

## PORTS AND HARBOURS (SABAH LICENSED SMALL SHIPS) REGULATIONS 2008

In exercise of the powers conferred by subsection 15(1) of the Ports and Harbours Enactment 2002 [No.5 of 2002], the Minister makes the following regulations:

### Citation and commencement

1. (1) These regulations may be cited as the Ports and Harbours (Sabah Licensed Small Ships) Regulations 2008.

(2) These Regulations come into operation on a date to be appointed by the Minister by notification in the *Gazette*. [1st June 2009]

### Interpretation

2. In these Regulations, unless the context otherwise requires –

“customs officer” has the meaning assigned to “officer of customs” in section 2 of the Customs Act 1967 [Act 235];

“dangerous goods” means dangerous goods specified in regulation 24 of the Ports and Harbours (Government Wharves) Regulations 2008;

“Director” means the Director of the State Department of Ports and Harbours;

“Enactment” means the Ports and Harbours Enactment 2002 [No. 5 of 2002];

“licensing authority” means the Director or a port officer and in any place where no port officer has been appointed under the Enactment means any public officer 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;

“port officer” means any officer appointed under subsection 4(2) of the Enactment to be in charge of any port as maybe determined by the Director;

“register” means the register of small ships kept in accordance with regulation 11;

“small ship” means any vessel under fifteen net registered tons which plies on the coast or rivers of Sabah;

“trading limits” means the limits prescribed in the Sixth Schedule.

### **Application for licence**

3. An application for licensing or renewing the licence of a small ship for any one trading limit shall be made to the appropriate licensing authority in writing and be accompanied by the appropriate fee specified in the First Schedule.

### **Small ship licence**

4. 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;
  - (c) valid for a period not exceeding twelve months from the date of issue; and
  - (d) charged with the appropriate licence fee as specified in the First Schedule.

### **Particulars of licence**

5. A licence shall contain –
- (a) the same particulars as prescribed in regulation 11 for the register;
  - (b) a list of the safety equipment which the small ship is required to carry; and
  - (c) a provision invalidating the licence if, without the permission of the licensing authority contained in the licence, the small ship proceeds outside Sabah save by stress of weather or other cause beyond the control of the person in charge.

**Conditions of issuance and renewal**

6. The licensing authority shall not –
- (a) issue or renew a licence of any category other than under classification 1 to 7 appropriate to the trading limits in which the licensing authority is situated as set out in the Sixth Schedule unless the issue or renewal has received the prior approval of the Director or an officer duly authorized by him in writing in that behalf;
  - (b) issue or renew a licence unless he is satisfied that the small ship in all respects is fit to ply for the purpose for which it is licensed; or
  - (c) issue or renew a licence to any person who has been found guilty for an offence under these Regulations.

**Licence for additional trading limits**

7. The licensing authority may with the written approval of the Director issue or renew a licence for additional trading limits subject to payment of additional fees as prescribed in the First Schedule.

**Appeal**

8. 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 whose decision shall be final.

**Licence to be kept on board at all time**

9. Every licence shall be kept at all time on board the small ship to which it refers in a clean and respectable condition and shall be produced for inspection whenever required by the licensing authority, any authorized officer of the Department of Ports and harbours, customs officer and police officer who demands to see the same.

**Cancellation and suspension of licence**

10. The licensing authority may cancel any small ship licence or suspend such licence issued under regulation 4 for breaching any provision under these Regulations.

### **Licence register**

11. Every licensing authority shall keep a licence register of every small ship which shall contain the following entries:

- (a) the licence number and the name, if any, of the small ship together with all such conditions as may be given by the Director;
- (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 small ship, and of any other officers required to be carried on board as specified in the Seventh Schedule;
- (d) the name and description of the owner and of the master;
- (e) the number of crew to be employed;
- (f) the number of persons, if any, the small ship is permitted to carry in addition to the crew; and
- (g) the classification of such small ship under the Sixth Schedule.

### **Unlawful use of licence**

12. (1) A licence shall be used only for the lawful navigation of a 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 he has any title, lien, charge or interest in a small ship or not, shall, on request, deliver up the licence in his possession or under his control to the person entitled to the custody thereof for the purpose of the lawful navigation of the small ship or to any licensing authority or customs officer or to any other person authorized by the Director to request such delivery.

(3) Any owner or person in charge of a small ship who uses or attempts to use for the navigation of that ship a licence not legally granted in respect of the small ship commits an offence under these Regulations.

**Report of change of owner, etc.**

13. (1) Every change of owner, person in charge or other alteration in the particulars relating to a 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 transmit such details to the licensing authority for endorsement in the Register.

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

(3) If any small ship is actually or constructively lost, burnt, broken up or transferred, the owner of such small ship shall give notice to the licensing authority who shall cancel the licence accordingly and cause the same to be cancel from the Register.

**Marking of small ship**

14. (1) The owner or owners of every small ship, before being issued with a licence, shall 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 small ship shall forthwith cause the number and letters and figures to be deleted from the small ship.

**Classification for small ships**

15. (1) The Director shall cause every small ship to be allocated one or more of the classifications specified in the Sixth Schedule depending on the state of seaworthiness and of the purposes for which the said ship is to be used.

(2) The Director shall further cause every small ship to be classified as a towing passenger, cargo, fishing or recreational boat and shall allocate to each such ship the classification "T", "P", "C", "F" or "R" respectively.

(3) The master of any vessel classified as a cargo ship or fishing boat shall not, save under and in accordance with the terms and conditions of a permit issued by the

Director or a person authorized by him in writing in that behalf, allow the carriage of any passengers.

(4) Any person contravene or abets in the contravention of this regulation commits an offence under these Regulations.

### **Safety equipment**

16. (1) Subject to the provision in subregulation (2), the owner and the person in charge of every small ship shall keep on board at all times the appropriate safety equipment relating to the small ship as specified in the Fourth Schedule.

(2) Notwithstanding to the provision in subregulation (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 subregulation (1), modify the requirements for that small ship and make note of such modification on the small ship's licence and in the Register.

### **Load lines.**

17. (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" and "T", a line, indicating the lowest depth to which the small ship, shall in the interest 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 as specified 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,

commits an offence under these Regulations.

### **Inspection of ships**

18. (1) The licensing authority may inspect any small ship to ensure that the provisions of the Enactment and any Regulations made thereunder and the conditions of the licence have been complied with.

(2) The licensing authority may require any small ship to be upslipped for inspection. A report of the inspection shall be forwarded to the Director.

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

18. No dangerous goods other than petroleum shall be carried in any small ship except under and in accordance with the terms and conditions of the permit issued by the relevant licensing authority.

### **Insurance for small ship carrying more than 12 passengers**

20. (1) Every small ship used for the purpose of carrying more than 12 passengers shall be insured by an insurance company registered in Malaysia. The insurance policy shall cover a third party liability including wreck removal of small ship, personal injuries and loss of lives.

(2) Every small ship used for the purpose of carrying more than 12 passengers shall be fully decked with an enclosed deckhouse.

### **Penalty**

21. Any person or corporation who contravenes any provisions under these Regulations commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousand ringgit or for a term of imprisonment not exceeding two years or to both.

FIRST SCHEDULE

[Regulation 3]

FEES

1. The fees to be charged shall be as follows:

(a) for issue or renewal of licences -

	Processing fee/ Inspection (RM)		MPSS (RM)	NMPSS (RM)
	MPSS	NMPSS		
(i) small ship exceeding 45 feet in length ...	65	45	35	25
(ii) small ship exceeding 35 feet but not exceeding 45 feet in length ... ..	50	30	30	15
(iii) small ship exceeding 25 feet but not exceeding 35 feet in length ... ..	35	15	10	7
(iv) small ship not exceeding 25 feet in length ... ..	20	10	7	5
(b) for change of ownership or person in charge or alteration of any particulars on licence ... ..			5	5
(c) for replacement of licence ... ..			10	10

2. The fee to be charge for each additional trading limits shall be RM100.00.

Note:

MPSS - Mechanically Propelled Small Ship

NMPSS - Non- Mechanically Propelled Small Ship



SECOND SCHEDULE

[Paragraph 4(a)]



SABAH SMALL SHIP LICENCE

This Licence is Valid until:

Trading Limits:

Class:

Purpose of Ship Licence:

**Particulars of Ship**

Name of Owner:

Identity card No.:

Company No.:

Licence No.:

Hull Material:

Ship Measurement

No. of Crew and

LOA/B/D (ft):

Passengers:

Load Line:

**Particulars of Master**

Name:

Identity Card No.:

Grade:

Cert. of

Seaman No.:

Competency No.:

**Particulars of Safety Requirement**

- |                      |    |     |     |
|----------------------|----|-----|-----|
| 1. Two life buoys    | 5. | 9.  | 13. |
| 2. Six life jackets  | 6. | 10. | 14. |
| 3. Lights and shapes | 7. | 11. | 15. |
| 4.                   | 8. | 12. | 16. |

Dated at ..... on .....

*Ports and Harbours  
Department Stamps*

.....  
*Signature of Licensing Authority/Port Officer*

Details of conditions of licence are in the Licence Register Book.

THIRD SCHEDULE  
[Subregulation 14(1)]

MARKING OF SMALL SHIPS

<b>District</b>						<b>Prefix</b>
Sandakan	...	...	...	...	...	SN
Kota Kinabalu	...	...	...	...	..	JN
Kota Belud	...	...	...	...	...	KB
Tenom	...	...	...	...	...	TM
Inanam	...	...	...	...	...	IM
Papar	...	...	...	...	...	PR
Bongawan	...	...	...	...	...	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
Kota Marudu	...	...	...	...	...	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 16]

SAFETY EQUIPMENT

**Class I**

Small ships which proceed to sea shall keep on board at all times the following equipment:

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 life buoy for every two persons. Sufficient life jackets of an approved type, one for every person on board.
2. Lights and shapes as prescribed in the Collision Regulations 1972.
3. In the case of a small ship 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 a small ship having enclosed accommodation for crew or passengers, or both, one soda acid extinguisher to be situated in such accommodation.
5. One carbon tetrachloride, carbon dioxide, any approved dry chemical, extinguisher to be fitted near any electrical installation or to be adjacent to the engine in the case of a small ship propelled by an outboard engine.
6. Two fire buckets.
7. An efficient whistle or klaxon.
8. In the case of a small ship 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 licence authority so directs, a compass.

#### **Class II**

Small ship which do not proceed to sea shall keep on board at all times the following equipment:

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 life buoy for every two persons. Sufficient life jackets of an approved type, one for every person on board.
2. Lights and shapes as prescribed in the Collision Regulations 1972.
3. Fire extinguishers as prescribed for in Class I.
4. One fire bucket.
5. One anchor and cable.
6. One painter.

#### FIFTH SCHEDULE [Subregulation 17(2)]

#### 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 external hull. The top of this line shall be at a distance.
  - (a) in the case of open vessels, one-third of the moulded depth of the vessels measured from the gunwale;
  - (b) in the case of fully decked vessels, one-quarter of the moulded depth of the vessels measured from the top of deck line; and

- (c) in the case of all small ship, the minimum freeboard shall be eight inches.
2. Fully decked small ship 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 coloured hull or black on a light coloured hull.

SIXTH SCHEDULE

[Paragraph 6(a)]

TRADING LIMITS AND AREA CLASSIFICATION OF  
SABAH LICENSED SMALL SHIP

Trading Limits	Area Classification
Any port or place within the Brunei Bay area between Pelompong Point, Keraman Island lighthouse and extending to any port or place between and inclusive Kuala Penyu.	1
Any port or place between and inclusive of Kuala Penyu and Usukan Bay and including Mengalum Island.	2
Any port or place between and inclusive Usukan Bay and Jembongan and including Mantanani Island and Banggi Island and adjacent islands.	3
Any port or place between and inclusive of Jembongan Island and Tambisan Island.	4
Any port or place between and inclusive of Tambisan Island, si-Amil Island and Semporna District and all ports and places within the Darvel Bay area.	5
Any port or place between and inclusive of Cowie Harbour, Semporna District and si-Amil Island.	6
For the State of Sabah other than the sea.	7

SEVENTH SCHEDULE

[Paragraph 11(c)]

SEA-GOING

Classification of small ship	Certificate
(1) A ship of area classification 1, 2, 3, 4, 5 or 6 not more than 100 GRT ... ..	Mate < 500 GRT Domestic Voyage and an Officer In Charge of Engineering Watch III/I;
(2) A ship of classification F under 15 NRT ... ..	Nil

NON SEA-GOING

Classification of small ship	Certificate
A ship of area classification 7 of ten GRT and above ...	Nil

Made this 24 November 2008.

DATUK RAYMOND TAN SHU KIAH,  
*Minister of Infrastructure Development.*