands and having a place of business there; and

(b) such other requirements as the Governor may prescribe.

(3) The owner of a ship in relation to which a representative person is for the time being appointed shall—

(a) on applying for the ship to be registered, notify the Registrar of the name and address of the representative person; and

(b) in the event of a change in the identity or address, of the representative person so appointed, notify the Registrar of the name and address of the new representative person, or, as the case may be, of the new address, as soon as practicable after the change occurs,

and the Registrar shall record any particulars notified to him under this section in the register kept by him under this Ordinance.

(4) A document required or authorised, by virtue of a statutory provision, to be served for the purpose of the institution of or otherwise in connection with, proceedings for an offence under this Ordinance or under any instruments in force under this Ordinance shall, where the person to be served is the owner of a registered ship, be treated as duly served on him if—

(a) delivered to a representative person for the time being appointed in relation to the ship;

(b) sent to such a person by post at the address notified or, as the case may be, last notified to the Registrar under subsection (3) in relation to that person; or

(c) left for such a person at that address.

(5) A person who contravenes subsection (1)(b) or (3)(b) commits an offence and is liable on summary conviction to a fine of $600.
Refusal of registration

7. (1) Notwithstanding that a ship in respect of which an application for registration has been made is entitled to be registered, the Minister may direct the Registrar not to register a ship if he is satisfied that having regard to—

(a) the condition of the ship so far as is relevant to safety or to risk of pollution;

(b) the safety, health and welfare of persons employed or engaged in any capacity on board the ship; or

(c) the possibility that the ship may be used for criminal purposes, it would be detrimental to the interests of the Islands or of international shipping for the ship to be registered.

(2) If it appears to the Minister that a ship in respect of which an application for registration has been made is not entitled to be registered, having regard to the matters mentioned in subsection (1) (a), (b) or (c), he shall inform the applicant or the representative person for the time being appointed in relation to the ship, and the Registrar shall not register the ship.

Termination of registration

8. (1) The Registrar may, subject to subsection (5), terminate a ship’s registration—

(a) where the Minister is satisfied that—

(i) having regard to the matters mentioned in section 7(1)(a), (b) or (c), it would be detrimental to the interests of the Islands or of international shipping for a registered ship to continue to be registered;

(ii) a penalty imposed on the owner of a registered ship in respect of a contravention of this Ordinance or of an instrument in force under this Ordinance has remained unpaid for a period of more than three months and no appeal against the penalty is pending; or

(iii) a summons for any such contravention has been duly served on the owner of a registered ship and the owner has failed to appear at the time and place appointed for the trial of the information or complaint in question and a period of not less than three months has elapsed since that time,

and the Minister so informs the Registrar;

(b) if a registered ship is no longer entitled to remain registered;

(c) on application by the registered owner stating that he wishes to terminate the registration of the ship;

(d) upon a registered ship becoming a total loss or being otherwise destroyed by, inter alia, shipwreck, demolition, fire or sinking; or

(e) if section 6(1)(b) is contravened.
(2) In the event of a registered ship being in a condition referred to in subsection (1)(d), every registered owner of the ship or any share in it shall, immediately upon obtaining knowledge of the event, inform the Registrar who shall make an entry thereof in the register.

(3) Where the registration of a ship is terminated—

(a) under subsection (1), the Registrar shall notify all registered mortgagees of the closure of the ship’s registration; and

(b) under subsection (1)(c) or (d), the Registrar shall forthwith issue a closure transcript to the owner of the ship.

(4) On receipt of the closure transcript referred to in subsection (3)(b), the owner shall immediately surrender the ship’s certificate of registry to the Registrar for cancellation.

(5) Where—

(a) the circumstances referred to in subsection (1)(a) apply and it appears to the Registrar that subsection (1)(b) or (e) apply, he may serve notice on the owner or on the representative person for the time being appointed in relation to that ship to produce, not later than the end of the period of twenty-one days beginning with the day after the date of service of the notice, evidence sufficient to satisfy the Minister or the Registrar, as the case may be that the ship is eligible to remain on the register, and if at the expiry of that period the Minister or the Registrar, as the case may be, is not so satisfied, the Registrar may—

(i) extend the notice and ask for further information or evidence; or

(ii) serve a final notice informing the owner or the representative person of the termination of the ship’s registry, and such termination shall take effect not later than the end of the period of seven days beginning with the day after the date of service of that notice;

(b) the Registrar serves a notice under this subsection on the owner of a ship in respect of which a mortgage is registered, the Registrar shall send a copy of that notice to the mortgagee at the address recorded for him in the register;

(c) a ship’s registration is terminated under this subsection, the Registrar shall issue a closure transcript and the owner of the ship shall forthwith surrender its certificate of registry.

(6) A person who—

(a) in connection with the making of representations under subsection (5)(a), knowingly or recklessly furnishes information which is false in a material particular commits an offence and is liable on summary conviction to a fine of $3,000 or on conviction on indictment to a fine of $10,000; or
(b) fails without reasonable cause to surrender a certificate of registry when required to do so under subsection (4) or (5), commits an offence and is liable on summary conviction to a fine not exceeding $6,000.

Penal liability

9. (1) Where a body corporate commits an offence under this Ordinance and the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he, as well as the body corporate commit that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a minister of the body corporate.

Procedure for registration

Directions to Registrar

10. The Minister may give directions of a general nature with regard to the discharge of any of the functions of the Registrar.

Register

11. (1) There shall continue to be a register of Islands ships for all registrations of ships in the Islands.

(2) The register shall be maintained by the Registrar.

(3) The register shall be so constituted as to distinguish, in a separate part, registration of fishing vessels, and may be otherwise divided into parts so as to distinguish between classes or description of ships.

(4) The register shall be maintained in accordance with the registration regulations and the private law provisions for registered ships and any directions given by the Minister under section 10.

(5) The register shall be available for public inspection during official working hours.

Entries in register

12. Entries in the register in relation to property in a ship shall be made in accordance with the following provisions—

(a) the property in a ship shall be divided into sixty-four shares;

(b) subject to the provisions of this Ordinance with respect to joint owners by transmission, not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one
ship, but this rule shall not affect the beneficial title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner;

(c) a person shall not be entitled to be registered as owner of a fractional part of a share in a ship, but any number of persons not exceeding five may be registered as joint owners of a ship or of any share or shares therein;

(d) joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered;

(e) a body corporate shall be registered as owner by its corporate name.

Survey and measurement of ships

13. (1) Every ship shall, before registration, be surveyed by a surveyor of ships and her tonnage ascertained in accordance with the Tonnage Regulations made under this Ordinance and the surveyor shall grant his certificate specifying the ship’s tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Minister and such certificate shall be delivered to the Registrar before registration.

(2) When the tonnage of a ship has been ascertained and registered in accordance with the Tonnage Regulations that tonnage shall be treated as the tonnage of the ship except so far as regulations provide, in specified circumstances, for the ship to be re-measured and the register amended accordingly.

Marking of ship

14. (1) Every ship, other than a pleasure vessel which is under twenty-four metres or seventy-eight feet in length, shall before registration be marked permanently and conspicuously to the satisfaction of the Minister as follows—

(a) her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern, in letters of a contrasting colour so as to be clearly visible, such letters to be of a height not less than one decimetre or four inches, and of proportionate breadth;

(b) her official number and net tonnage shall be permanently marked on a main part of the ship’s permanent structure that is readily visible and accessible in such manner as may be specified by a surveyor of ships;

(c) on a ship built before 1st May, 1988 a scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post—

(i) in Roman capital numerals or in figures, not less than six inches in length;
(ii) the lower line of those numerals or figures coinciding with the draught line denoted thereby; and

(iii) those letters and numerals being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Minister may approve;

(d) on a ship built after 1st May, 1988, a scale of decimetres or inches or of metres and decimetres or of feet and inches, denoting her draught of water shall be marked on each side of her stem and of her stern post—

(i) in figures at two-decimetre or eight inch intervals and at intervening two-decimetre or eight inch intervals if the scale is in metres and decimetres or feet and inches respectively, the capital letter “M” being placed after each metre or “Ft” after each imperial, figure;

(ii) the top figure of the scale showing both the metre or foot and, except where it marks a full metre or foot interval, the decimetre or inch figure;

(iii) the lower line of the figures, or figures and letters coinciding with the draught line denoted thereby; and

(iv) the figures and letters being not less than one decimetre or four inches in length and being marked by being cut in and painted in a contrasting colour so as to be clearly visible, or in such other way as the Minister may approve;

(e) a ship built before 1st May 1988 may comply with the metric requirements of paragraph (d).

(2) Unless in special circumstances the Minister directs otherwise, a pleasure vessel of twenty-four metres or seventy-eight feet in length or over, shall be deemed to be in compliance with subsection (1)(a) if her name and the name of her port of registry is marked on her stern in the manner provided in that subsection.

(3) If the scale showing the ship’s draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship commits an offence and is liable on summary conviction to a fine of $600.

(4) The marks required by this section shall be permanently continued, and no alteration shall be made in them, except in the event of any of the particulars denoted by them being altered in the manner provided by this Ordinance.

(5) If an owner or master of a registered ship neglects to keep his ship marked as required by this section, or if a person conceals, removes, alters, defaces, or obliterates or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of these marks, except in the event referred to in subsection (4), that owner, master, or person commits an offence, and for each such offence is liable on summary conviction to a fine of $600 and on a certificate from a surveyor of ships that a ship is insufficiently or inaccurately
marked the ship may be detained until the insufficiency or inaccuracy has been remedied.

(6) It shall be a defence for an owner, master or person referred to in subsection (5) to prove—

(a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or

(b) that the commission of the offence was for the purpose of escaping capture by an enemy.

(7) Where a ship proceeds to sea without being marked in accordance with this section, the owner commits an offence and is liable on summary conviction to a fine of $10,000.

(8) The Minister may exempt any class of ships from all or any of the requirements of this section.

Application for registration

15. An application for registration of a ship shall be made in the case of individuals by the person requiring to be registered as owner, or by one or more of the persons so requiring if more than one, or by his or their agent, and in the case of bodies corporate by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointers, and, if appointed by a body corporate, under the common seal of that body corporate or by deed or instrument under seal.

Declaration of eligibility

16. (1) A person shall not be entitled to be registered as owner of a ship or of a share in it until he, or in the case of a body corporate the person authorised by this Ordinance to make declarations on behalf of the body corporate, has made and signed a declaration of eligibility, referring to the ship as described in the certificate of the surveyor, and containing—

(a) a statement of his qualifications to own an Islands ship, or in the case of a body corporate, of such circumstances of the constitution and business thereof as prove it to be qualified to own an Islands ship;

(b) in the case of a foreign ship, a statement of her foreign name;

(c) a statement of the number of shares in the ship the legal title to which is vested in him or, as the case may be, the body corporate, whether alone or jointly with any other person or persons; and

(d) a declaration that, to the best of his knowledge and belief, a majority interest in the ship is owned by persons qualified to be owners of Islands ships, and the ship is otherwise entitled to be registered.

(2) In the application of this section to a ship which is not wholly owned by persons qualified to be owners of Islands ships, subsection (1)(a) shall have effect only in relation to persons who are so qualified.
Evidence of title on first registry

17. On the first registration of a ship such evidence of title shall be produced as may be specified in the registration regulations.

Entry of particulars in register

18. When the requirements of this Ordinance preliminary to registration have been complied with, the Registrar shall register the ship in accordance with the registration regulations by entering in the register particulars respecting the ship as may be specified in the registration regulations.

Documents to be retained by Registrar

19. On the registration of a ship the Registrar shall retain in his possession such documents as are specified in the registration regulations.

Port of registry

20. The port specified in the registration regulations shall be the port of registry of a ship registered under this Ordinance and the port to which she belongs.

Certificate of registry

21. On completion of the registration of a ship, the Registrar shall grant a certificate of registry comprising such particulars respecting the ship as are specified in the registration regulations.

Custody of certificate

22. The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention to secure any private right or claim.

Penalty for use of improper certificate

23. If the master or owner of a ship uses or attempts to use for her navigation, a certificate of registry not legally granted in respect of the ship, he commits an offence, and in respect of each such offence, is liable on summary conviction to a fine of $25,000 and the ship shall be subject to forfeiture.

Power to grant new certificate

24. The Registrar may, with the approval of the Minister, and upon the surrender to him of the certificate of registry of a ship, grant a new certificate in lieu of the surrendered certificate.
Duplicate certificates

25. (1) If it is shown to the satisfaction of the Registrar that the certificate of registry has been lost, stolen or destroyed or has become defaced or illegible (“the event”), he may issue to the owner a duplicate of that certificate, which shall be marked as such, and shall be of the same effect as the original.

(2) Where a duplicate certificate of registry is issued, the original, if then available or if subsequently found or recovered, shall be forthwith surrendered to the Registrar.

(3) If—

(a) the port where the ship is at the time of the event or, as the case may be, where it first arrives after the event, is not in the Islands; and

(b) the master of the ship, or some other person having knowledge of the facts of the case, makes a declaration before the proper officer as to the loss, theft, destruction, defacement or illegibility of the certificate,

the proper officer shall notify the Registrar.

(4) On being notified of the event and being satisfied that the ship is entitled to be issued with a duplicate certificate the Registrar shall—

(a) send by facsimile or any other form of electronic transmission to the proper officer a copy of the duplicate certificate which the proper officer shall endorse with a statement of the circumstances, under which it is granted; or

(b) where there are no facsimile or other electronic transmission facilities, the proper officer shall issue a temporary certificate so endorsed.

(5) The facsimile or other electronically transmitted version of the duplicate certificate, or the temporary certificate, as the case may be, shall be surrendered to the Registrar, as soon as an original duplicate certificate referred to in subsection (1) is received by the owner.

(6) Any person who fails, without reasonable cause to surrender a certificate of registry when required to do so under subsection (2), commits an offence and is liable on summary conviction to a fine of $600.

Endorsement of change of ownership

26. (1) Whenever a change occurs in the registered ownership of a ship, the Registrar may endorse the change on the certificate of registry or issue a new certificate of registry.

(2) The master shall, for the purpose of such endorsement by the Registrar, deliver the certificate of registry to the Registrar forthwith after the change.
(3) If the master fails to deliver to the Registrar the certificate of registry as required by this section he commits an offence and is liable on summary conviction to a fine of $600.

Provisional certificate for ship becoming entitled to be registered while abroad

27. (1) If a ship becomes entitled to be registered while at port in a country outside the Islands, then subject to this section, the proper officer may, on the application of the master of the ship, grant to him a provisional certificate stating—

(a) the name of the ship;
(b) the time and place of the purchase of the ship and the names of the purchasers; and
(c) the best particulars respecting the tonnage, build and description of the ship which the person granting the certificate is able to obtain,

and shall forward a copy of the certificate at the first convenient opportunity to the Registrar.

(2) No provisional certificate shall be granted by any person under this section unless he is satisfied that an application under the registration regulations for registration of the ship has been made or is intended.

(3) A provisional certificate shall have the effect of a certificate of registry until—

(a) the expiration of a period not exceeding three months from its date, or
(b) the ship’s arrival at the port of registry, whichever happens first, and shall then cease to be of any effect.

(4) Where a provisional certificate has been granted for a ship under this section, no further provisional certificate shall be so granted for the ship within one year from the date of that certificate except with the consent of the Minister.

Bareboat charter registration

Registration of ships chartered by bareboat to a qualified person

28. (1) Subject to subsection (3), a ship shall be entitled to be registered under this Ordinance in the Islands if—

(a) the ship is operated under a bareboat charter which complies with the requirements set out in subsection (2);
(b) the charterer is a person qualified to be an owner of an Islands ship by virtue of section 4; and
(c) the requirements corresponding to those imposed on the owner of a majority interest in the ship by section 5(3) and (4)(b) with respect to entitlement to registration, are satisfied by the charterer.

(2) The requirements referred to in subsection (1)(a) are—

(a) that the charter is in writing;

(b) that the demise effected by the charter is—

(i) made by the owner of the ship;

(ii) made to a charterer who has a single legal personality; and

(iii) for a fixed period of two years or more or such lesser period as may be allowed by the Minister; and

(c) that under the terms of the charter the operation, management and control of the ship including responsibility for the engagement or employment of the master and crew of ship, is vested in the charterer.

(3) Without prejudice to subsection (4), the Registrar may refuse to register a ship which is entitled to be registered under subsection (1) if—

(a) he is not satisfied that—

(i) the owner of the ship has consented to the registration of the ship in the Islands; or

(ii) any mortgagee of the ship has consented to the registration of the ship in the Islands;

(b) the tonnage of the ship cannot be ascertained in accordance with the Tonnage Regulations;

(c) the ship cannot be marked in accordance with section 14;

(d) he reasonably believes that the ship would be precluded by some other Ordinance to which it is subject from flying the Islands’ national colours in accordance with section 64;

(e) the charter by demise has an unexpired period of less than two years at the date when the application to register the ship is made; or

(f) it is not in the interests of the Islands that the ship should be registered in the Islands.

(4) Sections 6, 7 and 8 shall apply in respect of any ship entitled to be registered in the Islands under subsection (1) as if the ship was entitled to be registered under section 5.

Consequences of registration under section 28(1)

29. Where a ship is registered under section 28(1), it shall—

(a) be an Islands ship for the purposes of this Ordinance; and
(b) not fly any colours other than the Islands’ national colours specified in section 64.

Application of this Ordinance where a ship is registered under section 28

30. (1) Where application is made to register a ship which is entitled to be registered under section 28(1) or, application having been made to register a ship which is entitled to be registered under section 28(1), the ship has been registered—

(a) the provisions of this Part shall apply to the ship and its registration subject to the modifications and adaptations to those provisions set out in subsection (2); and

(b) any act or thing as is mentioned in this subsection, required to be done or not done under this Ordinance by an owner of such a ship, shall be required to be done or not done by the charterer, and—

(i) the charterer shall be liable for doing or omitting to do such act or thing as if he were the owner of the ship, and

(ii) a reference to “owner” in this Ordinance shall, in the case of such a ship as is mentioned in this subsection, be deemed to be a reference to “charterer” and the words “registered owner” and “registered ownership” shall be construed accordingly.

(2) The modifications and adaptations to the provisions of this Part referred to in subsection (1) are—

(a) section 12 (a) to (e) shall not apply;

(b) the ship shall not be required to be surveyed for the purpose of ascertaining the tonnage of the ship under section 13 if there is in force in respect of the ship an International Tonnage Certificate (1969) and in such case the tonnage of such ship shall be deemed to have been ascertained and, upon registration, registered in accordance with the Tonnage Regulations;

(c) the declaration required by section 16 shall include in place of the statements referred to in subsection (1)(c) and (d) of that section, a statement that the ship is subject to a bareboat charter and that the person on whose behalf the declaration is made is the charterer of the ship under that charter and there shall be attached to such declaration and produced to the Registrar a certified copy of that bareboat charter;

(d) section 17 shall not apply;

(e) in place of the particulars required to be entered in register under section 18 there shall be entered—

(i) the name of the charterer as if he were the owner of the ship with such annotation as may be necessary to show that the ship is entitled to be registered under section 28(1);
(ii) the name and address of the owner or owners determined in accordance with the provisions of section 12(a) to (e); and

(iii) the name and address of any person who has been granted a mortgage of the ship or any share in the ship by any owner whose name is or is to be noted on the register under sub-paragraph (ii);

(iv) such details of the terms of any mortgage referred to in sub-paragraph (iii) as the Registrar shall require to be noted; and

(v) the previous name, if any, of the ship;

(f) the Registrar shall retain in his possession, in addition to the surveyor’s certificate issued under section 13, the certified copy of the charter by demise and any certified copy of a transfer referred to in section 31(1)(c) produced to him;

(g) a certificate of registry granted by the Registrar under section 21 shall be granted for a fixed period of time expiring on the date upon which the bareboat charter shall come to an end by effluxion of time;

(h) a ship shall cease to be entitled to be registered within the meaning of section 8(1)(c) upon the expiry of the fixed period specified in the certificate of registry or, if sooner, upon either—

(i) the termination of the bareboat charter; or

(ii) the transfer by the charterer of his rights and obligations under the charter in circumstances which cause the registration to cease under section 31; and

(i) section 53 shall not apply.

Transfer of the rights and obligations of the charterer under the bareboat charter

31. (1) Where a ship is registered under section 28(1) and the charterer transfers his rights and obligations under obligations of the bareboat charter to another person so that the charterer is no longer under any contractual obligation to the owner of the ship in respect of the operation, management and control of the ship, the registration shall cease upon such transfer unless—

(a) the transferee is qualified to own an Islands ship;

(b) prior to the execution of the transfer, the transferee, or in the case of a body corporate, the person authorised by this Ordinance to make declarations on behalf of the body corporate, makes and signs a declaration referring to the ship and containing a statement of the qualification of the transferee to own an Islands ship, or if the transferee is a body corporate of such circumstances of the constitution and business thereof, as prove it to be qualified to own an Islands ship; and
(c) a certified copy of the transfer executed by the charterer in favour of the transferee is produced to the Registrar.

(2) In subsection (1) “transferee” means the person to whom the charterer has transferred his rights and obligations under the bareboat charter.

**Rights and obligations relating to interests in ships registered under section 28(1)**

32. Where a ship is registered under section 28(1) the rights and obligations of the parties to a contract, bill of sale, mortgage, charge or other instrument creating or disposing of a legal or equitable interest in the ship, whether existing at the date of registration of the ship under section 28(1) or created thereafter, shall not be affected by such registration.

**Dispensations for ships bareboat chartered and registered outside the Islands**

33. (1) Where he is satisfied that it is proper for him to do so, the Minister may grant to the owner of a ship registered in the Islands under this Ordinance a dispensation under this section.

(2) The Minister shall not grant a dispensation under this section unless he is satisfied—

(a) that the ship is subject to a charter under which the registered owner of the ship is not responsible for the management, operation or control of the ship for the period of the charter;

(b) that any registered mortgagee of the ship has consented to the dispensation being granted;

(c) that in addition to the registration of the ship in the Islands, the ship is intended to be registered under the law of a country outside the Islands; and

(d) that upon registration under the laws of a country outside the Islands the ship will become subject to laws which implement and apply to the ship such provisions of the Collision Convention, the relevant International Labour Conventions, the Load Line Convention, the Marine Pollution Convention, the Safety Convention and the International Convention of Standards of Training, Certification and Watchkeeping for Seafarers to the same extent as they apply in respect of the ship by virtue of her registration in the Islands.

(3) Where the Minister has granted to the owner of a ship a dispensation under this section, with effect from the date upon which the conditions set out in subsection (4) have been complied with, sections 62(4) and 64 shall not apply to the ship and section 66(1) shall apply to the ship as though the ship was not an Islands ship.
(4) The conditions referred to in subsection (3) are—

(a) that the owner has delivered to the Registrar the following documents—

(i) a certified copy of the bareboat charter referred to in subsection (2)(a);

(ii) in exchange for a receipt, the certificate of registry granted under section 21; and

(iii) any certificate issued in respect of the ship under this Ordinance;

(b) that the owner, or in the case of a body corporate the person authorised by this Ordinance to make declarations on behalf of the body corporate, has delivered to the Registrar a declaration referring to the ship and containing a statement that the ship is lawfully registered in a named country outside the Islands and is subject to the jurisdiction of that country in respect of the enforcement of such provisions of the conventions referred to in subsection (2)(d) as apply in respect of the ship by virtue of her registration in the Islands; and

(c) that the Registrar has received confirmation from the administration of the country outside the Islands in which the ship is registered that the ship is so registered and is subject to the jurisdiction of that country.

Termination and revocation of dispensations granted under section 33

34. (1) Any dispensation granted by the Minister under section 33 shall terminate automatically if—

(a) the ship ceases to be registered in the country named in the declaration made under section 33(4)(b); or

(b) the bareboat charter terminates, whether upon expiry or otherwise.

(2) The Minister may revoke any dispensation granted by him under section 33—

(a) upon the application of any registered owner or registered mortgagee of the ship;

(b) if he is satisfied that any declaration made for the purpose of section 33(4)(b) is false or misleading;

(c) at the request of the country named in the declaration made under section 33(4)(b); or

(d) if it is not in the interests of the Islands that the dispensation should continue.
Flag to be used where a dispensation has been granted under section 33

35. (1) Where a dispensation granted under section 33 has taken effect, the ship shall fly only the colours lawfully borne by ships registered in the country named in the declaration made under section 33(4)(b).

(2) Without prejudice to section 33(3), where a ship flies colours in contravention of subsection (1) the registered owner commits an offence and is liable on summary conviction to a fine of $10,000.

Name of ship

Rules as to name of ship

36. (1) A ship shall not be described by any name other than her registered name.

(2) A change shall not be made in the name of a ship without the previous written permission of the Registrar.

(3) Application for that permission shall be in writing and if the Registrar is of the opinion that the application is reasonable he may grant permission, and thereupon require notice of the permission to be published in such form and manner as he thinks fit.

(4) On permission being granted to change the name, the ship’s name shall forthwith be altered in the register, in the ship’s certificate of registry and on her bows and stern.

(5) If it is shown to the satisfaction of the Registrar that the name of a ship has been changed without his permission, he shall direct that her name be altered into that which she bore before the change, and the name shall be altered in the register, in the ship’s certificate of registry and on her bows and stern accordingly.

Failure to observe rules as to name of ship

37. If any person acts, or suffers any person under his control to act, in contravention of section 36, or omits to do, or suffers any person under his control to omit to do, anything required by that section, he commits an offence, and for each such offence is liable on summary conviction to a fine of $600 and, except in the case of an application being made under that section with respect to a foreign ship, which not having at any previous time been registered as an Islands ship has become an Islands ship, the ship may be detained until there is compliance with that section.

Registration of alterations and registration anew

Registration of alterations

38. When a registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register, the
Registrar shall, on application being made to him, and on receipt of a certificate from the proper surveyor stating the particulars of the alteration, either cause the alteration to be registered, or direct that the ship be registered anew.

Failure to register an alteration

39. If default is made in registering anew a ship, or in registering an alteration of a ship so altered as provided in section 38, the owner of the ship commits an offence and is liable on summary conviction to a fine of $600 and, in addition, to a fine of $100 for every day during which the offence continues after conviction.

Procedure for registration of alterations

40. (1) For the purpose of the registration of an alteration in a ship, the ship’s certificate of registry shall be produced to the Registrar, and the Registrar shall, in his discretion, either retain the certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or endorse and sign on the existing certificate a memorandum of the alteration.

(2) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the Registrar in the register.

Registration anew on change of ownership

41. Where the ownership of any ship is changed, the Registrar may, on the application of the owners of the ship register the ship anew, although registration anew is not required under this Ordinance.

Procedure for registration anew

42. (1) Where a ship is registered anew, the Registrar shall proceed as in the case of first registry, and on surrender to him of the existing certificate of registry, and on compliance with the other requirements for registration, or in the case of a change of ownership, compliance with such of them as the Registrar thinks material, shall register the ship anew, and grant a new certificate.

(2) When a ship is registered anew, her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon, but the names of all persons appearing on the former register to be interested in the ship, as owners or mortgagees shall be entered in the new register, and the registration anew shall not affect the rights of any of those persons.

Transfer of registration between the Islands and the United Kingdom or a relevant British possession

Transfer of registration from port of registry in the Islands

43. (1) Subject to subsection (2), the registration of a ship under this Part may be transferred from the port of registry in the Islands to the United Kingdom or to another relevant British possession on the application to the Registrar made by
declaration in writing of all persons appearing on the register to be interested in the ship as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

(2) On any such application the Registrar shall transmit notice thereof to the Registrar of the intended port of registry with a copy of all particulars relating to the ship, and the names of all persons appearing on the register to be interested in the ship as owners or mortgagees.

(3) The ship’s certificate of registry shall be surrendered either to the Registrar or the registrar of the ship’s intended port of registry, and if surrendered to the former, shall be transmitted to the registrar of the intended port of registry.

(4) Where an application is made under this section for the transfer of a ship’s registration to a port in the United Kingdom or in another relevant British possession, the Registrar shall not proceed to deal with the application unless he is satisfied that registration of the ship under this Part at the intended port of registry is not precluded by any Act in force in the United Kingdom or in the possession respectively.

(5) Any certificate purporting to be signed by the registrar of the intended port of registry and stating that any such registration of the ship is not precluded by any such provision shall be conclusive evidence for the purposes of subsection (4) and this subsection of the matters stated in it.

(6) Where the registrar of the intended port of registry grants a new certificate of registry in pursuance of any such application as is mentioned in subsection (2), the ship in question shall thenceforth be considered as registered at the new port of registry, and the name of the port of registry in the Islands shall be removed from the ship’s stern.

(7) The Registrar shall, on being notified by the registrar of the new port of registry of the grant of the new certificate of registry, terminate the registration of the ship in the register.

Transfer of registration to port of registry in the Islands

44. (1) Where a ship is registered in the United Kingdom or in another relevant British possession the registration of that ship may, subject to subsections (5) and (7), be transferred to the port of registry in the Islands, if—

(a) an application to the registrar of the existing port of registry has been made for the purpose by a declaration in writing by all the persons appearing on his register to be interested in the ship as owners or mortgagees; and

(b) the documents mentioned in subsection (2) have been transmitted to the Registrar.

(2) The documents referred to in subsection (1) are—

(a) a notice of the application transmitted by the registrar of the existing port of registry;
(b) a copy transmitted by him of all the registered particulars of the ship and the names of all the persons appearing on his register to be interested in the ship as owners or mortgagees; and

(c) the ship’s certificate of registry.

(3) On receipt of those documents the Registrar shall, subject to subsection (5)—

(a) enter in the register all the particulars and names so transmitted, and

(b) grant a new certificate of registry,

and thenceforth the ship shall be considered as registered at the port of registry in the Islands, and the name of that port shall be substituted for the name of the former port of registry on the ship’s stern.

(4) The Registrar shall notify the registrar of the former port of registry of the grant of a new certificate of registry.

(5) Where the entitlement of a ship to be registered is under section 5, subject to any condition specified in that provision being satisfied, the registration of the ship shall not be transferred to the port of registry in the Islands under this section unless it appears to the Registrar that the condition is satisfied.

(6) A transfer of registration under this section shall not affect the rights of any of the persons mentioned in subsection (1)(a).

(7) Section 7 shall apply mutatis mutandis to this section.

Tonnage measurement

Tonnage of ships of foreign countries adopting Tonnage Convention

45. (1) Where it appears to the Minister that the Tonnage Convention has been adopted by a foreign country and is in force there, he may apply the provisions of that Convention to the ships of such country as provided in this section.

(2) The Minister may order that ships of the foreign country shall, without being re-measured in the Islands, be treated as being of the tonnage denoted by their certificates of registry or other national papers, to the same extent, and for the same purposes as the tonnage denoted in the certificate of registry of an Islands ship is treated as being the tonnage of that ship.

(3) Where the Minister orders a ship to be treated as provided in subsection (2), any space shown in the ship’s certificate of registry or other national papers as deducted from the tonnage shall, if a similar deduction in the case of an Islands ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be treated as complying with those conditions and as being so evidenced, unless a surveyor of ships certifies to the Minister that the construction and equipment of the ship as respects that space do
not come up to the standard which would be required if the ship were an Islands ship.

(4) Any such order may—

(a) operate for a limited time; and

(b) be subject to such conditions and qualifications, if any, as the Minister may consider expedient.

(5) If it appears to the Minister that the tonnage of a foreign ship, as measured by the rules of the country to which the ship belongs, materially differs from what it would be under the Tonnage Regulations, he may order further that any of the ships of that country may, for all or any of the purposes of this Act, be re-measured in accordance with the Tonnage Regulations.

Tonnage Regulations

46. (1) The tonnage of a ship to be registered under this Part shall be ascertained in accordance with Regulations made by the Governor ("Tonnage Regulations") and whenever the tonnage of a ship has been ascertained and registered in accordance with the Tonnage Regulations, it shall be repeated in every subsequent registration of the ship unless an alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed, and in either of those cases the ship shall be re-measured, and its tonnage determined and registered according to the Tonnage Regulations.

(2) Tonnage Regulations may—

(a) make different provisions for different descriptions of ships or for the same description of ships in different circumstances;

(b) make any Regulations dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the Regulations; and

(c) prohibit or restrict the carriage of goods or stores in spaces not included in the net tonnage and may provide that the master and the owner each commits an offence and is liable on summary conviction to a fine of $10,000 where such a prohibition or restriction is contravened.

(3) Tonnage Regulations may make provision—

(a) for assigning to a ship, either instead of or as an alternative to the tonnage ascertained in accordance with other provisions of the regulations, a lower tonnage applicable where the ship is not loaded to the full depth to which it can safely be loaded;

(b) for indicating on the ship, by such mark as may be specified in the regulations, that such a lower tonnage has been assigned to it; and

(c) where the lower tonnage has been assigned to it as an alternative, for indicating on the ship the depth to which the ship may be loaded for the lower tonnage to be applicable.
(4) Tonnage Regulations may provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the Regulations by persons appointed by such organisations as may be authorised for the purpose by the Minister.

(5) Tonnage Regulations may provide for the issue, by the Minister or by persons appointed by such organisations as may be authorised for the purpose by the Minister, of certificates of the tonnage of any ship or of the tonnage which is to be taken for any purpose specified in the Regulations as the tonnage of a ship not registered in the Islands, and for the cancellation and surrender of such certificates in such circumstances as may be prescribed by the Regulations.

(6) Regulations requiring the surrender of any certificate may make a failure to comply with the requirement an offence punishable on summary conviction with a fine of $3,000.

(7) In making the Tonnage Regulations, the Governor shall have regard to the provisions of the Tonnage Convention.

(8) Surveyors shall carry out surveys and measurements of ships in accordance with the Regulations made under this section.

Unregistered ships

Liabilities of unregistered ships

47. (1) Where a ship—
(a) is twenty-four metres or seventy-eight feet or more in length; and
(b) a majority interest in the ship is owned by Islands citizens or a body corporate established under the laws of the Islands and having a place of business in the Islands; and
(c) is not registered in the Islands or elsewhere,
then notwithstanding that the ship is not entitled to the benefits, privileges, advantage or protection usually enjoyed by an Islands ship, the ship shall, for the purposes mentioned in subsection (2), be dealt with in the same manner in all respects as if the ship were an Islands ship.

(2) The purposes referred to in subsection (1) are—
(a) payment of dues, fees or other charges;
(b) liability to fines and forfeiture; and
(c) punishment of any offences punishable under this Ordinance.

Miscellaneous

Termination of overseas registration

48. (1) Where a ship is entitled to be registered in the Islands by virtue of section 5 and the ship is so registered, the ship shall not be registered under the
law of a country outside the Islands except under a dispensation granted under section 33.

(2) Where a ship is entitled to be registered in the Islands by virtue of section 28(1) and the ship is so registered, the ship shall not be registered under the law of a country outside the Islands except where such registration is effected by an owner of the ship whose name is noted in the register under section 30 (2)(e)(ii).

(3) Where a ship is registered under the law of a country outside the Islands in contravention of subsection (1) or (2), the registered owner, subject to subsection (4), commits an offence and is liable on summary conviction to a fine of $10,000.

(4) It shall be a defence for any person charged with an offence under this section to prove that he had taken all reasonable steps to secure the termination of the registry of the ship under the law of the country in which the ship is registered in contravention of subsection (1) or (2).

Trusts, equitable interests and liabilities of beneficial interests

49. (1) Subject to subsection (2), no trust, express, implied, or constructive, shall be registered by the Registrar.

(2) Where on the bankruptcy of a registered owner or mortgagee his title is transmitted to his trustee in bankruptcy, that person may be registered as the owner or mortgagee of an Islands ship or a share therein, provided the ship remains entitled to be registered as an Islands ship under section 5.

(3) The expression “beneficial interest”, where used in this Part, includes interests arising under contract and other equitable interests, and without prejudice to—

(a) the provisions of this Ordinance for preventing trusts being entered in the register or received by the Registrar;

(b) the powers of disposition and of giving receipts conferred by this Ordinance on registered owners and mortgagees; and

(c) the provisions of this Ordinance relating to the exclusion of unqualified persons from the ownership of Islands ships,

interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interests therein in the same manner as in respect of any other personal property.

(4) Where a person is beneficially interested, otherwise than by way of mortgage, in a ship or share in a ship registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or any other enactment on the owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such penalties against both or either of the above mentioned parties, with or without joining the other of them.
Registrar may dispense with declaration or evidence

50. (1) When, under this Part, a person is required to make a declaration on behalf of himself or of any body corporate, or evidence is required to be produced to the Registrar and it is shown to the satisfaction of the Registrar that from any reasonable cause the person is unable to make the declaration, or that the evidence cannot be produced, the Registrar may, with the approval of the Minister, and on the production of such other evidence, and subject to such terms as he may reasonably think fit, dispense with the declaration or evidence.

(2) Declarations required by this Part may be made on behalf of a body corporate by the secretary or another officer of the body corporate authorised by it for the purpose.

Fees

51. (1) Such fees as the Governor determines shall be paid in respect of the measurement of a ship’s tonnage.

(2) All fees authorised to be taken under this Part, shall, except where otherwise provided in this Ordinance, be paid into the Consolidated Fund.

Returns to be made by Registrar

52. The Registrar shall, if requested by the Registrar General of Shipping and Seamen of the United Kingdom, transmit to him a full return, at such times and in such forms as the Registrar General may direct, of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to him in his capacity as Registrar, and of the names of the persons concerned in the same, and of such other particulars as may be directed by the Registrar General.

Evidence of certificate of registry and other documents

53. (1) A person, on payment of a prescribed fee, may, on application to the Registrar at a reasonable time during the hours of his official attendance, inspect the register.

(2) The following documents shall be admissible in evidence in the manner provided by this Ordinance—

(a) a certificate of registry under this Ordinance purporting to be signed by the Registrar or other proper officer;

(b) an endorsement on a certificate of registry purporting to be signed by the Registrar or other proper officer; and

(c) a declaration made in pursuance of this Part.

(3) A person shall be entitled, on payment of the prescribed fee, to obtain a copy, certified as a true copy by the Registrar, of any information contained in an entry in the register.

(4) A person shall be entitled, on payment of the prescribed fee, to obtain such a certified copy of the information entered in the register in respect of the
registration of a ship, together with a statement certified by the Registrar showing who is for the time being, the owner of the ship.

(5) In subsections (2) (3) and (4) “prescribed fee” means the fee prescribed by the Governor.

Forms of documents

54. (1) The instruments and documents referred to in Schedule 1 shall, subject to subsection (3), be in the form prescribed, or approved by the Minister or as near thereto as circumstances permit.

(2) The Registrar shall not be required to receive and enter in the register any bill of sale, mortgage, or other instrument of the disposal or transfer of any ship or share, or any interest in the ship which is made in a form other than that for the time being required under this Part, or which contains particulars other than those contained in such form.

(3) In this section—

(a) the references to “form” include references to alterations made thereto from time to time as deemed necessary; and

(b) such public notice of the alteration referred to in paragraph (a) shall be given as may be necessary in order to prevent inconvenience.

Instructions as to registration

55. The Minister may, for carrying into effect this Part, give such instructions as to the manner of making entries in the register, as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to himself of any question involving doubt or difficulty, and generally as to any act or thing to be done under this Part, as he thinks fit.

Forgery of documents

56. If any person forges, or fraudulently alters—

(a) an entry or endorsement in the register, or

(b) another document as respects which provision is made by, under or by virtue of this Part or an entry or endorsement in or on such other document and as respects which provision is so made,

he shall commit an offence and be liable—

(i) on summary conviction, to a fine of $3,000 or to a term of imprisonment of eighteen months, or both; or

(ii) on conviction on indictment, to a fine of $10,000 or to a term of imprisonment of three years, or both.
False declarations

57. (1) If a person in the case of a declaration made in the presence of or produced to the Registrar under this Part, or in a document or other evidence produced to the Registrar—

(a) wilfully makes, or assists in making, or procures to be made a false statement concerning the title to or ownership of, or the interest existing in a ship, or a share in a ship, or

(b) utters, produces, or makes use of a declaration or document containing any such false statement knowing it to be false,

he shall commit an offence and in respect of each offence be liable on summary conviction to a fine not exceeding $10,000.

(2) If a person wilfully makes a false declaration touching the qualification of himself or of another person or of a body corporate to own an Islands ship or a share in the ship or with respect to the entitlement of a ship to be registered, he shall commit an offence and be liable on summary conviction to a fine not exceeding $15,000 and that ship or share therein shall be subject to forfeiture under this Ordinance to the extent of the interest in the ship of the declarant, and also, unless it is proved that the declaration was made without authority, of a person or body corporate on behalf of whom the declaration is made.

Registration regulations

58. The Governor may make regulations for and in connection with the registration of ships as Islands ships.

Matters to be prescribed in registration regulations

59. (1) Without prejudice to the generality of section 58, the regulations may, in particular, make provision with respect to any of the following matters—

(a) the issue of certificates including provisional certificates, of registry, their production and surrender;

(b) restricting and regulating the names of ships registered or to be registered;

(c) the marking of ships registered or to be registered, including marks for identifying the port to which a ship is to be treated as belonging;

(d) the period for which registration may remain effective without renewal;

(e) the survey and inspection of ships registered or to be registered and the recording of their tonnage as ascertained or re-ascertained under the Tonnage Regulations;

(f) the refusal, suspension and termination of registration specifying circumstances;
(g) matters arising out of the expiration, suspension or termination of registration including the removal of marks and the cancellation of certificates;

(h) the charging of fees in connection with registration or registered ships;

(i) the transfer of the registration of ships to and from the register, from and to registers, or corresponding records in registries other than in the Islands;

(j) inspection of the registry;

(k) any matter in relation to the registration of small ships and pleasure vessels;

(l) transitional provisions; and

(m) any other matter which is authorised or required by this Ordinance to be prescribed in registration regulations.

(2) The regulations may—

(a) make different provision for different classes or descriptions of ships and for different circumstances;

(b) without prejudice to paragraph (a), make provision for the granting of exemptions or dispensations by the Minister from specified requirements of the regulations, subject to such conditions if any as he thinks fit to impose;

(c) make such transitional, incidental or supplementary provision as appears to the Governor to be necessary or expedient;

(d) make provision for the registration of any class or description of ships to be such as to exclude the application of any private law provisions for registered ships and, if they do, may regulate for the transfer, transmission or mortgaging of ships of the class or description so excluded;

(e) make provision for any matter which is authorised or required by those provisions to be prescribed by regulations; and

(f) provide for—

(i) the approval of forms by the Minister; and

(ii) the discharge of specified functions by specified authorities or persons.

(3) The regulations may provide that any reference in any other enactment or in any instrument made under any other enactment to the port of registry or the port to which a ship belongs shall be construed as a reference to the port identified by the marks required for the purpose by this Ordinance and the regulations.

(4) The contravention of any regulations made under this section shall be punishable by a fine of $20,000.
Certified copy of entry in register to be evidence

60. A document purporting to be a copy of any information contained in an entry in the register and to be certified as a true copy by the Registrar shall be evidence of the matters stated in the document.

PART III

NATIONAL CHARACTER AND FLAG

National character of ship to be declared before clearance

61. (1) A customs officer shall not grant clearance for a ship until the master of the ship has declared to that officer the name of the nation to which he claims that the ship belongs, and that officer shall thereupon inscribe that name on the clearance.

(2) If a ship attempts to proceed to sea without such clearance, it may be detained until the declaration is made.

Offences relating to Islands character of ship

62. (1) If the master or owner of a ship which is not an Islands ship does anything, or permits anything to be done, for the purpose of causing the ship to appear to be an Islands ship then, except as provided by subsections (2) and (3), the ship shall be liable to forfeiture and the master, owner and charterer, if any, shall each commit an offence and be liable as provided in section 63.

(2) No liability arises under subsection (1) where the assumption of Islands national character has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(3) Where the registration of a ship has terminated by virtue of any provision of this Ordinance or the registration regulations, any marks prescribed by such regulations displayed on the ship within the period of fourteen days beginning with the date of termination of that registration shall be disregarded for the purposes of subsection (1).

(4) If the master or owner of an Islands ship does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship shall be liable to forfeiture and the master, owner and charterer, if any, shall each commit an offence and be liable as provided in section 63.

(5) Without prejudice to the generality of subsections (1) and (4), those subsections apply in particular to acts or deliberate omissions as respects—

(a) the flying of a national flag;

(b) the carrying or production of certificates of registry or other documents relating to the nationality of the ship; and

(c) the display of marks required by the law of any country.
Penalties

63. (1) A person who commits an offence under section 62 shall be liable on summary conviction to a fine of $25,000 or a term of imprisonment of two years, or both.

(2) This section and section 62 apply to things done outside as well as to things done within the Islands.

National colours and penalty for carrying improper colours or not showing colours

64. (1) The flag that an Islands ship may fly is—

(a) the red ensign without any defacement or modification;

(b) the red ensign defaced or modified, whose adoption for ships registered in the Islands is authorised or confirmed by Her Majesty by Order in Council; or

(c) colours allowed to be worn under a warrant from Her Majesty.

(2) If any of the following colours—

(a) any distinctive national colours except—

(i) the red ensign;

(ii) the Union flag (commonly known as the Union Jack) with a white border; or

(iii) any colours authorised or confirmed by Her Majesty by Order in Council;

(b) any colours usually worn by Her Majesty’s ships or resembling those of Her Majesty; or

(c) the pendant usually carried by Her Majesty’s ships or any pendant resembling that pendant,

are hoisted on board a British ship without warrant from Her Majesty, the master of the ship, or the owner of the ship if on board, and every other person hoisting them commits an offence.

(3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction, to a fine of $2,000.

(4) A police officer, a customs officer, a commissioned officer on full pay in the military or naval service of Her Majesty or a British consular officer, may board an Islands ship on which any colours or pendants are hoisted contrary to this section, and seize the colours or pendant, and the colours or pendant shall be forfeited to Her Majesty.

(5) An Islands ship shall hoist the proper national colours—

(a) on a signal being made to her by one of Her Majesty’s ships including a vessel under the command of an officer of Her Majesty’s navy on full pay;
(b) on entering or leaving a foreign port; and

(c) if of 50 gross tonnage or upwards, on entering or leaving a port in the Islands.

(6) If there is failure to comply with subsection (5), the master of the ship shall commit an offence and for each such offence be liable on summary conviction to a fine of $600.

(7) The provisions of this section with respect to colours worn by merchant ships shall not affect any other power of the Admiralty in relation thereto.

Proceedings on forfeiture of a ship

65. (1) Where a ship has either wholly or as to a share in it become liable to forfeiture under this Ordinance—

(a) a police officer; or

(b) a commissioned naval or military officer; or

(c) a person appointed by the Minister for the purposes of this section,

may seize and detain the ship and bring the ship to adjudication before the Court.

(2) Where a ship is subject to adjudication under this section, the Court may—

(a) adjudge the ship and her equipment to be forfeited to the Government; and

(b) make such order in the case as seems just.

(3) No officer or person bringing proceedings under this section shall be liable in damages in respect of the seizure or detention of the ship, notwithstanding that the ship has not been proceeded against or, if proceeded against, adjudicated not liable to forfeiture, if the Court is satisfied that there were reasonable grounds for the seizure or detention.

(4) If the Court is not so satisfied the Court may award costs and damages to the party aggrieved and make such other order as the Court thinks just.

PART IV

PROPRIETARY INTERESTS IN REGISTERED SHIPS

Private law provisions for registered ships and liability as owner

66. (1) Schedule 2 has effect in relation to the title to and the registration of mortgages over ships, except ships that are excluded from its application by provisions of the registration regulations made under sections 58 and 59.
(2) If a person is beneficially interested, otherwise than as a mortgagee, in a ship or a share in a ship registered in the name of some other person as owner, the person so interested, as well as the registered owner, shall be liable to any pecuniary penalties imposed by or under this or another Ordinance or an enactment extending to the Islands, on the owners of registered ships.

(3) If the registration of a ship terminates by virtue of a provision of the registration regulations, the termination of that registration shall not affect an entry in the register so far as relating to an undischarged registered mortgage of that ship or of a share in it.

(4) In subsection (3) “registered mortgage” has the same meaning as in Schedule 2.

PART V

SAFETY AND ENVIRONMENTAL PROTECTION

Safety and health on ships and control of pollution from ships

67. (1) The Governor may make Regulations—
(a) to secure the safety of Islands ships and persons on them;
(b) to protect the health of persons on Islands ships;
(c) to secure the safety of other ships and persons on them while they are within Islands waters;
(d) to protect the health of persons on ships other than Islands ships while they are in Islands waters; and
(e) to prevent, reduce or minimize pollution from Islands ships and other ships while they are in Islands waters.

(2) Regulations under subsection (1)—
(a) shall not apply in relation to a foreign ship while it is exercising a right of innocent passage, or to persons on it while it is exercising such a right; but
(b) shall apply in relation to such a ship, and persons on it, even though the ship is exercising such a right, to the extent that the regulations give effect to provisions of an international agreement, ratified by the United Kingdom on behalf of the Islands.

(3) In subsection (1) “Islands ship” means a ship that—
(a) is registered in the Islands; or
(b) is not registered under the law of any country but is wholly owned by persons each of whom is—
(i) a British citizen resident in the Islands; or
(ii) a body corporate that is established under Islands law and has its principal place of business in the Islands.

(4) The power conferred by subsection (1) shall extend to the making of regulations for the prevention of collisions between seaplanes on the surface of the water and between ships and seaplanes and subsection (5) to (7) shall have effect accordingly.

(5) (a) Regulations under the foregoing provisions of this section—

(i) may authorise the making of Orders for the purposes of this section;

(ii) may make provision in terms of approvals given by the Governor or enable the Governor to specify standards or other provisions in documents that the Governor considers relevant from time to time; and

(iii) may provide for the cancellation of an approval given under the regulations and for the alteration of the terms of such approval; and

(b) an approval under the regulations 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.

(6) Regulations under the foregoing provision of this section may provide—

(a) for the Minister or another person to grant, on terms which the Minister or other person may specify, of an exemption for a class of cases or an individual case from a specified provision of the regulations; and

(b) for the alteration or cancellation of an exemption granted under the regulations.

(7) Regulations under the foregoing provisions of this section may provide—

(a) that where prescribed by the regulations a ship shall be liable to be detained and that any enactment providing for the enforcement of ships shall have effect, with any modifications prescribed by the regulations, in relation to the ship;

(b) that a contravention of the regulations shall be an offence punishable with imprisonment for two years and a fine, or such lesser penalty as is prescribed by the regulations;

(c) that where prescribed by the regulations, prescribed persons shall each commit an offence created by virtue of sub-paragraph (b).

Provisions supplementary to section 67

68. (1) Regulations under section 67 may—

(a) be made so as to apply outside the Islands; and
(b) provide that if a signal is used or displayed otherwise than in accordance with the regulations for compensation to be paid for any expense or loss caused in consequence of the signal being taken for a signal of distress, and compensation required to be paid by virtue of regulations under sub-paragraph (b) may, without prejudice to another remedy, be recovered in the same manner as salvage.

(2) The Governor may, by regulations repeal or modify a provision of another enactment in force in the Islands, or that applies to Islands ships, as he considers appropriate in connection with a repeal or modification made or to be made under section 67(1)(a).

(3) Nothing in section 67(4) to (6), or in subsection (1) shall be construed as prejudicing the generality of section 67(1).

PART VI
SAFETY OF LIFE AT SEA

Interpretation of terms used in Part VI

69. In this Part—

“international voyage” means a voyage between a port of the Country and a port in another Country where at least one of the ports is a Safety Convention Country;

“Safety Convention” means the International Convention for the Safety of Life at Sea, 1974 and Protocol of 1978, together with such amendments thereof or replacements thereof as may be in effect in respect of the Turks and Caicos Islands.

Application of Safety Convention, exceptions and exemptions thereto

70. (1) Subject to subsection (2), the Safety Convention, including all its related instruments, shall, unless excepted by this Ordinance, apply to all Islands ships and all other ships engaged on international voyages while they are in Turks and Caicos Islands waters.

(2) Unless expressly provided otherwise, the Safety Convention shall not apply to—

(a) ships of war and troop ships;
(b) cargo ships of less than 500 tons;
(c) ships not propelled by mechanical means;
(d) wooden ships of primitive build;
(e) pleasure vessels not engaged in trade; and
(f) fishing vessels.

(3) Notwithstanding that any provision of this Part or any regulations made hereunder is expressed to apply to ships that are not Islands ships while they are within any port of the Turks and Caicos Islands, such provision shall not apply to a ship that would not be within any such port but for such stress of weather or any other circumstances that neither the master nor the owner nor the charterer, if any, of the ship could have prevented or forestalled.

(4) This Part applies to the Islands ships wherever they may be and to other ships whilst they are in the Turks and Caicos Islands waters, but not to fishing vessels or pleasure vessels.

(5) The Minister or such person as he may authorise for the purpose may exempt any ship or class of ships from any safety requirements imposed by or under this Ordinance either absolutely or subject to such conditions as he thinks fit.

(6) Without prejudice to subsection (1), where a ship not normally engaged on international voyages is required to undertake a single international voyage, the Minister may, if he is of the opinion that the ship complies with safety requirements imposed by or under this Ordinance, may exempt the ship while engaged in that voyage.

(7) Without prejudice to subsection (5), any ship which embodies features of a novel kind may be exempted from any requirements imposed by or under this Ordinance relating to safety construction, lifesaving appliances and radio communications, the application of which might seriously impede research into development of such features and their incorporations in ships engaged in international voyages, provided that such ship shall comply with safety requirements which, in the opinion of the Minister or such person as he may authorise for the purpose, are adequate for the service for which it is intended and are such as to ensure the overall safety of the ship.

(8) Where any exemptions as is referred to in subsection (7) is granted, the Minister shall communicate to the International Maritime Organisation particulars of the exemptions and the reasons thereof.

(9) The Minister or such person as he may authorise for the purpose may, if he considers that the sheltered nature and condition of the voyage are such as to render the application of any specific requirement relating to safety construction, life-saving appliances and radio communications unreasonable or unnecessary, exemption from those requirements individual Island ships, or classes of ship which, in the course of their voyage, do not proceed more than 20 miles from the nearest land.

Regulations relating to safety at sea

71. (1) The Governor in Cabinet shall make such Regulations as may appear to him to be necessary and expedient to give effect to and for the better carrying out of the objects and purposes of this Part and to provide generally for safety at sea and for giving effect to the Safety Convention and its related instruments.
(2) For the purpose of giving effect to the provisions of Chapter VIII of the Annex to the Safety Convention, the Governor in Cabinet may make such Regulations as he considers appropriate with respect to ships provided as he considers appropriate with respect to ships provided with nuclear power plants.

(Inserted by Ord. 13 of 2004)

PART VII

SUPPLEMENTAL

Savings

72. (1) Anything done and any licence, certificate, permit, directive or notice issued, and any regulations, rules or orders made under any repealed Act and Ordinance, that have effect in the Islands relating to the registration of ships, shall, to the extent not inconsistent with this Ordinance or regulations made under it, continue to have effect until its expiration or revocation, as the case may be and as if issued or made under this Ordinance.

(2) Regulations made under section 67 shall be without prejudice to any Ordinance, Act, rules or regulations now in force in the Islands:

Provided that if there is inconsistency between Regulations made under section 67 and any other Ordinance, Act, rule or regulation, the Regulations made under section 67 shall prevail.

Transitional provisions

73. The Governor may make Regulations prescribing such provision including amending any legislation, as he considers necessary, convenient or expedient for savings, transitory or transitional purposes in connection with the coming into operation of any provision of this Ordinance.

Offences

74. The provisions of this Ordinance creating offences are listed in Schedule 3.
SCHEDULE 1

(Section 54)

INSTRUMENTS AND DOCUMENTS FOR WHICH FORMS ARE TO BE PRESCRIBED OR APPROVED

1. Certificate of survey
2. Declaration of ownership by individual owner
3. Declaration of ownership on behalf of a corporation as owner
4. Certificate of registry
5. Declaration of ownership by individual transferee
6. Provisional certificate
7. Declaration of owner taking by transmission
8. Declaration of mortgagee taking by transmission
9. Bill of sale
10. Mortgage to secure principal sum and interest
11. Mortgage to secure current account
12. Transfer of mortgage by individual or joint owners
13. Transfer of mortgage by body corporate
SCHEDULE 2

(Section 66)

PRIVATE LAW PROVISIONS FOR REGISTERED SHIPS

Definitions

1. In this Schedule—

“mortgage” means an instrument creating a security for the repayment of a loan or for the discharge of another obligation;

“prescribed” means prescribed in the registration regulations;

“registered mortgage” means a mortgage registered under paragraph 8(2).

General

2. (1) Subject to a right or power appearing from the register to be vested in another person, the registered owner of a ship or of a share in a ship may absolutely dispose of it in accordance with this Schedule and the registration regulations.

(2) Sub-paragraph (1) shall not imply that an interest arising under a contract or another interest cannot subsist in relation to a ship or a share in a ship; and such an interest may be enforced by or against the owner or a mortgagee of a ship in respect of his interest in the ship or the share in a ship in the same manner as in respect of any other movable property.

(3) The registered owner of a ship or of a share in a ship may give an effectual receipt for money paid or advanced by way of consideration on a disposal of the ship or share in the ship.

Transfers etc. of registered ships

3. (1) A transfer of a registered ship, or of a share in a registered ship, shall be effected by a bill of sale satisfying the prescribed requirements, unless the transfer will result in the ship ceasing to have an Islands connection.

(2) If a ship or a share has been transferred under sub-paragraph (1), the transferee shall not be registered as owner of the ship or share unless—

(a) he has made the prescribed application to the Registrar; and

(b) the Registrar is satisfied that the ship retains an Islands connection and that he would not refuse to register the ship.

(3) If an application under sub-paragraph (2) is granted by the Registrar, the Registrar shall register the bill of sale in the prescribed manner.

(4) Bills of sale shall be registered in the order in which they are produced to the Registrar for the purposes of registration.
4.  (1) If a registered ship, or share in a registered ship, is transmitted to a person by lawful means other than a transfer under paragraph 3 and the ship continues to have an Islands connection, the person shall not be registered as owner of the ship or share unless—

(a) he has made the prescribed application to the Registrar; and

(b) the Registrar is satisfied that the ship retains an Islands connection and that he would not refuse to register the ship.

(2) If an application under sub-paragraph (1) is granted by the Registrar, the Registrar shall cause the applicant’s name to be registered as owner of the ship or share.

5.  (1) If the property in a registered ship or share in a registered ship is transmitted to a person by lawful means other than a transfer under paragraph 3, but as a result the ship no longer has an Islands connection, the Court may, on application by or on behalf of that person, order a sale of the property so transmitted and direct that the proceeds of sale, after deducting the expenses of the sale, are to be paid to that person or otherwise as the Court directs.

(2) The Court may require any evidence in support of the application it thinks requisite, and may make the order on any terms and conditions it thinks just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3) An application shall be made within the period of 28 days beginning with the date of occurrence of the event by which the transmission took place, or within such further time not exceeding one year, as the Court may allow.

(4) If—

(a) an application is not made within the time allowed by or under sub-paragraph (3); or

(b) the Court refuses an order for sale,

the ship or share that was transmitted shall be liable to forfeiture.

6.  (1) If a Court whether under paragraph 5 or otherwise, orders the sale of a registered ship or a share in a registered ship, the order of the Court shall contain a declaration vesting in a named person the right to transfer the ship or share.

(2) The person so named may transfer the ship or share in the same manner and to the same extent as if he were the registered owner of the ship or share.

(3) The Registrar shall deal with an application relating to the transfer of the ship or share made by the person so named as if that person were the registered owner.

7.  (1) The Court may, without prejudice to the exercise of another power, on the application of an interested person, make an order prohibiting for a specified time any dealing with a registered ship or a share in a registered ship.

(2) The Court may make the order on any terms or conditions it thinks just, or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires.

(3) The order, when a copy is served on the Registrar, is binding on him whether or not he was made a party to the proceedings.
Mortgages of registered ships

8. (1) A registered ship, or a share in a registered ship, may be made the subject of a mortgage.

(2) The instrument creating a mortgage shall be in the form prescribed by or approved under the registration regulations.

(3) If a mortgage executed in accordance with sub-paragraph (2) is produced to the Registrar, he shall register the mortgage in the prescribed manner.

(4) Mortgages shall be registered in the order in which they are produced to the Registrar for the purposes of registration.

Priority of registered mortgages

9. (1) If two or more mortgages are registered in respect of the same ship or share, the priority of the mortgages between themselves shall be determined by the order in which the mortgages were registered and not by reference to another matter.

(2) The registration regulations may provide for the giving to the Registrar by intending mortgagees of “priority notices” in a form prescribed by or approved under the Regulations that, when recorded in the register, determine the priority of the interest to which the notice relates.

Registered mortgagee’s power of sale

10. (1) Subject to sub-paragraph (2), a registered mortgagee may, if the mortgage money or part of it is due, sell the ship or share in respect of which he is registered, and give an effectual receipt for the purchase money.

(2) If two or more mortgages are registered in respect of the same ship or share, a subsequent mortgagee may not, except under an order of a court of competent jurisdiction, sell the ship or share without the concurrence of every prior mortgagee.

Protection of registered mortgages

11. If a ship or share is subject to a registered mortgage, then—

(a) except in so far as may be necessary to do so to make the ship or share available as a security for the mortgage debt, the mortgagee is not by reason of the mortgage to be treated as owner of the ship or share; and

(b) the mortgagor is to be treated as not having ceased to be the owner of the ship or share.

Transfer of registered mortgage

12. (1) A registered mortgage may be transferred by an instrument made in the form prescribed by or approved under the registration regulations.
(2) If such an instrument is produced to the Registrar, the Registrar shall register the transferee in the prescribed manner.

*Transmission of registered mortgage by operation of law*

13. If the interest of a mortgagee in a registered mortgage is transmitted to a person by lawful means other than by a transfer under paragraph 12, the Registrar shall, on production of the prescribed evidence, cause the name of that person to be entered in the register as mortgagee of the ship or share.

*Discharge of registered mortgage*

14. If a registered mortgage has been discharged, the Registrar shall, on production of the mortgage deed and such evidence of the discharge of the mortgage as may be prescribed, cause an entry to be made in the register to the effect that the mortgage has been discharged.

**SCHEDULE 3**

*(Section 71)*

**OFFENCE PROVISIONS**

The following are the offence provisions in this Ordinance—

**PART II**

**REGISTRATION OF SHIPS**

*Registration*

Section 6(5) offences of—

(a) not having a representative person while the ship is registered; and

(b) not notifying the Registrar of change of identity or address of a representative person.

Section 8(6) offences of—

(a) knowingly or recklessly furnishing information which is false in a material particular; and

(b) failing without reasonable cause to surrender a certificate of registry.
Procedure for registration

Section 14(3), (5), (6) and (7) offences of—

(1) (a) inaccuracy in scale showing ship’s draught of water;
(b) neglecting to keep ship marked;
(c) making marks illegible; and
(d) ship going to sea without being marked;

(2) defences.

Section 23 offence of use of improper certificate of registry.

Section 25(6) failure to surrender the original certificate of registry after a duplicate has been issued.

Section 26(3) failure to deliver to Registrar certificate of registry for endorsement or new certificate.

Bareboat charter registration

Section 28(4) applies section 6(5)

Section 35(2) not flying the flag of the country in which ship is registered under section 33.

Name of ship

Section 37 offences of failure to obey rules regulating the name of the ship.

Registration of alterations and registration anew

Section 39 default in registering anew or in registering an alteration of, a ship.

Tonnage measurement

Section 46(2)(c) contravention of prohibition or restriction on the carriage of goods or stores in spaces not included in the net tonnage.

Section 46(6) regulations may make failure to comply with a requirement to surrender a certificate an offence.
Unregistered ships

Section 47(2) unregistered ship dealt with in respect of offences as if registered.

Miscellaneous

Section 48(3) and (4)
(1) offence of ship being registered outside the Islands when it has no authority to be registered.

(2) defence.

Section 56 forgery or fraudulent alteration, of—

(a) the register; or

(b) another document as respects which provision is made under Part II.

Section 57 false declarations—

(a) to the Registrar; or

(b) touching the qualification of himself or of another person to own an Islands ship or a share in the ship or with respect to the entitlement of a ship to be registered.

Section 59(4) contravention of registration regulations.

PART III

NATIONAL CHARACTER AND FLAG

Section 61(2) detention of ship trying to leave without clearance.

Section 62(1), (4) and (5) offences of—

(a) causing the ship to appear to be an Islands ship; and

(b) doing or permitting anything to be done, for the purpose of concealing the nationality of the ship.

Section 63(2) application of sections 62 and 63.

Section 64(2), (5) and (6) offences of—

(a) hoisting the listed colours without warrant from Her Majesty; and
(b) failure by an Islands ship to hoist the proper national colours
   (i) on a signal being made to her by one of Her Majesty’s ships;
   (ii) on entering or leaving a foreign port; and
   (iii) if of 50 gross tonnage or upwards, on entering or leaving port.

PART V

SAFETY AND ENVIRONMENTAL PROTECTION

Section 67(7(b) contravention of regulations on safety and health on ships and control of pollution from ships.
MERCHANT SHIPPING
(SMALL COMMERCIAL VESSELS) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

REGULATION
1. Short title
2. Interpretation
3. Application
4. Exemptions
5. Equivalent

PART II

REQUIREMENTS FOR VESSELS

6. Vessels to be surveyed
7. Certificate of inspection
8. Annual inspection
9. Stability tests
10. Responsibilities of owners and masters
11. Suspension of certificate of inspection
12. Prohibition on proceeding to sea

PART III

BOATMASTERS AND BOAT ENGINEERS

13. Master and engineer
14. Issue of licence, standard and conditions
15. Grades and area restrictions of boatmaster licences
16. Grades and area restrictions of boat engineer licences
17. Existing licences
18. Validity and renewal of licences
19. Record and surrender of licences
20. Loss of licence
21. Suspension of licence
PART IV

HOURS OF WORK

22. Interpretation in Part IV
23. Duty of owner, master and crew
24. Exception for emergencies
25. Working hours in certain ships
26. Contravention of regulation 24

PART V

MANNING AND TRAINING

27. Manning
28. Training in emergency procedures

PART VI

MISCELLANEOUS

29. Penalties
30. Power to detain
   SCHEDULE 1: Forms
   SCHEDULE 2: Fees
MERCHANT SHIPPING (SMALL COMMERCIAL VESSELS) REGULATIONS
– SECTIONS 58, 59, 67 AND 68

(Legal Notice 44/2003)

Commencement

[2 January 2004]

PART I

PRELIMINARY

Short title

1. These Regulations may be cited as the Merchant Shipping (Small Commercial Vessels) Regulations.

Interpretation

2. (1) In these Regulations—


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

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

“new vessel” means a vessel whose keel was laid or construction or layup was started, on or after April 2002;

“owner” means, in relation to a vessel, the person who owns the vessel;

“passenger” means a person carried in a vessel, except—

(a) a person employed or engaged in any capacity on board the vessel in relation to the business of the vessel;

(b) a person on board the vessel under the master’s obligations to carry vessel wrecked, distressed or other persons, or by reason of any circumstance which neither the master’s obligation nor the owner nor the charterer, (if any,) could have prevented or forestalled; or

(c) a child under one year of age;

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

“small commercial vessel” means a vessel of less than 24 metres in length in commercial use and includes a passenger vessel intended for and used only on non-international voyages; and a vessel which is provided for the transport or entertainment of lodgers at any institution, hotel, boarding house or guest house or other establishment;

“surveyor” means a marine surveyor appointed by the Minister to undertake the surveys required by these Regulations;

“voyage” includes an excursion.

(2) Where any 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.

**Application**

3. These Regulations shall apply to—

   (a) small commercial vessels which are Islands ships; and

   (b) other small commercial vessels whilst in Islands waters,

   to which the Code applies.

**Exemptions**

4. (1) The Minister may grant exemptions to any person or group of persons from all or any of the provisions of these Regulations, as may be specified in the exemption, on such terms and conditions as he may specify.

   (2) An exemption given under these Regulations or the Code shall specify the date on which it takes effect.

**Equivalent**

5. Where these Regulations or the Code require that a particular piece of equipment or machinery shall be provided or carried in any vessel or that any particular provision shall be made, the Minister may permit any other piece of equipment or machinery to be provided or carried, or any other provision to be made, where he 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 II**

**REQUIREMENTS FOR VESSELS**

**Vessel to be surveyed**

6. (1) Every vessel shall be surveyed by such person as may be designated by the Minister, for the purpose of the issuing of a certificate of inspection in accordance with regulation 7 not later than the end of the period of one year beginning with the day after the date on which these Regulations come into operation.

   (2) The fees for a survey under these Regulations shall be paid by the owner of the vessel in the amount and rate as set out in Schedule 2.
Certificate of Inspection

7. (1) An application for a certificate of inspection shall be made to the Minister in the form set out as Form 1 in Schedule 1.

(2) An application under paragraph (1) in relation to a vessel to be newly constructed or being converted shall be submitted within one month prior to the start of the construction or conversion.

(3) A certificate of inspection shall be issued by the Minister following a satisfactory inspection of the vessel for compliance with these Regulations and the Code and on payment of the fees for the certificate of inspection and survey fees stipulated in Schedule 2.

(4) A certificate issued under paragraph 3 may contain such terms and conditions, including terms and conditions in relation to seating arrangements for passengers on the vessel and to the overloading of the vessel, as the Registrar thinks fit.

(5) A certificate of inspection shall remain valid for a period not exceeding three years beginning with the day after the date of inspection, unless -

(a) it is revoked by the Minister; or

(b) the vessel does not successfully complete annual inspections within the period.

(6) Any owner of a vessel who fails to comply with the provisions of paragraph (1) or (2) commits an offence.

(7) Any person who fails to comply with any term or condition of certificate of inspection issued under paragraph (3) commits an offence.

Annual inspection

8. (1) Every vessel shall be subject to an annual inspection.

(2) The fees for an annual inspection shall be paid by the owner of the vessel in the amount set out in Schedule 2.

(3) An annual inspection shall include an inspection of the hull and related items on drydock, 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.

(4) 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.

(5) An annual inspection shall be conducted between the tenth to fourteenth month of the anniversary date of issuing of the certificate of inspection.

(6) An inspection for the renewal of a certificate of inspection shall be conducted not earlier than two months beginning on the day before the date of the expiry of the certificate.

(7) 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.
(8) The Registrar may, at any time where it is considered necessary, require a drydock inspection to be carried out on a vessel.

(9) 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 Registrar and shall be accompanied by such information relating to the vessel as the Registrar may require for the purpose of the inspection.

Stability test

9. (1) The Registrar may, at such place and time as he thinks fit, carry out such stability test as he thinks appropriate on any vessel to which these Regulations apply for the purpose of determining whether the vessel is sufficiently stable to proceed to sea or on a voyage.

(2) The fees or a stability test shall be paid by the owner of the vessel for the duration of the test in the amount and rate as set out in Schedule 2.

Responsibilities of owner and master

10. (1) 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 a survey required by these Regulations has been completed, no material change shall be made in the safety equipment surveyed without the approval of the Registrar;

(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 Registrar 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

(d) where the vessel referred to in paragraph (c) is in a port outside the Islands the master or owner shall, in addition, make the report immediately to the appropriate authorities of the country in which the port is situated.

(2) Any owner or master of a vessel who fails to comply with any of the provisions of paragraph (1) commits an offence.

Suspension of certificate of inspection

11. (1) Where a vessel does not comply with the requirements of these Regulations or the Code, the Minister may suspend the validity of the certificate of inspection.

(2) Where the Minister suspends the validity of a certificate of inspection the owner or master shall upon being notified of the suspension forthwith deliver up the certificate issued in relation to the vessel.

(3) Where the Minister is satisfied that corrective action has been taken, he shall restore the validity of the certificate and return the certificate issued in relation to the vessel, to the master.
Prohibition on proceeding to sea

12. (1) A vessel to which these regulations apply 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 the requirements as to operation, manning and maintenance;
(c) the vessel is operated in accordance with conditions specified in the certificate of inspection; and
(d) the certificate of inspection is displayed in a conspicuous place on board.

(2) Any owner or master of a vessel who fails to comply with any provision of paragraph (1) commits an offence.

PART III

BOATMASTERS AND BOAT ENGINEERS

Master and engineer

13. (1) A vessel shall carry in command a person who is the holder of a valid boatmaster licence issued under regulation 14 stating that he is qualified to have command of such vessel and the licence is of a grade appropriate with respect to the waters in which the vessel is being navigated, the size of the vessel and the number of passengers carried, and

(a) 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
(b) the person 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 Registrar or required by 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 valid engineer licence issued by the Minister under regulation 14 stating that he is qualified to be in charge of the engines and machinery of such a vessel;
(b) he has a valid licence which is of a grade appropriate with respect to both of the waters in which the vessel is being navigated; and
(c) (i) 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
   (ii) 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 Minister, vessels with engines of higher power shall carry engineers qualified in accordance with the STCW Convention.

(4) If any vessel proceeds or attempt to proceed to sea or on a voyage without in command of the vessel a person who holds a valid boatmaster licence issued under regulation 14 and a valid certificate of competency as a master issued under the STCW Convention; the owner and master of the vessel shall each commit an offence.

(5) Where a vessel described in paragraph (2) proceeds or attempts to proceed to sea or on a voyage without an engineer who holds a valid engineer licence issued under regulation 14 and who holds a certificate of competency issued under the STCW Convention, the master and owner of the vessel as well as any person acting as engineer shall each commit an offence.

Issue of licence, standards and conditions

14. (1) An application in the form set out as Form 2 in Schedule 1 for a boatmaster or a boat engineer licence shall be made to the Minister who may issue licences as boatmaster or as boat engineer, on such terms and conditions and in such form as he may specify, to persons who meet the respective requirements or standards of this regulation.

(2) The annual fee for a boatmaster or boat engineer licence is as set out in Schedule 2.

(3) Subject to paragraph (4)—

(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) the exceptions applicable with respect to any such standards or conditions;
(c) the manner in which the attainment of these standards or the satisfaction of these 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 Registrar in a shipping notice.

(4) Notwithstanding that an applicant for a licence under this regulation complies with the standards and satisfies the conditions specified in paragraph (3), the Minister shall not issue the licence to the applicant unless he is satisfied, having regard to all the relevant circumstances, that the applicant is a fit person to be the holder of that licence.

(5) Any person who holds a boatmaster or boat engineer licence issued under this regulation and who contravenes or fails to comply with any terms, conditions or restrictions of such licence commits an offence.

Grades and area restrictions of boatmaster licences

15. (1) A licence as a boatmaster issued under regulation 14 shall bear the title “Boatmaster Licence” and shall be one of the following grades, which shall be stated in the licence—
(a) Boatmaster Licence, Grade 1;
(b) Boatmaster Licence, Grade 2; or
(c) Boatmaster 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 boatmaster licence shall be subject to such restriction as the Minister may determine including the area or areas in which a vessel may be navigated under the command of the holder.

(4) A restriction under paragraph (3) shall be stated in the licence.

Grades and area restrictions of boat engineer licences

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

(a) Boat Engineer Licence, Grade 1; or

(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/8 of the Code.

(3) A boat engineer licence shall be subject to such restrictions as the Minister may determine including the area or areas in which a vessel may be operated under the charge of the holder.

(4) A restriction under paragraph (3) shall be stated in the licence.

Existing licences

17. The Minister 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 twelve 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

18. (1) Licences issued under these Regulations shall be subject to re-validation every three years for persons under sixty-five years of age and such re-validation shall be subject to the holder providing proof that he has had at least forty-five days service on
vessels for which the licence is valid during the previous three years, and the submission of a valid medical fitness certificate by a person registered under the Health Practitioners Ordinance to practice any health profession.

(2) Licences held by persons sixty-five years of age and over shall be subject to re-validation annually and such re-validation shall be subject to the holder providing proof that he has at least fifteen days service on a vessel for which the licence is valid during the previous year, and the submission of a valid medical fitness certificate issued by a person registered under the Health Practitioners Ordinance to practice any health profession.

(3) Where a person is unable to produce proof of the experience required under paragraph (1) or (2) the person shall apply for an examination by the Registrar who may conduct such examination as he thinks fit.

(4) A license issued under these Regulations shall remain valid only so long as the holder complies with the standard of competence and the conditions, including conditions as to medical fitness, specified in paragraph (2).

Record and surrender of licences

19. (1) The Registrar shall retain a copy of every licence issued under these Regulations.

(2) A record of—

(a) every licence issued under this Part,

(b) every suspension, cancellation and any other matter affecting such a licence,

shall be kept by the Registrar.

Loss of licence

20. (1) Where the holder of a boatmaster or boat engineer licence loses the licence the Registrar may on receipt of the fee set out in Schedule 2, cause a copy of the licence to be issued to him.

(2) A copy issued under paragraph (1) shall be certified as a copy by the Registrar or by such other person as the Registrar may direct.

Suspension of licence

21. (1) Where it appears to the Minister after consultation with the licensee that a licenced boatmaster or boat engineer may be unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason, the Minister shall cause an inquiry to be held by one or more persons appointed by him and if he does so, may suspend the licence pending the outcome of the inquiry.

(2) A licence so suspended shall be surrendered by the licensee to the Registrar within seven days of the suspension.

(3) The enquiry may, after hearing the boat master or boat engineer, as the case may be, order the suspension of the licence for such period as it thinks fit, or may order the cancellation of the licence or may return the licence to the licensee.
(4) Any person who fails to comply with the provisions of paragraph (2) commits an offence.

PART IV

HOURS OF WORK

Interpretation in Part IV

22. In this Part—
“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 the master in that employment;
“working day” in relation to a person to whom these Regulations apply means any period during which he is on duty which is not followed by an interval for rest not less than eight hours.

Duty of owner, master and crew

23. (1) Subject to regulation 24, the owner shall ensure so far as reasonably practicable, that the master and seamen do not work more hours than is safe, taking into consideration the safety of the vessel and the performance of their duties.

(2) Subject to regulation 24, the master of a vessel shall ensure, so far as is reasonably practicable that seamen do not work more hours than is safe, taking into consideration the safety of the vessel and the performance of their duties.

(3) Every master and seaman, so far as is reasonably practicable, shall ensure that they are properly rested when commencing duty on a vessel and that they obtain adequate rest during periods when off duty.

(4) The hours of rest shall not be less than ten hours in every twenty four hour period, but—
   (a) the ten hour period may be divided into not more than two periods, one of which shall be at least six hours rest in length;
   (b) the ten hour period may be reduced to not less than six consecutive hours on condition that—
      (i) the reduction shall not extend beyond two days; and
      (ii) not less than seventy hours of rest are provided in each seven day period.

(5) Any person who contravenes any provisions of this regulation commits an offence.
Exception for emergencies

24. The requirements for rest period specified in regulation 23(4) need not be maintained in—

(a) cases of an emergency including giving assistance to other vessel or vessels or person in distress at sea;

(b) drill; or

(c) any overriding operational conditions.

Working hours in certain ships

25. (1) Notwithstanding the provisions of regulation 23, this regulation applies to vessels which complete a voyage within twenty four hours.

(2) References 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 regulation 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 regulation 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 paragraph (4)—

(a) the working hours of a master or engineer shall not exceed sixteen hours;

(b) a master shall not on any working day direct or steer a vessel or vessels to which this regulation applies for periods amounting in the aggregate to more than ten hours;

(c) where on any working day a master has been on duty—

(i) for a period of six hours and the end of the period does not mark the end of the working day; or

(ii) for periods amounting in the aggregate to six hours and there has not been between any of those periods an interval of not less than thirty 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 sub-paragraph (i), at the end of that period; or
(B) in the case of the periods mentioned in sub-paragraph (ii), at the end of the last of those periods; and

(d) there shall be, between any two successive working days of a master, an interval for rest which shall not be less than eight 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 Minister considers that it would be appropriate to grant an exemption from all or any of the requirements of paragraph (3) he may on such terms as may be specified grant the exemption; and, subject to giving reasonable notice, the Minister may alter or cancel an exemption so granted.

Contravention of regulation 24

26. (1) Subject to paragraph (2) where any of the requirements of regulation 25 is contravened in the case of a master, the master and any other person, being that master’s employer or to whose orders that master was subject, who caused or permitted the contravention, commits an offence.

(2) A person shall not commit an offence under this regulation where—

(a) 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 because the master had for any particular period or periods directed or steered 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 V

MANNING AND TRAINING

Manning

27. (1) 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 the manning was subsequently approved by the Minister in accordance with regulation IX/13 of the Code.

(2) Any owner and master of a vessel who proceeds to sea or on a voyage without complying with the provisions of paragraph (1) shall each commit an offence.
Training in emergency procedures

28. (1) The owner of a passenger vessel intended for and used only on non-international voyages 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 the actions to be taken during an emergency by the master and crew to assist passengers and to deal with the emergency; and

(b) ensure that each of those persons has received on board training in the procedures to be observed by that person in an emergency.

(2) Any owner of a passenger vessel who fails to comply with any provision of paragraph (1) commits an offence.

PART VI

MISCELLANEOUS

Penalties

29. (1) Any person who commits an offence under these Regulations is liable on summary conviction to a fine of $5,000 or to a term of imprisonment of six months or to both such fine and imprisonment.

(2) In 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

30. (1) Where a vessel is not in compliance with any provisions of these Regulations, the Registrar, or such person authorized by the Registrar, may, with such assistance as the Registrar may deem necessary go on board the vessel and place a notice of default thereon demanding compliance with these Regulations; and serve a copy of the notice on the master or owner of the vessel.

(2) Where the default is not corrected within the time specified in the notice, and after giving a hearing to the owner or master of the vessel, the Registrar may detain in such place and on such terms and conditions as the Registrar thinks fit the vessel and its equipment or any part of its equipment and detain same until the default is corrected.

(3) Where a vessel and its equipment are detained under paragraph (2) and the fault is corrected, the Registrar shall forthwith release the vessel and equipment.

(4) A notice of default shall be in the form set out as Form 3 in Schedule 1.
SCHEDULE 1

FORMS

FORM 1

Regulation 7(1)

APPLICATION FOR CERTIFICATE OF INSPECTION

1. Name, address and nationality of owner/applicant:
   ...........................................................................................................................
   ...........................................................................................................................

2. If the application is made by or on behalf of a company, partnership of co-operative body, give the names and addresses of all shareholders, partners or members and date and place of registration (as the case may be):
   (i)
   (ii)
   (iii)
   (iv)
   (v)

3. Name of vessel.....................................................................................................

4. Country and Port of Registry of vessel and registered number
   ...........................................................................................................................
   ...........................................................................................................................

5. Gross tonnage of vessel (if more than 1 ton) .....................................................

6. Overall length of vessel......................................................................................

7. Details of radio equipment fitted:
   Frequencies..................................................  No. of channels ..........................
   Call sign.....................................................

8. Operation base for vessel (port or country)......................................................

9. Name and address of master (if not either owner or applicant)
   ...........................................................................................................................
   ...........................................................................................................................

10. Seating arrangements...........................................................................................

11. Type of operation of vessel .............................................................................
12. Details of gear fitted to vessel

13. Number of crew normally carried

14. Normal number of crew

15. Details of crew accommodation

16. Hull material and colour

17. Year built

18. Place of construction

19. Fuel capacity

20. Daily freezing capacity

21. Storage capacity

22. Safety/life saving equipment carried

23. Recent photograph of vessel attached (affix below)

24. Details of Certificates of Inspection held by the applicant in the Turks and Caicos Island or any other country

25. Has the owner or applicant or any shareholder, director partner or member ever been convicted or an offence under the Laws of the Turks and Caicos Islands or of any other country? If so, please give full details

__________________________
Signature of Applicant
FORM 2

Regulation 13(1)

APPLICATION FOR BOATMASTER OR BOAT ENGINEER LICENCE

1. Date of Application .................................................................
2. Name of Applicant .................................................................
3. Address of Applicant ............................................................
4. Date of Birth ...........................................................................
5. Academic qualifications ...........................................................
6. Length of experience ..............................................................
7. Type of licence applying for ......................................................
8. Nationality ..............................................................................
9. Residential Status ....................................................................

.................................................................
Signature of Applicant

FORM 3

Regulation 30(4)

NOTICE OF DEFAULT

To: (Name of Owner or Master of vessel) .............................................................
of (Address) ......................................................................................

TAKE NOTICE that the vessel .................................................................

(Name of Vessel)

not in compliance with Regulation (Small Commercial Vessels) Regulations in that the vessel is in default as follows:

.................................................................
(State the fault)

You are therefore required to comply with the said Regulations and correct the said default with ........... days from ........................................................................

(State the amount of days)

the date of this Notice.
Failure to comply with this notice may result in the detention of the vessel and its equipment until the default is corrected.

Dated this ............. day of ............. ................................. 20 ......

........................................
Registrar/or Authorised Officer

SCHEDULE 2

Regulation 7(3)

FEES

FEE FOR CERTIFICATE OF INSPECTION

1. Small Commercial Vessels – Islands Ships $125.00
2. Small Commercial Vessels in Islands Waters $200.00
3. Other Vessels $175.00

FEE FOR ANNUAL INSPECTION

Regulation 8(2)

1. Small Commercial Vessels – Islands Ships $100.00
2. Small Commercial Vessels in Islands Waters $150.00
3. Other Vessels $125.00

FEE FOR BOAT MASTER AND BOAT ENGINEER LICENCE

Regulation 14(2)

1. Boat Master Licence
   Grade 1 $200.00
   Grade 2 $150.00
   Grade 3 $100.00
2. Boat Engineer Licence $200.00
FEE FOR SURVEYS

Regulation 7(3)

$100 per hour.

-------------------

FEE FOR LOSS OF LICENCE

Regulation 20(1)

$50.

-------------------

FEE FOR STABILITY TEST

Regulation 9

Amount and Rate
$100 per hour
MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY) REGULATIONS

ARRANGEMENT OF REGULATIONS

PRELIMINARY

REGULATION
1. Short title
2. Interpretation

PART 1

SPECIAL MEASURES TO IMPLEMENT MARITIME SECURITY

General
3. Application
4. Security measures: responsibilities of Director of Ports
5. Security measures: responsibilities of Maritime Administration

Ships
6. Requirements for companies
7. Ship security plans
8. Company security officer
9. Ship security officer
10. Requirements for ships
11. Ship security alert system
12. Threats to ships
13. Master’s discretion for ship safety and security
14. Verification for ships
15. Issue, endorsement, duration and validity of certificate
16. Issue and endorsement of certificates by another Government
17. Certificates issued or endorsed on behalf of another Government
18. Interim certification
19. Prohibition on proceeding to sea without an appropriate certificate

Control and compliance measures
20. Control of ships in port
21. Ships intending to enter a port
22. Additional control and compliance provisions

Port facilities
23. Port facilities: Maritime Administration responsibilities
24. Port facilities: duties of port facility operator
25. Port facility security officers
26. Drills and exercises

Supplementary

27. Alternative security agreements
28. Equivalent security arrangements
29. Communication of information

Enforcement

30. Requirement to provide information
31. Powers of inspection
32. False statements relating to baggage, cargo, etc.
33. False statements in connection with identity documents
34. Unauthorised presence in restricted zone
35. Offences relating to authorised persons
36. Penalties, defences, etc.

PART 2

CONTINUOUS SYNOPSIS RECORD

37. Continuous Synopsis Record
38. Transfer of flag by ship
39. Offences and penalties
MERCHANT SHIPPING (SHIP AND PORT FACILITY SECURITY) REGULATIONS - SECTION ___

(Legal Notice 15 of 2004)

Commencement

[2 July 2004]

PRELIMINARY

Short title

1. These Regulations may be cited as the Merchant Shipping (Ship and Port Facility Security) Regulations.

Interpretation

2. (1) In this Part—

“Administration” means the Maritime Authority of the State, other than Turks and Caicos Islands, whose flag the ship is entitled to fly;

“authorised person” means a person authorised in writing by or on behalf of the Director of Ports or the Maritime Administration for the purposes of these Regulations;

“bulk carrier” means a ship which is constructed generally with single deck, top-side tanks and hopper side tanks in cargo spaces, and is intended primarily to carry dry cargo in bulk, and includes such types as ore carriers and combination carriers;


“chemical tanker” means a cargo ship constructed or adapted and used for the carriage in bulk of any liquid product listed in Chapter 17 of the IBC Code;

“company” means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISPS Code;

“company security officer” means the person designated by the company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained, and for liaison with port facility security officers and the ship security officer;

“Contracting Government” means the government of a State which is party to the International Convention for the Safety of Life at Sea;
“Declaration of Security” means an agreement reached between a ship and either a port facility or another ship with which it interfaces, specifying the security measures each will implement;

“Designated Authority” means the organization(s) or the administration(s) identified as responsible for ensuring the implementation of the provisions of Chapter XI-2 of the Safety Convention pertaining to port facility security and ship/port interface from the point of view of the port facility and in the case of Turks and Caicos Islands means the Maritime Administration;

“Director of Ports” means such person designated by the Minister to perform the function of the Director of Ports for the purposes of these Regulations;

“gas carrier” means a cargo ship constructed or adapted for the carriage in bulk of any liquefied gas or other liquid product in chapter 19 of the IGC Code;

“Government” means Government of the Turks and Caicos Islands;

“high speed craft” means a craft capable of a maximum speed in metres per second (m/s) equal to or exceeding 3.7V0.1667. where V = displacement corresponding to the design waterline (m3);

“IBC Code” means the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk adopted by the Marine Environment Protection Committee of the Organization by resolution MEPC.19(22), as may be amended and adopted by the Organization and brought into force in accordance with the amendment procedures in MARPOL applicable to an appendix to an Annex;


“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), together with any amendments, which may be in effect in respect of Turks and Caicos Islands;

“ISPS Code” or “Code” means the International Code for the Security of Ships and of Port Facilities, as adopted on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 and any amendments that may be in effect for the Turks and Caicos Islands;

“Maritime Administration” is the Designated Authority for the Turks and Caicos Islands;

“mobile offshore drilling unit” means a vessel capable of engaging drilling operations for the exploration for or the exploitation of resources beneath the seabed such as liquid or gaseous hydrocarbons, sulphur or salt, when not on location;

“oil tanker” means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes—

(a) a combination carrier;

(b) a chemical tanker as defined in Chapter III of the Safety Convention, when it is carrying a cargo or part cargo of oil in bulk; and
(c) a gas carrier as defined in regulation 3.20 of Chapter II-1 of the Safety Convention, when it is carrying a cargo or part cargo of oil in bulk;

“Ordinance” means the Merchant Shipping Ordinance;

“Organization” means the International Maritime Organization;

“port facility operator” means any person operating a port facility or such other person as may be designated for the purposes of this Part by the Maritime Administration as port facility operator for one or more port facilities;

“port facility” means a location, as determined in the Turks and Caicos Islands by the Maritime Administration, or elsewhere by the relevant governmental authority, where the ship/port interface takes place. This includes areas such as anchorages, waiting berths and approaches from seaward, as appropriate;

“port facility security assessment” means an assessment of the security of a port facility (or more than one port facility) carried out in accordance with section 15 of Part A of the ISPS Code;

“port facility security officer” means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers;

“port facility security plan” means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship’s stores within the port facility from the risks of a security incident;

“recognized security organization” means an organization with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorized to carry out an assessment, or a verification, or an approval, or a certification activity, required by this chapter or by Part A of the ISPS Code;

“restricted zone” means a zone to which access is restricted for security reasons pursuant to these Regulations;

“security incident” means any suspicious act or circumstance threatening the security of a ship, including a mobile offshore drilling unit and a high speed craft, or of a port facility or of any ship/port interface or any ship to ship activity;

“security level” means the qualification of the degree of risk that a security incident will be attempted or will occur;

“ship/port interface” means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship;

“ship to ship activity” means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another;

“tons” means gross tonnage.

(2) The term “all ships”, when used in Part 1, means any ship to which that Part applies.
(3) In these Regulations, when any reference is made to Part A of the ISPS Code, the guidance in Part B of the Code in relation to that matter shall be taken into account in construing Part A.

(4) For the purposes of these Regulations, references in Part A of the Code to the Administration shall in relation to Turks and Caicos Islands ships be references to the Director of Ports.

(5) For the purposes of Part 1, a person is permitted to have access to a restricted zone of a port facility if he is permitted to enter that zone or if arrangements exist for permitting any of his employees or agents to enter that zone.

PART 1

SPECIAL MEASURES TO ENHANCE MARITIME SECURITY

General

Application

3. (1) Subject to paragraph (6), this Part of these Regulations applies to—

(a) the following types of ships engaged on international voyages—

(i) passenger ships, including high-speed passenger craft;

(ii) cargo ships, including high-speed craft, of 500 tons or more; and

(iii) mobile offshore drilling units; and

(b) port facilities serving such ships engaged on international voyages.

(2) This Part shall also apply to any port facility specified in a Notice issued by the Maritime Administration, which although used primarily by ships not engaged on international voyages, is required, occasionally, to serve ships arriving or departing on international voyages.

(3) A Notice referred to in paragraph (2) shall not be issued without a port facility security assessment for that port facility having been done in accordance with section 15 of Part A of the ISPS Code. The Notice shall specify the extent of application of this Part and the relevant sections of part A of the ISPS Code to the facility.

(4) Any Notice under paragraph (2) shall not compromise the level of security intended to be provided by this Part and part A of the ISPS Code.

(5) Regulations 20, 21 and 22 also apply to a port facility not falling within paragraph (1)(b) or (2).

(6) This Part does not apply to—

(a) warships;

(b) naval auxiliaries; or

(c) other ships owned or operated by parties to the Safety Convention and used only on government non-commercial service.
Security measures: responsibilities of Director of Ports

4. (1) Without prejudice to any other duties under these Regulations, the Director of Ports shall—

(a) in accordance with section 4 of Part A of the ISPS Code, set security levels and ensure the provision of security level information to Islands ships;

(b) when changes in security level occur, update security level information as the circumstance dictates;

(c) indicate when a Declaration of Security is required for an Islands ship; and

(d) approve the ship security plan and relevant amendments to a previously approved plan.

(2) The Director of Ports may delegate his responsibilities under this Part to a recognised security organisation, except the following—

(a) setting of the applicable security level for ships;

(b) exercising control and compliance measures pursuant to regulations 20, 21 and 22; and

(c) establishing the requirements for a Declaration of Security.

Security measures: responsibilities of Maritime Administration

5. (1) Without prejudice to any other duties under this Part, the Maritime Administration shall—

(a) in accordance with section 4 of Part A of the ISPS Code set security levels and ensure the provision of security level information to port facilities within the Turks and Caicos Islands, and to ships prior to entering a port or whilst in a port within the Turks and Caicos Islands;

(b) when changes in security level occur, update security level information as the circumstance dictates;

(c) determine which of the port authorities located within their territory are required to designate a port facility security officer who will be responsible for the preparation of the port facility security plan; and

(d) approve the port facility security plan and any subsequent amendments to a previously approved plan.

(2) The Maritime Administration may delegate to a recognised security organisation its duties under these Regulations, except—

(a) setting of the applicable security level for port facilities or ship to ship interface in Turks and Caicos Islands territorial waters;

(b) approving a port facility security assessment and subsequent amendments to an approved assessment;

(c) determining the port facilities which will be required to designate a port facility security officer;
(d) approving a port facility security plan and subsequent amendments to an approved plan;

(e) exercising control and compliance measures pursuant to regulations 20, 21 and 22; and

(f) establishing the requirements for a Declaration of Security.

**Ships**

Requirements for companies

6. (1) Every company shall comply with the relevant requirements of this Part and of Part A of the ISPS Code. In particular, and without prejudice to any other duties under this Part, the company shall ensure that—

(a) a company security officer is appointed, and is properly trained and qualified in his duties and responsibilities;

(b) a ship security officer is appointed for each of its ships and is properly trained and qualified in his duties and responsibilities;

(c) each ship has a ship security plan; and

(d) the master has available on board, at all times, information through which officers duly authorised by any State can establish—

(i) who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship;

(ii) who is responsible for deciding the employment of the ship; and

(iii) in cases where the ship is employed under the terms of charter party or parties, who are the parties to such charter party or parties.

(2) Any company which fails to comply with this regulation commits an offence.

Ship security plans

7. (1) (a) Every ship security plan or amendment thereto shall be submitted to the Director of Ports, or to a recognised security organisation he authorises on his behalf, for approval in accordance with section 9 of Part A of the Code.

(b) A recognised security organisation authorised under paragraph (a) shall not have been involved in the preparation of the ship security plan or the amendment in question.

(2) The Director of Ports shall determine which changes to an approved ship security plan or to any security equipment specified in an approved plan shall not be implemented unless the relevant amendments to the plan are approved by the Director of Ports. Any such changes shall be at least as effective as those measures prescribed in this Part and in Part A of the Code.
(3) Any company which does not comply with paragraph (1), or otherwise fails to comply with section 9 of Part A of the Code, commits an offence.

Company security officer

8. (1) The company security officer shall perform the responsibilities and duties specified in this Part and part A of the Code, in particular those listed in paragraph 11.2 of Part A.

(2) Any contravention of this regulation by the company security officer shall be an offence.

Ship security officer

9. (1) The ship security officer shall perform the responsibilities and duties specified in this Part and Part A of the Code, in particular those listed in paragraph 12.2 of Part A.

(2) Any contravention of this regulation by the ship security officer shall be an offence.

Requirements for ships

10. (1) Ships shall comply with the relevant requirements of this Part and of part A of the ISPS Code.

(2) Prior to entering a port or whilst in a port within the territory of any other State, a ship shall comply with the requirements for the security level set by that State, if such security level is higher than the security level set by the Director of Ports for that ship.

(3) Ships shall respond without undue delay to any change to a higher security level.

(4) Where a ship is not in compliance with the requirements of this Part or of Part A of the ISPS Code, or cannot comply with the requirements of the security level set by the Director of Ports or by another Contracting Government and applicable to that ship, then the ship shall notify the appropriate competent authority prior to conducting any ship/port interface or prior to entry into port, whichever occurs earlier.

(5) Where there is a breach of paragraphs (1) to (4) in relation to a ship then the company and the master shall each commit an offence.

Ship security alert system

11. (1) All ships shall be provided with a ship security alert system, as follows—

(a) ships constructed on or after 1 July, 2004;

(b) passenger ships, including high-speed passenger craft, constructed before 1 July, 2004, not later than the first survey of the radio installation after 1 July, 2004;

(c) oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft, of 500 tons and upwards constructed before 1 July, 2004, not later than the first survey of the radio installation after 1 July, 2004;
(d) other cargo ships of 500 tons and upward and mobile offshore drilling units constructed before 1 July, 2004, not later than the first survey of the radio installation after 1 July, 2006.

(2) The ship security alert system, when activated, shall—

(a) initiate and transmit a ship-to-shore security alert to a competent authority designated by the Director of Ports, which in these circumstances may include the Company, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised;

(b) not send the ship security alert to any other ships;

(c) not raise any alarm on-board the ship; and

(d) continue the ship security alert until deactivated and/or reset.

(3) The ship security alert system shall—

(a) be capable of being activated from the navigation bridge and in at least one other location; and

(b) conform to performance standards not inferior to those adopted by the Organization.

(4) The ship security alert system activation points shall be designed so as to prevent the inadvertent initiation of the ship security alert.

(5) The requirement for a ship security alert system may be complied with by using the radio installation fitted for compliance with the requirements of the relevant regulations, provided all requirements of this regulation are complied with.

(6) When the Director of Ports receives notification of a ship security alert relating to a ship entitled to fly the flag of the Turks and Caicos Islands he shall immediately notify the State(s) in the vicinity of which the ship is presently operating.

(7) When the Maritime Administration receives notification of a ship security alert from a ship which is not entitled to fly the flag of the Turks and Caicos Islands, it shall immediately notify the relevant Administration and, if appropriate, the State(s) in the vicinity of which the ship is presently operating.

(8) Any contravention of paragraphs (1) to (4) shall be an offence by the company and the master.

Threats to ships

12. (1) The Maritime Administration shall set security levels and ensure the provision of security level information to ships operating in the territorial sea of Turks and Caicos Islands or having communicated an intention to enter the territorial sea.

(2) The Maritime Administration shall provide a point of contact through which such ships can request advice or assistance and to which such ships can report any security concerns about other ships, movements or communications.

(3) Where a risk of attack has been identified, the Maritime Administration shall advise the ships concerned and their Administrations of—

(a) the current security level;
(b) any security measures that should be put in place by the ships concerned to protect themselves from attack, in accordance with the provisions of Part A of the ISPS Code; and

(c) security measures that the Maritime Administration put in place, as appropriate.

Master’s discretion for ship safety and security

13. (1) (a) The master of an Islands ship shall not be constrained by the Company, the charterer or any other person from taking or executing any decision which, in the professional judgement of the master, is necessary to maintain the safety and security of the ship.

(b) This includes denial of access to persons (except those identified as duly authorized by a Contracting Government) or their effects and refusal to load cargo, including containers or other closed cargo transport units.

(2) (a) Where, in the professional judgement of the master, a conflict between any safety and security requirements applicable to the ship arises during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship.

(b) In such cases, the master may implement temporary security measures and shall forthwith inform the Director of Ports and, if appropriate, the Contracting Government in whose port the ship is operating or intends to enter.

(c) Any such temporary security measures under this regulation shall, to the highest possible degree, be commensurate with the prevailing security level. When such cases are identified, the Director of Ports shall ensure that such conflicts are resolved and that the possibility of recurrence is minimised.

Verification for ships

14. (1) All Islands ships to which this Part applies shall be subject to initial, renewal and intermediate verifications in accordance with paragraph 19.1.1 of Part A of the ISPS Code.

(2) The verification of ships shall be carried out by an officer authorised by the Director of Ports, or, if he entrusts it, by a recognised security organisation.

(3) The security system and any associated security equipment of the ship after verification shall be maintained to conform with the provisions of regulations 7 and 12, of Part A of the ISPS Code and of the approved ship security plan. After any verification under paragraph (1), no changes shall be made in the security system and in any associated security equipment or the approved ship security plan without the sanction of the Director of Ports.

(4) Any contravention of paragraph (1) or (3) shall be an offence by both the company and master.
Issue, endorsement, duration and validity of certificate

15. (1) When an initial or renewal verification is satisfactorily completed pursuant to regulation 14, the Director of Ports or a recognised security organisation acting on his behalf shall issue, or, as the case may be, endorse an International Ship Security Certificate.

(2) The International Ship Security Certificate shall be drawn up in a form corresponding to the model given in the appendix to Part A of the Code.


Issue and endorsement of Certificates by another Government

16. (1) The Director of Ports may request another Contracting Government to verify the ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, to issue or authorize the issue of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with the Code.

(2) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Director of Ports and it shall have the same effect as if it was issued by the Director of Ports.

Certificates issued or endorsed on behalf of another Government

17. (1) The Director of Ports may at the request of another Contracting Government verify the ship and, if satisfied that the provisions of section 19.1.1 of the Code are complied with, issue or authorize the issue of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that Certificate on the ship, in accordance with the Code.

(2) A Certificate so issued shall contain a statement to the effect that it has been issued at the request of that Government and it shall have the same effect as if the Certificate was issued or endorsed by that Government and not by the Director of Ports.

Interim certification

18. (1) After 1 July, 2004, for the purposes of—

(a) a ship without a Certificate, on delivery or prior to its entry or re-entry into service;

(b) transfer of a ship from the flag of another Government to the Turks and Caicos Islands register;

(c) a company assuming the responsibility for the operation of a ship not previously operated by that company,

until the Certificate referred to in regulation 15(1), 16(1) or 17(1) is issued, the Director of Ports may cause an Interim International Ship Security Certificate to be issued, in a form corresponding to the model given in the Appendix to Part A of the Code.

(2) An Interim International Ship Security Certificate shall only be issued if the Director of Ports or a recognised security organisation on his behalf is satisfied that the conditions specified in section 19.4.2.1 to section 19.4.2.7 of part A of the Code are met.
(3) An Interim International Ship Security Certificate may be issued by the Director of Ports or by a recognized security organization authorized to act on his behalf.

(4) An Interim International Ship Security Certificate shall be valid for six months, or until the Certificate required by regulation 15(1), 16(1) or 17(1) is issued, whichever comes first, and may not be extended.

(5) No subsequent, consecutive Interim International Ship Security Certificate shall be issued to a ship if, in the judgement of the Director of Ports or the recognized security organization, one of the purposes of the ship or a Company in requesting such Certificate is to avoid full compliance with this Part beyond the period of the initial Interim Certificate as specified in paragraph (1).

(6) For the purposes of regulations 20, 21 and 22 the Maritime Administration may, prior to accepting an Interim International Ship Security Certificate as a valid Certificate, ensure that the requirements of sections 19.4.2.4 to 19.4.2.6 of Part A of the ISPS Code have been met.

Prohibition on proceeding to sea without an appropriate Certificate

19. (1) No Islands ship required to be verified under this Part shall proceed, or attempt to proceed to sea, unless there is in force a valid International Ship Security Certificate or an Interim International Ship Security Certificate.

(2) Where a ship proceeds, or attempts to proceed to sea in contravention of paragraph (1) the company and the master commit an offence.

Control and compliance measures

Control of ships in port

20. (1) (a) For the purpose of these Regulations, every ship to which this Part applies is subject to control when in a port in the Turks and Caicos Islands by officers duly authorised by the Maritime Administration;

(b) Such control shall be limited to verifying that there is onboard a valid Certificate, which, if valid, shall be accepted, unless there are clear grounds for believing that the ship is not in compliance with the requirements of these Regulations or Part A of the ISPS Code.

(2) When there are such clear grounds, or where no valid Certificate is produced when required, the duly authorized officers shall impose any one or more control measures in relation to that ship as provided in paragraph (3). Any such measures imposed must be proportionate, taking into account the guidance given in Part B of the ISPS Code.

(3) (a) Such control measures are as follows—

(i) inspection of the ship;

(ii) delaying the ship;

(iii) detention of the ship;

(iv) restriction of operations including movement within the port;
(v) expulsion of the ship from port.

(b) Such control measures may additionally or alternatively include other lesser administrative or corrective measures.

Ships intending to enter a port

21. (1) The Maritime Administration may require that ships intending to enter ports in the Turks and Caicos Islands provide the following information to duly authorized officers to ensure compliance with this Part prior to entry into port with the aim of avoiding the need to impose control measures or steps—

(a) that the ship possesses a valid Certificate and the name of its issuing authority;

(b) the security level at which the ship is currently operating;

(c) the security level at which the ship operated in any previous port where it has conducted a ship/port interface within the timeframe specified in paragraph (3);

(d) any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship/port interface within the timeframe specified in paragraph (3);

(e) that the appropriate ship security procedures were maintained during any ship to ship activity within the timeframe specified in paragraph (3);

(f) other practical security related information (but not details of the ship security plan), taking into account the guidance given in Part B of the ISPS Code.

Where requested by the Maritime Administration, the ship or the company shall provide confirmation, acceptable to it, of the information required above.

(2) Every Islands ship to which this Part applies intending to enter the port of another Contracting Government shall provide the information described in paragraph (1) on the request of the officers duly authorized by that Government. The master may decline to provide such information on the understanding that failure to do so may result in denial of entry into port.

(3) The ship shall keep records of the information referred to in paragraph (2) for the last 10 calls at port facilities.

(4) (a) Where, after receipt of the information described in paragraph (1), officers duly authorised by the Maritime Administration have clear grounds for believing that the ship is not in compliance with the requirements of this Part or Part A of the ISPS Code, such officers shall attempt to establish communication with and between the ship and its Administration in order to rectify the non-compliance.

(b) Where such communication does not result in rectification, or if such officers have clear grounds otherwise for believing that the ship is not in compliance with the requirements of this Part or Part A of the ISPS Code, such officers may take steps in relation to that ship as provided in paragraph (5). Any such steps taken must be proportionate, taking into account the guidance given in part B of the ISPS Code.
(5) Such steps are as follows—

(a) a requirement for the rectification of the non-compliance;

(b) a requirement that the ship proceed to a location specified in the territorial sea or internal waters of the Turks and Caicos Islands;

(c) inspection of the ship, if the ship is in the territorial sea of the Turks and Caicos Islands;

(d) denial of entry into port.

Prior to initiating any such steps, the Maritime Administration shall inform the ship of its intentions. Upon receipt of this information the master may withdraw the intention to enter that port. In such cases, this regulation shall not apply.

Additional control and compliance provisions

22. (1) In the event—

(a) of the imposition of a control measure, other than a lesser administrative or corrective measure, referred to in regulation 20(3); or

(b) any of the steps referred to in regulation 21(5) are taken;

an officer duly authorized by the Maritime Administration shall forthwith inform in writing the Administration specifying which control measures have been imposed or steps taken and the reasons therefor. He shall also notify the recognized security organization, which issued the Certificate relating to the ship concerned and the Organization when any such control measures have been imposed or steps taken.

(2) When entry into port is denied or the ship is expelled from a port in the Turks and Caicos Islands, the Maritime Administration shall communicate the appropriate facts to the authorities of the State of the next appropriate ports of call, when known, and any other appropriate coastal States, taking into account any guidelines developed by the Organization. Confidentiality and security of such notification shall be ensured.

(3) Denial of entry into port, pursuant to regulation 21(4) and (5), or expulsion from port, pursuant to regulation 20(1) to (3), shall only be imposed where the duly authorized officers have clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat.

(4) The control measures referred to in regulation 20(1) and the steps referred to in regulation 21(5) shall only be imposed, pursuant to regulations 20 and 21, until the non-compliance giving rise to the control measures or steps has been corrected to the satisfaction of the Maritime Administration, taking into account actions proposed by the ship or the Administration or the Director of Ports, if any.

(5) When control is exercised under regulation 20 or steps taken under regulation 21—

(a) all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is thereby unduly detained, or delayed, it shall be entitled to compensation for any loss or damage suffered; and
necessary access to the ship shall not be prevented for emergency or humanitarian reasons and for security purposes.

Port facilities

Port facilities: Maritime Administration responsibilities

23. (1) The Maritime Administration shall ensure that—

(a) port facility security assessments are carried out, reviewed and approved in accordance with the provisions of Part A of the ISPS Code; and

(b) port facility security plans are developed, reviewed, approved and implemented in accordance with the provisions of Part A of the ISPS Code.

(2) The Maritime Administration shall designate and communicate to the port facility operator and the port facility security officer, the measures required to be addressed in a port facility security plan for the various security levels, including when the submission of a Declaration of Security will be required.

Port facilities: duties of port facility operator

24. (1) The port facility operator shall ensure that port facilities shall comply with the relevant requirements of this Part and Part A of the ISPS Code.

(2) (a) The port facility operator shall appoint a suitably qualified port facility security officer, and ensure that he receives appropriate training, as specified in section 18.1 of Part A of the Code.

(b) The port facility operator shall provide the port facility security officer with the resources, assistance and support necessary to enable him to carry out his duties.

(3) The port facility operator shall ensure that port facility personnel having specific security duties have appropriate knowledge and receive appropriate training as specified in section 18.2 of Part A of the Code.

(4) The port facility operator shall ensure that other port facility personnel have appropriate knowledge as specified in section 18.3 of Part A of the Code.

(5) Any port facility operator which fails to comply with this regulation commits an offence.

Port facility security officers

25. (1) A port facility security officer shall carry out the duties and responsibilities placed on him by this Part and Part A of the Code, in particular those listed in section 17.2 of Part A of the Code.

(2) Any port facility security officer who fails to comply with this regulation commits an offence.
Drills and exercises

26. (1) To ensure the effective implementation of the port facility security plan, drills shall be carried out at appropriate intervals, taking into account the types of operation of the port facility, port facility personnel changes, the type of ship the port facility is serving and other relevant circumstances, taking into account guidance given in Part B of the Code.

(2) The port facility security officer shall ensure the effective co-ordination and implementation of the port facility security plan by participating in exercises at appropriate intervals, taking into account the guidance given in Part B of the Code.

(3) Any contravention of paragraph (1) shall be an offence by the port facility operator and the port facility security officer.

(4) Any contravention of paragraph (2) shall be an offence by the port facility security officer.

Supplementary

Alternative security arrangements

27. (1) The Maritime Administration may, when implementing this Part and Part A of the ISPS Code, conclude in writing bilateral or multilateral agreements with other Contracting Governments on alternative security arrangements covering short international voyages on fixed routes between port facilities located within their territories.

(2) Any such agreement shall not compromise the level of security of other ships or of port facilities not covered by the agreement.

(3) No ship covered by such an agreement shall conduct any ship-to-ship activities with any ship not covered by the agreement.

(4) Such agreements shall be reviewed periodically, taking into account the experience gained as well as any changes in the particular circumstances or the assessed threats to the security of the ships, the port facilities or the routes covered by the agreement.

Equivalent security arrangements

28. (1) The Director of Ports may allow a particular ship or a group of Islands ships to implement other security measures equivalent to those prescribed in this Part or in Part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this Part or Part A of the ISPS Code. The Director of Ports, where he allows such security measures, shall communicate to the Organization particulars thereof.

(2) (a) When implementing this Part and Part A of the ISPS Code, the Maritime Administration may allow a particular port facility or a group of port facilities located within its territory, other than those covered by an agreement concluded under regulation 27, to implement security measures equivalent to those prescribed in this Part or in Part A of the
ISPS Code, provided such security measures are at least as effective as those prescribed in this Part or Part A of the ISPS Code.

(b) The Maritime Administration, where it allows such security measures, shall communicate to the Organization particulars thereof.

Communication of information

29. (1) The Government shall, not later than 1 July, 2004 or, if later, then the date when chapter XI-2 comes into effect in the Turks and Caicos Islands, communicate to the Organization and shall make available for the information of companies and ships—

(a) the names and contact details of their national authority or authorities responsible for ship and port facility security;

(b) the locations within their territory covered by the approved port facility security plans;

(c) the names and contact details of those who have been designated to be available at all times to receive and act upon the ship-to-shore security alerts, referred to in regulation 12(2)(a);

(d) the names and contact details of those who have been designated to be available at all times to receive and act upon any communications from Contracting Governments exercising control and compliance measures; and

(e) the names and contact details of those who have been designated to be available at all times to provide advice or assistance to ships and to whom ships can report any security concerns, referred to in regulation 9(2);

and thereafter update such information as and when changes relating thereto occur.

(2) The Government shall, not later than the date referred to in paragraph (1), communicate to the Organization the names and contact details of any recognized security organizations authorized to act on their behalf together with details of the specific responsibility and conditions of authority delegated to such organizations. Such information shall be updated as and when changes relating thereto occur.

(3) The Maritime Administration shall, not later than the date referred to in paragraph (1), communicate to the Organization a list showing the approved port facility security plans for the port facilities located within its territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval and thereafter shall further communicate when any of the following changes take place—

(a) changes in the location or locations covered by an approved port facility security plan are to be introduced or have been introduced. In such cases the information to be communicated shall indicate the changes in the location or locations covered by the plan and the date as of which such changes are to be introduced or were implemented;

(b) an approved port facility security plan, previously included in the list submitted to the Organization, is to be withdrawn or has been withdrawn. In such cases, the information to be communicated shall
indicate the date on which the withdrawal will take effect or was implemented. In these cases, the communication shall be made to the Organization as soon as is practically possible; and

(c) additions are to be made to the list of approved port facility security plans.

In such cases, the information to be communicated shall indicate the location or locations covered by the plan and the date of approval.

(4) The Government shall, at five year intervals after 1 July, 2004, communicate to the Organization a revised and updated list showing all the approved port facility security plans for the port facilities located within their territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval (and the date of approval of any amendments thereto) which will supersede and replace all information communicated to the Organization, pursuant to paragraph (3), during the preceding five years.

(5) The Maritime Administration shall communicate to the Organization information that an agreement under regulation 28 has been concluded. The information communicated shall include—

(a) the names of the governments which have concluded the agreement;
(b) the port facilities and the fixed routes covered by the agreement;
(c) the periodicity of review of the agreement;
(d) the date of entry into force of the agreement; and
(e) information on any consultations which have taken place with other governments;

and thereafter shall communicate, as soon as practically possible, to the Organization information when the agreement has been amended or has ended.

(6) Where the Director of Ports allows, under the provisions of regulation 28, any equivalent security arrangements with respect to a ship entitled to fly its flag or with respect to a port facility located within its territory, he shall communicate to the Organization particulars thereof.

Enforcement

Requirement to provide information

30. Without prejudice to regulation 21, but subject to section 9.8 and 9.9 of Part A of the ISPS Code (ship security plans not subject to inspection except in limited circumstances), the Maritime Administration may, by notice in writing served on any of the following persons—

(a) the owner, charterer, manager or master of any ship which is in, or appears to the Maritime Administration to be likely to enter, a port facility;

(b) a port facility operator;
(c) any person who carries on operations in a port facility;

(d) any person who is permitted to have access to a restricted zone of a port facility for the purposes of the activities of a business carried on by him; and

require that person to provide the Maritime Administration with such information specified in the notice as the Maritime Administration may require in connection with the exercise by the Maritime Administration of its functions under this Part.

(2) A notice under paragraph (1) shall specify a date before which the information required by the notice is to be furnished to the Maritime Administration.

(3) Any such notice may also require the person on whom it is served, after he has furnished to the Maritime Administration the information required by the notice, to inform the Maritime Administration if at any time the information previously furnished to the Maritime Administration (including any information furnished in pursuance of a requirement imposed by virtue of this paragraph) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes of this Part or the alteration or discontinuance of any measures already being taken).

(4) In so far as such a notice requires further information to be furnished to the Maritime Administration in accordance with paragraph (3), it shall require that information to be furnished to it before the end of such period as is specified in the notice for the purposes of this paragraph.

(5) A notice served on a person under paragraph (1) may at any time—

(a) be revoked by a notice in writing served on him by the Maritime Administration; or

(b) be varied by a further notice under paragraph (1).

(6) The Director of Ports may in like manner require the owner, charterer, manager or master of any Islands ship to provide him with information, and paragraphs (1) to (5) shall apply as if references to the Maritime Administration were references to the Director of Ports.

(7) Any person who—

(a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this regulation; or

(b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular;

commits an offence.

Powers of inspection

31. (1) An authorised person shall have power, on production (if required) of his credentials, to inspect—

(a) any Islands ship;

(b) any other ship while in a port facility;

(c) any part of any port facility; or
(d) any land outside a port facility which is occupied for the purposes of a business by a person who—

(i) carries on (or appears to the authorised person to be about to carry on) harbour operations in a port facility for the purposes of that business, or

(ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a restricted zone of a port facility for the purposes of the activities of that business.

(2) An authorised person inspecting a ship or any part of a port facility or any land outside a port facility under paragraph (1) shall have power—

(a) to subject any property found by him on the ship or, as the case may be, to subject that part of the port facility or any property found by him there or on that land, to such tests;

(b) to take such steps—

(i) to ascertain what practices or procedures are being followed in relation to security, or

(ii) to test the effectiveness of any practice or procedure relating to security; or

(c) to require the owner, charterer, manager or master of the ship, the port facility operator or the occupier of the land to furnish to him such information;

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to paragraph (4), an authorised person, for the purpose of exercising any power conferred on him by paragraph (1) or (2) in relation to a ship, in relation to a port facility or in relation to any land outside a port facility, shall have power—

(a) for the purpose of inspecting a ship, to go on board it and to take all such steps as are necessary to ensure that it is not moved;

(b) for the purpose of inspecting any part of a port facility, to enter any building or works in the port facility or enter upon any land in the port facility; or

(c) for the purpose of inspecting any land outside a port facility, to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by paragraph (3) shall not include power for an authorised person to use force for the purpose of going on board any ship, entering any building or works or entering upon any land.

(5) Any person who—

(a) without reasonable excuse, fails to comply with a requirement imposed on him under paragraph (2)(c); or
(b) in furnishing any information so required, makes a statement which he
knows to be false in a material particular, or recklessly makes a
statement which is false in a material particular;

commits an offence.

**False statements relating to baggage, cargo, etc.**

32. (1) A person commits an offence if, in answer to a question which—

(a) relates to any baggage, cargo or stores (whether belonging to him or to
another) that is or are intended for carriage by sea—

(i) by an Islands ship, or

(ii) by any other ship to or from the Turks and Caicos Islands; and

(b) is put to him for purposes of this Part—

(i) by any of the persons mentioned in paragraph (2),

(ii) by any employee or agent of such a person in his capacity as
employee or agent, or

(iii) by a police officer;

he makes a statement which he knows to be false in a material particular, or recklessly
makes a statement which is false in a material particular.

(2) The persons referred to in paragraph (1)(b) are—

(a) a port facility operator;

(b) the owner, charterer or manager of any ship; and

(c) any person who—

(i) is permitted to have access to a restricted zone of a port facility for
the purposes of the activities of a business carried on by him; and

(ii) has control in that restricted zone over the baggage, cargo or stores
to which the question relates.

(3) In this section—

“cargo” includes mail;

“ship” does not include a ship used in naval, customs or police service;

“stores” means any goods intended for sale or use in a ship, including fuel and spare
parts and other articles of equipment, whether or not for immediate fitting.

**False statements in connection with identity documents**

33. (1) A person commits an offence if—

(a) for the purpose of, or in connection with, an application made by him or
another for the issue of an identity document to which this paragraph
applies; or

(b) in connection with the continued holding by him or another of any such
document which has already been issued;
he makes to any of the persons specified in paragraph (3), to any employee or agent of
such a person or to a police officer, a statement which he knows to be false in a material
particular, or recklessly makes to any of those persons, to any such employee or agent or
to a police officer, a statement which is false in a material particular.

(2) Paragraph (1) applies to any identity document, which is to be or has been
issued by any of the persons specified in paragraph (3) for the purposes of a ship security
plan or a port facility security plan.

(3) The persons referred to in paragraph (1) are—

(a) a port facility operator;

(b) the owner, charterer or manager of any ship; and

(c) any person who is permitted to have access to a restricted zone of a port
facility for the purposes of the activities of a business carried on by him.

Unauthorised presence in restricted zone

34. (1) A person shall not—

(a) go, with or without a vehicle or vessel, onto or into any part of a
restricted zone of a port facility except with the permission of the port
facility operator or a person acting on behalf of the port facility operator
and in accordance with any conditions subject to which that permission
is for the time being granted; or

(b) remain in any part of such a restricted zone after being requested to
leave by the port facility operator or a person acting on behalf of the
port facility operator.

(2) Paragraph (1)(a) does not apply unless it is proved that, at the material time,
notices stating that the area concerned was a restricted zone were posted so as to be
readily seen and read by persons entering the restricted zone.

(3) A person who contravenes paragraph (1) commits an offence.

Offences relating to authorised persons

35. A person who—

(a) intentionally obstructs an authorised person acting in the exercise of a
power conferred on him by or under these Regulations; or

(b) falsely pretends to be an authorised person;

commits an offence.

Penalties, defences, etc.

36. (1) A person who commits an offence under this Part is liable—

(a) on summary conviction, to a fine of $20,000;

(b) on conviction on indictment, to a fine or to a term of imprisonment of
two years or to both.
(2) It shall be a defence for a person charged under paragraph (1) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(3) Where an offence under this section is committed, or would have been committed save for the operation of paragraph (2), by any person due to the act or default of some other person, that other person commits the offence, and a person may be charged with and convicted of an offence by virtue of this paragraph whether or not proceedings are taken against the first mentioned person.

PART 2

Continuous Synopsis Record

37. (1) This regulation applies to all ships engaged on international voyages, except—

(a) ships of war and troop ships;
(b) cargo ships of less than 500 tons;
(c) ships not propelled by mechanical means;
(d) wooden ships of primitive build;
(e) pleasure vessels not engaged in trade; and
(f) fishing vessels.

(2) (a) All ships shall be provided with a Continuous Synopsis Record for the purpose of providing an on-board record of the history of the ship with respect to the information recorded therein.

(b) For ships constructed before 1 July 2004, the Continuous Synopsis Record shall, at least, provide the history of the ship as from 1 July, 2004.

(3) The Continuous Synopsis Record shall be issued by the Director of Ports to each Islands ship and it shall contain, at least, the following information—

(a) the name of country;
(b) the date on which the ship was registered with the Turks and Caicos Islands;
(c) the ship’s identification number in accordance with the Registration of Ships Regulations;
(d) the name of the ship;
(e) the port at which the ship is registered;
(f) the name of the registered owner(s) and their registered address(es);
(g) the name of the registered bareboat charterer(s) and their registered address(es), if applicable;

(h) the name of the company, its registered address and the address(es) from where it carries out the safety management activities;

(i) the name of all classification society(ies) with which the ship is classed;

(j) the name of the Director of Ports or of the Contracting Government or of the recognized organization which has issued the Document of Compliance (or the Interim Document of Compliance), specified in the ISM Code, to the Company operating the ship and the name of the body which has carried out the audit on the basis of which the document was issued, if other than that issuing the document;

(k) the name of the Director of Ports or of the Contracting Government or of the recognized organization that has issued the Safety Management Certificate (or the Interim Safety Management Certificate), specified in the ISM Code, to the ship and the name of the body which has carried out the audit on the basis of which the certificate was issued, if other than that issuing the certificate;

(l) the name of the Director of Ports or of the Contracting Government or of the recognized security organisation that has issued the International Ship Security Certificate (or an Interim International Ship Security Certificate), specified in Part A of the ISPS Code, to the ship and the name of the body which has carried out the verification on the basis of which the Certificate was issued, if other than that issuing the Certificate;

(m) the date on which the ship ceased to be registered in the Turks and Caicos Islands.

(4) The Continuous Synopsis Record shall be kept on board the ship and shall be available for inspection at all times.

(5) (a) Any changes relating to the entries referred to in paragraphs (d) to (m) of paragraph (3) shall be recorded in the Continuous Synopsis Record so as to provide updated and current information together with the history of the changes.

(b) In case of any changes relating to the entries referred to in paragraph (a), the Director of Ports shall issue, as soon as is practically possible but not later than 3 months from the date of the change, to the ships entitled to fly the Turks and Caicos Islands flag either a revised and updated version of the Continuous Synopsis Record or appropriate amendments thereto.

(c) (i) In case of any changes relating to the entries referred to in paragraph (a), the Director of Ports, pending the issue of a revised and updated version of the Continuous Synopsis Record, shall authorise and require either the Company or the master of the ship to amend the Continuous Synopsis Record to reflect the changes.
(ii) In such cases, after the Continuous Synopsis Record has been amended, the Company shall, without delay, inform the Director of Ports accordingly.

(6) The Continuous Synopsis Record shall be in the format developed by the Organization and shall be maintained in accordance with guidelines developed by the Organization. Any previous entries in the Continuous Synopsis Record shall not be modified, deleted or, in any way, erased or defaced.

Transfer of flag by ship

38. (1) Whenever a ship is transferred to the flag of another State or the ship is sold to another owner (or is taken over by another bareboat charterer) or another Company assumes the responsibility for the operation of the ship, the Continuous Synopsis Record shall be left on board.

(2) When a ship is to be transferred to the flag of another State, the company shall notify the Director of Ports of the name of the State under whose flag the ship is to be transferred so as to enable the Director of Ports to forward to that State a copy of the Continuous Synopsis Record covering the period during which the ship was under their jurisdiction.

(3) When a ship is transferred to the flag of another State the government of which is a Contracting Government, the Director of Ports shall transmit to the Administration as soon as possible after the transfer takes place, a copy of the relevant Continuous Synopsis Record covering the period during which the ship was under Turks and Caicos Islands jurisdiction together with any Continuous Synopsis Records previously issued to the ship by other States.

(4) When a ship is transferred to the flag of another State, the Director of Ports shall append the previous Continuous Synopsis Records to the Continuous Synopsis Record the Director of Ports will issue to the ship so as to provide the continuous history record intended by this regulation.

Offences and penalties

39. A company that fails to do any of the following acts in relation to each of its ships, namely—

(a) to provide to the Director of Ports the information required by regulation 37(3) if requested by the Director of Ports;

(b) to inform the Director of Ports of the changes referred to in regulation 37(5);

(c) to make the changes in the Continuous Synopsis Record as is required by regulation 37(5)(c);

(d) to inform the Director of Ports as is required by regulation 37(5)(c)(ii); or

(e) to ensure the Continuous Synopsis Record is left on the ship and is available for inspection as required by regulation 37(4);

commits an offence and is liable to a fine of $20,000.
(2) A master who fails to—

(a) make any changes in the Continuous Synopsis Record he is required to make under regulation 37(5)(c);  

(b) to ensure the Continuous Synopsis Record is left on the ship and is available for inspection as required by regulation 37(4), 

commits an offence and is liable to a fine of $10,000.