

# THE MERCHANT SHIPPING ORDINANCE, 1960

## (Ordinance No. 11 of 1960)

### THE MERCHANT SHIPPING (LICENSED SMALL SHIPS) REGULATIONS, 1961

In exercise of the powers conferred upon him by section 277 of the Merchant Shipping Ordinance, 1960 [*Ord. No. 11 of 1960*], and all other powers thereunto him enabling, the Governor in Council has made the following regulations:-

#### Citation, commencement and application.

1. These regulations may be cited as the Merchant Shipping (Licensed Small Ships) Regulations, 1961, and shall come into force on the first day of April, 1961, and shall apply to all small ships.

#### Interpretation.

2. In these regulations –

“licensing authority” means the Port Officer and in any place where no Port Officer has been appointed under the Ordinance means any person appointed by the Director;

“mechanically propelled small ship” means any power driven small ship, whether or not also fitted with oars or sails, but does not include a small ship driven by outboard motor;

“register” means the register kept under regulation 4;

“small ship” means any vessel of under fifteen tons which plies on the coast or rivers of North Borneo and which is either –

(a) eighteen feet or more in length; or

(b) being less than eighteen feet in length is used for the carriage of passengers for hire or reward,

but does not include a seagoing tug;

“trading limits” means the limits prescribed in the Schedule of the Merchant Shipping (Classification of Coastal Trade Ships) Regulations, 1961 [*G.N. No. S 33 of 1961*].

#### Licensing etc.

3. (1) An application for licensing or renewing the licence of a small ship shall be made to the approving licensing authority and may be oral or in writing and in either case shall be accompanied by the appropriate fee specified in the First Schedule.

(2) Every licence issued under these regulations shall be –

(a) in the form set out in the Second Schedule;

- (b) subject to the conditions set out in these regulations and any conditions contained in the licence or endorsed thereon by the licensing authority; and
- (c) valid for the period ending on the 31st day of December in the year in which the licence is issued, and shall then lapse unless renewed; and any such period of renewal shall not exceed twelve months at any one time:

Provided that in the case of non-mechanically propelled small ships not exceeding thirty-five feet in length the licence shall be valid for such period as may be specified therein.

(3) A licence shall contain the same particulars as are prescribed in Regulation 4 for the register; and further shall contain a list of the safety equipment which the small ship is required to carry and a provision invalidating the licence if, without the permission of the licensing authority contained in the licence, the small ship proceeds outside North Borneo save by stress of weather or other cause beyond the control of the person in charge.

(4) A licensing authority shall not –

- (a) issue or renew a licence of a category other than classification 1 to 6 or D appropriate to the trading limits in which the authority is situated unless the issue or renewal has received the prior approval of the Director or a person authorized by him in writing in that behalf; or
- (b) issue or renew a licence unless he is satisfied that the small ship in all respects is fit to ply for the purposes for which it is licensed.

(5) Any person aggrieved by the refusal of a licensing authority to issue or renew a licence, or by any terms or conditions inserted in the licence, may appeal in writing to the Director and the decision of the Director on any such appeal shall be final and shall not be questioned in any court.

(6) If, without reasonable cause, the licence for a small ship is not renewed for the current licensing period by the thirtieth day of April next after the expiration of such licence, and if the expired licence has not within that period been surrendered to the licensing authority which issued it, the fee for the renewal of such licence shall, without prejudice to the provisions of section 3 of the Ordinance, be twice the amount of the fee prescribed therefor in the First Schedule.

(7) Every licence shall be kept upon the small ship to which it refers in a clean and respectable condition and shall be produced for inspection whenever required by any licensing authority, any member of the Marine Department, any customs officer or any police officer.

(8) In the event of the conviction of the holder of a licence issued under this regulation of any offence connected with the small ship or the operation thereof, the court before whom such conviction is obtained may cancel such licence or may suspend such licence for such period as it may think fit, and may declare any licensee to be disqualified from holding a licence under these regulations for such period as it may think fit.

#### **Licence register.**

4. Every licensing authority shall keep a licence register which shall contain the following entries –

- (a) the licence number of the ship allocated in accordance with such instruction as may be given by the

Director, and her name, if any;

- (b) the length, breadth, depth and net and gross tonnage;
- (c) the name and number of the certificate or authorization if any, of the person in charge of the ship, and of any other Officers required to be carried under the provisions of the Merchant Shipping (Manning) Regulations, 1961 [*G.N. No. S 34 of 1961*];
- (d) the name and description of the owner or owners;
- (e) the number of crew to be employed;
- (f) the number of persons, if any, the ship is permitted to carry in addition to the crew; and
- (g) the classification of such ship under the Merchant Shipping (Classification of Coastal Trade Ship) Regulations, 1961 [*G.N. No. S 33 of 1961*].

#### **Effect of licence.**

5. (1) A licence shall be used only for the lawful navigation of the small ship, and shall not be subject to detention by reason of any title, lien, charge or interest whatsoever which any owner, mortgagee or other person may have, or claim to have, on or in the small ship described in such licence.

(2) Any person whether interested in the small ship or not, shall on request, deliver the licence when in his possession or under his control to the persons entitled to the custody thereof for the purposes of the lawful navigation of the ship, or to any licensing authority or officer of the customs, or to any other person authorized by the Director of Marine to request such delivery.

#### **Unlawful use of licence.**

6. If the owner or person in charge of a small ship uses or attempts to use for the navigation of that ship a licence not legally granted in respect of the ship, he shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

#### **Report of change of etc.**

7. (1) Every change of owner, person in charge of a small ship or other alteration in the particulars relating to the small ship shall be reported to the nearest licensing authority by the owner of the small ship and the licensing authority shall endorse the licence accordingly and cause to be transmitted to the small ship's licensing authority such details for endorsement in the register.

(2) The owner of the small ship when making the report referred to in paragraph (1) shall pay the fee specified in the First Schedule.

(3) If any small ship is actually or constructively lost, burnt, broken up or transferred the owner of such ship shall give notice to a licensing authority who shall cancel the licence accordingly and cause the same to be transmitted to the small ship's licensing authority for cancellation of the entry in the register.

**Marking of small ship.**

8. (1) The owner or owners of every small ship shall, before being issued with a licence, cause the number of the ship to be painted, in such legible and durable manner as the licensing authority may direct, on each side near the fore part of the ship in figures of such size and character and such positions as shall be directed by the licensing authority; and the number shall, in all cases, be preceded by the letters indicating the area in which the vessel is licensed as set out in the Third Schedule and the letters or figures indicating the trading limits in which the vessel is licensed to ply.

(2) If the licence of any small ship is not renewed or is suspended or cancelled, the owner of the ship shall forthwith cause the number and letters and figures to be deleted from each side of the bow.

**Safety equipment.**

9. (1) Subject to paragraph (2), the owner and person in charge of every small ship shall cause to be kept on board at all times the appropriate safety equipment relating to the small ship specified in the Fourth Schedule.

(2) Notwithstanding paragraph (1), a licensing authority may, if he is satisfied that it is impracticable on account of her size for a small ship to carry all the safety equipment required by paragraph (1) and the Fourth Schedule, modify the requirements for that small ship and make a note of such modifications on the small ship's licence and in the register.

**Load line.**

10. (1) The licensing authority shall mark or cause to be marked on either side of all small ships other than small ships having the classification "F" in the Merchant Shipping (Classification of Coastal Trade Ships) Regulations, 1961 [*G.N. No. S 33 of 1961*], a line, indicating the lowest depth to which the ship, shall in the interests of safety, be loaded, and every line so marked shall be a load line.

(2) The rules of measurement for assigning such mark shall be those set out in the Fifth Schedule.

(3) The owner, charterer, hirer or person in charge of any small ship who –

(a) causes or permits such mark to be obliterated or obscured; or

(b) causes or permits such mark to be submerged,

shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

**Inspection of ships.**

11. The Director, a licensing authority, a government surveyor and any person authorized by the Director or a licensing authority in that behalf may inspect any small ship to ensure that the provisions of the Ordinance and the subsidiary legislation made thereunder relating thereto and the conditions of her licence, have been complied with; and the Director and every such authority, surveyor and authorized person shall have all the powers of an inspector under the Ordinance.

**Carriage of dangerous goods other than petroleum.**

12. No dangerous goods other than petroleum shall be carried in any small ship to which these regulations apply

except under and in accordance with the terms and conditions of a permit issued by a licensing authority.

**Saving.**

13. Any valid licence or certificate of registry issued under the Boats and Fisheries Ordinance [*Cap. 16*] or the Shipping Ordinance *Cap. 103*] in respect of a small ship shall continue in force as a licence granted under the provisions of this regulation until the same shall expire.

FIRST SCHEDULE

(Regulation 3 (1))

FEES

The fees to be charged for the issue or renewal of licences (including the survey of the small ship) shall be –

	<i>Mechanically Propelled Small Ship</i>	<i>Non-Mechanically Propelled Small Ship</i>
1. Any small ship exceeding 45 feet in length ...	\$40 per year	\$20 per year
2. Any small ship exceeding 35 feet but not exceeding 45 feet in length ...	\$30 per year	\$15 per year
3. Any small ship exceeding 25 feet but not exceeding 35 feet in length ...	\$10 per year	
4. Any small ship not exceeding 25 feet in length ...	\$5 per year	
5. Change of ownership or person in charge or alteration of any particulars on licence ...	\$2	\$2

SECOND SCHEDULE

(Regulation 3 (2))

SMALL SHIP LICENCE

THE MERCHANT SHIPPING (LICENSED SMALL SHIPS)  
REGULATIONS, 1961

<p>(1)</p> <p>..... <i>Signature of owner.</i></p>  <p>.....</p> <p>Name of Engine          Number of Engine          Type of Engine          Brake Horse Power</p> <p>.....</p> <p>Free Board Assigned          Ft. .... Ins. ....          (From Deck Line          or Gunwale)          (<i>Strike out which is not applicable</i>)</p> <p>.....</p> <p>Amount of Annual Fee \$..... cts.</p> <p>Date and place of Initial Licensing          Port</p> <p>..... <i>Port Officer.</i></p>	<p>(2)</p> <p>Licence for Cargo          Passenger          Towing          (<i>Delete categories not applicable</i>)</p> <p>Trading limits within which Licence is          valid.</p> <p>Number:-          Owner's Name          Description and Address          Name, and Number of          Certificate, if any, of          person in charge</p> <p>Number of Crew          Number of passengers</p> <p>Type          Length          Depth          Breadth</p> <p>Gross Tonnage</p> <p>Net Tonnage          Where and When Built 19 .....</p> <p>Period of Validity of Licence and          Receipt No. for Fees Paid</p>
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*Licensing Authority.*

Note – This licence shall not be valid if the ship proceeds outside North Borneo save by stress of weather or other cause beyond the control of the person in charge.

Particulars of safety equipment required to be carried by the small ship.

State whether or not any modifications have been made in pursuance of Regulation 9 (2).

Port Officer,

Licensing Authority

Special conditions

THIRD SCHEDULE  
(Regulation 8 (1))

<i>Districts</i>		<i>Prefix</i>
Labuan	... ..	LN
Sandakan	... ..	SN
Jesselton	... ..	JN
Kota Belud	... ..	KB
Tenom	... ..	TM
Inanam	... ..	IM
Papar	... ..	PR
Bangawan	... ..	BW
Menggatal	... ..	ML
Tuaran	... ..	TN
Tenghilan	... ..	TN
Penampang	... ..	PG
Telipok	... ..	TK
Beaufort	... ..	BF
Weston	... ..	WN
Membakut	... ..	MT
Kota Klias	... ..	KK
Padas Damit	... ..	PD
Sipitang	... ..	SG
Mempakul	... ..	MK
Kuala Penyu	... ..	KP
Semporna	... ..	SA
Tawau	... ..	TW
Kudat	... ..	KT
Bandau	... ..	BU
Kalumpang	... ..	KG
Lahad Datu	... ..	LD
Tungku	... ..	TU
Tambisan	... ..	TB
Beluran	... ..	BN
Tetabuan	... ..	TT
Klagan	... ..	KN
Trusan	... ..	TS
Semangat	... ..	ST
Lamag	... ..	LG
Mumiang	... ..	MG

FOURTH SCHEDULE  
(Regulation 9)

SAFETY EQUIPMENT

*Class I – For Small Ships which Proceed to Sea:*

1. Buoyant apparatus of an approved type sufficient to support 60 per cent of all persons on board which may include life buoys of an approved type at the equivalent of one lifebuoy for every two persons. Sufficient lifejackets of an approved type, one for every person on board.
2. Lights and shapes as prescribed in the Collision Regulations.
3. In the case of small ships having an engine room, one 2-gallon foam extinguisher of an approved type to be situated in the engine room.
4. In the case of small ships having enclosed accommodation for crew or passengers, or both, one soda acid extinguisher to be situated in such accommodation.
5. One carbon tetrachloride, or carbon dioxide, or any approved dry chemical extinguisher to be fitted near any electrical installation or to be adjacent to the engine in the case of a ship propelled by an outboard engine.
6. Two firebuckets.
7. An efficient whistle or klaxon.
8. In the case of small ships licensed to carry passengers, six “precise location” hand flares of an approved design.
9. One anchor and cable.
10. One painter.
11. One heaving line.
12. One hand bilge pump.
13. In the case of a small ship employed in the carriage of passengers, if the licensing authority so directs, a compass.

*Class II – For Small Ships which do not Proceed to Sea:*

1. Buoyant apparatus of an approved type sufficient to support 50 per cent of all persons on board, which may include life buoys of an approved type at the equivalent of one lifebuoy for every two persons. Sufficient lifejackets of an approved type, one for every person on board.



2. Lights and shapes as prescribed in the Collision Regulations.
3. Fire extinguishers as prescribed for Class I.
4. One fire bucket.
5. One anchor and cable.
6. One painter.

FIFTH SCHEDULE  
(Regulation 10)

LOAD LINES

1. Small ships shall be marked with a line nine inches long and one inch wide at mid-length on both sides of the craft. The top of this line shall be at a distance –
  - (a) in case of open vessels, one-third of the moulded depth of the vessel measured from the gunwale;
  - (b) in the case of fully decked vessels, one-quarter of the moulded depth of the vessel measured from the top of deck line; and
  - (c) in the case of all small ships, the minimum freeboard shall be eight inches.
2. Fully decked small ships shall be marked with a deck line, nine inches long by one inch wide, at the mid-length of the ship on both sides. The top of this mark shall be in line with the top surface of the main deck.
3. These marks shall be painted so as to be clearly distinguishable and shall be either light on a dark hull or black on a light coloured hull.

Dated at Jesselton, this 13th day of March, 1961.

M. PIKE,  
*Clerk of Executive Council.*

10<sup>th</sup> October 2008