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THE MERCHANT SHIPPING ACT, 2009

*(No. 4. of 2009)*

THE MERCHANT SHIPPING (SMALL VESSEL SAFETY)  
REGULATIONS, 2012

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THE MERCHANT SHIPPING ACT, 2009  
(No .4 of 2009)

**THE MERCHANT SHIPPING (SMALL VESSEL SAFETY)  
REGULATIONS, 2012**

IN EXERCISE of the powers conferred by section 8 and 59 read with section 450 of the Merchant Shipping Act, 2009, the Minister for Transport makes the following regulations:—

MERCHANT SHIPPING (SMALL VESSEL SAFETY) REGULATIONS  
2012

PART I—PRELIMINARY

Citation.

1. These Regulations may be cited as the Merchant Shipping (Small Vessel Safety) Regulations, 2012 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires-

"approved" means approved by the Authority;

"authorised agency" means a governing body, club or organisation designated under regulation 30(1);

"category" in relation to a vessel, means the particular category of vessel determined as follows—

- (a) Category A—vessels operating any distance from shore;
- (b) Category B—vessels operating less than 40 nautical miles from shore;
- (c) Category C—vessels operating less than 15 nautical miles from shore;
- (d) Category D—vessels operating less than 5 nautical miles from shore;
- (e) Category E—vessels operating not more than 1 nautical mile from shore and 15 miles from an approved launch site;
- (f) Category R—vessels operating solely on inland waters;

"certificate of competence" means a certificate, including any relative endorsement, issued by a certifying authority pursuant to

regulation 16(1) and entitling its lawful holder to act in the capacity and perform the functions involved on a vessel of the type, category, tonnage or length, power and means of propulsion concerned;

"local certificate of fitness" means a certificate issued under regulation 24;

"certifying authority" means the Authority and, to the extent that it has been designated pursuant to regulation 30(1) to perform the functions of a certifying authority, an authorised agency;

"commercial harbour" means a harbour belonging to the Kenya Ports Authority;

"commercial small vessel" means a small vessel that is not a pleasure vessel;

"contravene" in relation to a provision of these regulations, includes failing or refusing to comply with that provision;

"controlled event" means a competition, event or regatta organised by a governing body, or a club or an organisation affiliated with a governing body, and includes—

- (a) activities to prepare for the event that take place at the venue for the event and during the times specified by the organiser of the event; and
- (b) practice for the event under the supervision of a coach or an official approved by a governing body, or a club or organisation affiliated with a governing body;

"decked" in relation to a vessel, means fully or partially decked;

"dive boat" means a vessel that is used in diving support activities;

"enforcement officer" means a member of the Kenya Police Services, a member of any Municipal Police Service and any person designated as such by the Authority;

"existing vessel" means a vessel that was built and used on previously unregulated waters before the commencement of these regulations;

"governing body" means a national water sport governing body—

(a) that publishes written rules and criteria in respect of conduct and safety requirements during skill demonstrations, formal training or controlled events; and

(b) that—

(i) certifies coaches and coaching programmes;

(ii) certifies officials and programmes for officials; or

(iii) recommends training and safety guidelines for certified coaches or officials;

"inflatable" in relation to a vessel, means fitted with separate inflated airtight chambers that are either completely collapsible or fitted with a rigid bottom section to give buoyancy;

"inland waters" means all water areas accessible to the public and contained within ports, fishing harbours, lagoons, rivers, dams, wetlands and lakes in Kenya;

"kill switch" means a mechanism which is attached to the skipper or operator of a small vessel and which stops the engines when that person loses his or her footing or becomes otherwise incapacitated;

"night" means the period of time between six o'clock in the afternoon and six o'clock in the morning;

"operate" in relation to a vessel, means operate in inland waters;

"overall length" in relation to a vessel, means the horizontal distance measured between perpendiculars erected at the extreme ends of the outside of the hull of the vessel;

"owner" in relation to a vessel, includes any person entrusted by the owner with the care and control of the vessel;

"passenger vessel" means a vessel that carries more than 12 passengers;

"pleasure vessel" means a vessel that is used solely for sport or recreation;

"power-driven" in relation to a vessel, means propelled primarily by mechanical means;

"projectile flare set" means a set of flares designed to be propelled upwards by means of a hand-operated triggering device not forming an integral part of the flare;

"regulating authority" means the person, body or authority having jurisdiction over the shore or inland waters concerned;

"safety officer" means a person designated under regulation 30(4);

"sailing vessel" means a vessel provided with sufficient sail area for navigation under sail alone whether or not fitted with mechanical means of propulsion;

"sea" in relation to the application of these regulations, means the area seaward of a harbour breakwater, river mouth, estuary mouth or lagoon, the boundaries of which will be decided by the Authority in conjunction with the relevant local authority and published in a marine notice;

"skipper" means the master;

"specified by the Authority" means specified by the Authority in a marine notice;

"suitable" in relation to materials or an appliance or item of equipment, means suitable for the service for which it is intended;

"tender" means a small vessel, not exceeding 4 metres in overall length, that is used in a harbour, inland waters or in sheltered waters solely for the conveyance of persons or stores from the shore to a vessel, or vice versa, or from one vessel to another vessel without financial gain or reward;

"underway" in relation to a vessel, means that the vessel is in motion;

"water-skiing" includes towing a person on any device behind a vessel and the noun has a corresponding meaning.

(2) Any reference in these regulations to the owner of a vessel is, if there is more than one owner of the vessel, to be read as a reference to each of the owners.

(3) For the purposes of these regulations, a vessel is taken to be at sea or being operated at any time when it is not securely ashore or moored in a safe berth.

Application.

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

(a) every commercial small vessel —

- (i) that is registered as a ship in Kenya in terms of section 77 of the Act;
- (ii) that is required to be licensed in terms of section 57 of the Act;
- (iii) in respect of which a local general safety certificate is required by virtue of section 242 of the Act; or
- (iv) that is used on inland waters, where section 57 of the Act will apply equally; and

(b) every pleasure vessel of less than 100 gross tonnage, being—

- (i) a vessel that is registered as a ship in Kenya;
- (ii) a vessel contemplated in section 57 of the Act; or
- (iii) a vessel used on inland waters.

(2) These regulations shall not apply to tenders.

(3) A provision of these regulations shall not apply to a Kenyan ship in the waters of a country other than Kenya where the provision is inconsistent with a law of that country, or which, by its terms, applies to the ship when in the waters of that country.

These regulations shall apply to vessels under 3 metres in length except where otherwise stated and subject to regulation 8(4).

## PART II—VESSEL SAFETY REQUIREMENTS

Submission and approval of plans etc. by a commercial vessel for first issue of local safety certificate.

4. (1) Subject to sub-regulation (5), and for the purposes of the initial issue of a local safety certificate in respect of a commercial small vessel, the builder or owner of a vessel shall submit in duplicate to the Authority the following particulars by means of plans, fully dimensional and including detailed specifications of the vessel, for approval by the Authority-

- (a) longitudinal elevation showing the position of bulkheads or built-in non-flooding compartments, hatchways, deck houses and crew spaces;
- (b) midship section showing hull scantlings, deck, bulwarks, frames, doors, stringers and beams;
- (c) any deck openings, ventilators, air pipes, and tanks;
- (d) engine room layout and pumping arrangements;
- (e) steering and propeller shaft arrangements;
- (f) electrical circuit diagram; and
- (g) lines plan of scale 1:25.
- (h) details of-
  - (i) anchors and cables;
  - (ii) lifesaving and fire-fighting equipment; and
  - (iii) navigation lights, shapes and sound signals.

(2) Any subsequent modification or addition to the scantlings, arrangements or equipment shown on approved plans shall be required to be approved by the Authority.

(3) The Authority may require such further plans and specifications as it deems fit, and may dispense with the requirement to submit certain plans or specifications.

(4) The Authority shall, after approving the plans and the specifications submitted in respect of a vessel, direct a surveyor to conduct inspections and tests to ensure that the vessel is constructed in accordance with the approved plans, specifications and the other requirements of these regulations.

(5) The builder or owner of a vessel being built shall in writing notify the Authority at least seven days before—

- (a) commencing building;



- (b) commencing planking, plating or laminating;
- (c) completing the fitting of all underwater fittings and rudder gear and propeller shafts;
- (d) launching the vessel; and
- (e) undertaking trials.

(6) No person shall undertake trials without the prior approval of the Authority and, if the Authority deems fit, the prior inspection of the vessel by a surveyor.

(7) The Authority may dispense with all or any of the requirements of sub-regulations (1), (4), (5) and (6) if—

- (a) in the case of a vessel being built, the work is carried out by an approved builder, in accordance with the relevant construction standards specified by the Authority; and
- (b) in the case of an existing vessel, it is satisfied that the vessel complies with the relevant construction standards specified by the Authority.

(8) The Authority may by way of a marine notice give direction from time to time regarding the precise information required for any particular type of vessel.

Inspection of vessel for renewal of local safety certificate.

5. For the purposes of the renewal of a local safety certificate, every vessel shall, subject to section 260 of the Act, be thoroughly inspected, both internally and externally, by a surveyor at intervals not exceeding twelve months-

Provided that, at the discretion of the Authority—

- (a) water suction and discharge valves, excluding water connection fastenings, may be inspected at intervals not exceeding 24 months; and
- (b) propeller shafts shall be withdrawn at intervals not exceeding four years.

Design and construction of vessels.

6.(1) Every vessel shall be constructed of suitable materials of good quality, with due regard to sound design practice and methods of construction and under normal operating conditions the design shall provide sufficient reserve of positive stability to avoid capsizing.

(2) On decked vessels no point of possible ingress of water, except scuppers, may be less than 200 millimetres above the surface of the water, measured when the vessel is afloat in an undamaged condition in calm water.

(3) The design and construction of a vessel shall, in addition, comply with the requirements set out in the First Schedule.

(4) These regulations shall not apply to vessels referred to in regulation 37.

(5) The Authority may exempt any other vessel from the provisions of this regulation.

(6) It shall be an offence to sell a vessel that does not comply with the construction requirements of these regulations;

Provided that where an exemption has been granted under subregulation (5), the seller shall produce a certificate issued by the Authority, detailing the extent to which the vessel is exempted from complying.

Safety appliances and equipment.

7. (1) The owner and skipper of any vessel shall ensure that safety appliances and equipment are provided and maintained on board the vessel in accordance with the requirements of the Second Schedule, and the other requirements of that Schedule are complied with in relation to the vessel.

(2) The skipper of a commercial small vessel shall ensure that an approved buoyancy aid or lifejacket of the kind required by these regulations is worn by—

- (a) every crew member performing work on deck at night;
- (b) every crew member performing work which creates the risk of the person being lost overboard;
- (c) every crew member whenever a vessel of less than seven metres in length is being operated within one nautical mile from shore;
- (d) every child under twelve years of age on deck at all times when the vessel is underway;
- (e) any other person on board a vessel at such times as the skipper may direct; and
- (f) every person on board, including the skipper, whenever the vessel is launched or operated in the surf, or otherwise operates in rough sea or water conditions.

(3) On each occasion before any vessel is operated, the skipper shall—

(a) ensure that every person on board the vessel has received essential safety information appropriate to that person's functions on board, including—

(i) information about the location on board of the safety appliances and equipment required to be carried on the vessel; and

(ii) instruction in the use of such appliances and equipment; and

(b) ensure the safety appliances and equipment required to be on board the vessel are fit and ready for use.

(4) The skipper of a commercial small vessel shall, if it is practicable to do so, cause the vessel's emergency procedures and arrangements, including those in respect of fire-fighting, abandon ship and man overboard, to be practised at least once each week.

(5) The skipper or person operating any power-driven vessel of more than fifteen horsepower and of nine metres or less in length get the vessel underway unless there is an operational kill switch attached to the operator.

Sub-regulation (5) shall not apply to vessels launching or beaching through surf whilst the vessel is transiting the surf zone.

Safety of navigation.

8.(1) The skipper of a vessel shall ensure at all times that the vessel is operated in accordance with—

- (a) the collision regulations as defined in the Act;
- (b) the conditions and limitations specified in the local safety certificate or local certificate of fitness, as the case may be, issued in respect of the vessel;
- (c) the conditions and limitations specified in the skipper's certificate of competence;
- (d) the instructions and specifications of the manufacturer of the vessel and, if power-driven, of the vessel's propulsion machinery;
- (e) the law in force in the area in which the vessel is being operated, in so far as it is not inconsistent with the Act;
- (f) the load line regulations, if applicable; and

- (g) the requirement to operate within any demarcated areas on inland waters where indicated on charts or otherwise by a regulating authority.

(2) No person shall operate a vessel in a careless manner, without reasonable consideration for other persons or without due care and attention, taking into account—

- (a) the weather;
- (b) visibility;
- (c) the presence of persons or vessels in the body of water, including concentrations of persons and vessels in the immediate vicinity of the vessel;
- (d) the speed and manoeuvrability of the vessel, with special reference to stopping distance and turning capability in the prevailing conditions;
- (e) light conditions, including the presence of background light from shore lights or from backscatter of the vessel's own lights;
- (f) water conditions, currents and the proximity of navigational hazards; and
- (g) any other hazards that could adversely affect the safety of persons or property.

(3) Before any power-driven vessel is operated, the skipper shall ensure that the vessel carries a sufficient quantity of fuel for its intended voyage together with a reserve of not less than twenty five per cent of that quantity.

No vessel under three metres in length may go to sea except in an area designated for that use by a regulating authority, but in any event not more than one thousand metres offshore.

#### Colouring of vessels.

9. The owner and skipper of any vessel going to sea shall ensure that—

- (a) as large an area as possible of the interior of a vessel which is not a decked vessel or of the deck of a decked vessel is painted or pigmented in a colour making the vessel readily visible from above in any sea condition; or
- (b) there is readily available on board the vessel, and capable of floating in a spread-out position when attached to it, a length of canvas or similar

suitable material so painted or pigmented, and of a size capable of extending the full width of the vessel, but not less than 2 metres by 2 metres;

Operational limits.

10. (1) Subject to sub-regulation (2), no person may operate a vessel beyond the maximum distance from shore applicable to the category of vessel concerned and specified in the local general safety certificate or local certificate of fitness, as the case may be, issued in respect of the vessel.

(2) No person may operate a passenger vessel more than 5 nautical miles from shore and 15 nautical miles from a safe haven in Kenya.

Carrying persons in excess.

11. Except in an emergency, neither the owner nor the skipper of a vessel may cause or allow the number of persons, including crew members, on board the vessel to exceed the number determined by the certifying authority and specified in the local safety certificate or certificate of fitness, as the case may be, issued in respect of the vessel.

Voyage information.

12.(1) Before a vessel goes to sea from a place in Kenya, the owner and skipper shall ensure that they supply particulars in respect of—

- (a) the identity of the vessel, including its name, if any, official number, and type or make;
- (b) the names of the occupants; and
- (c) the intended place or places and expected times of departure and arrival.

(2) Notwithstanding subregulation (1), where regulating authorities, authorized agencies or clubs affiliated to a governing body have implemented reporting mechanisms on inland waters or at harbours, fishing harbours and approved launch sites, owners and skippers of vessels shall comply with such mechanisms.

(3) Upon return to a place in Kenya the owner and skipper of the vessel shall ensure that the person with whom information has been left in compliance with sub-regulation (2) is notified of the return of the vessel.

(4) The owner and skipper of a vessel which goes to sea from a commercial harbour or a fishing harbour shall, in addition to meeting the other requirements of this regulation, comply with the reporting requirements in force in that harbour.

Obligation of skipper to report dangers to navigation and to assist vessels in distress.

13. Section 210 of the Act (Notification of dangers to navigation) shall apply in relation to the skipper of a vessel to which these regulations apply as if the vessel were a ship to which that sections applies otherwise than by virtue of this regulation.

### PART III—CREWING

Responsibilities- of owners.

14.(1) The owner of a vessel shall ensure that the vessel is operated by or under the constant guidance of a skipper who is physically able and of sound mental health and who, in the case of—

- (a) a commercial small vessel; or
- (b) a pleasure vessel which is either a sailing vessel of nine metres or more in overall length or a power-driven vessel with propulsion power exceeding fifteen horsepower,

holds a valid certificate of competence issued by a certifying authority except as provided for in regulation 18(2):

Provided that this provision shall not require a certificate of competence to be held in respect of a vessel type which was previously unregulated or is operated on previously unregulated inland waters during the period expiring twelve months after the commencement of these regulations.

(2) The owner of a vessel shall, in addition to meeting the requirements of sub-regulation (1), ensure that the vessel is otherwise sufficiently and efficiently manned.

(3) For the purposes of paragraph (a), a commercial vessel shall be taken to be adequately and efficiently manned if, in the opinion of the Authority, it has a crew of competent persons to enable it to go to sea or to be otherwise operated with due regard to the requirements of these regulations and any other safety provisions which may be applicable to the vessel.

(4) In the determination of the adequacy of the crew in accordance with this sub-regulation, the following shall be taken into account—

- (a) the complement normally carried by similar vessels engaged on similar voyages or operations;
- (b) the complement that the vessel in question has recently carried on previous voyages or operations;
- (c) the nature of the service for which the vessel is intended; and
- (d) any other appropriate considerations.

(5) The owner of a commercial small vessel going to sea shall, in addition to meeting the requirements of sub-regulations (1) and (2), ensure that—

- (a) the skipper and every crew member on the vessel holds documentary evidence of having successfully completed approved safety induction training;
- (b) documentation and data relevant to the skipper and every crew member on the vessel are maintained and readily available for inspection, including documentation and data in respect of their employment, experience, training, medical fitness and competence in assigned duties;
- (c) the skipper and every crew member, on being assigned to the vessel, are familiarized with their specific duties and with all vessel arrangements, installations, equipment, procedures and vessel characteristics which are relevant to their routine and emergency duties; and
- (d) the crew can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

Special endorsements for passenger vessels and dive vessels.

15.(1) No person shall serve as the skipper of a commercial small vessel which is a passenger vessel unless authorized by way of an appropriate endorsement on his or her certificate of competence.

(2) No person shall serve as the skipper of a commercial small vessel which is a dive support vessel or dive charter vessel unless authorized in terms of an appropriate endorsement on his or her certificate of competence.

Conditions of certificates of competence.

16. (1) A certifying authority shall issue an applicant with a certificate of competence in accordance with its delegation from the Authority, if it is satisfied that the applicant is physically able and of sound mental health and—

- (a) in the case of a certificate in respect of a commercial small vessel—
  - (i) is not under the age of eighteen years; and
  - (ii) satisfies the relevant requirements specified by the Authority; or
- (b) in the case of a certificate in respect of a pleasure vessel—
  - (i) is not under the age of sixteen years; and
  - (ii) satisfies the relevant requirements specified by the Authority after consultation with the affected governing body, if any.

(2) A certifying authority shall suspend or cancel a certificate of competence if—

- (a) the holder has been convicted under the Act of an offence involving dishonest conduct in obtaining any license or certificate;
- (b) it believes on reasonable grounds that the holder has conducted himself or herself in a negligent or incompetent manner while serving in any capacity authorised by the certificate; or
- (c) it believes on reasonable grounds that the certificate was obtained fraudulently or based on wrong information.

(3) A person whose certificate of competence has been suspended or cancelled as contemplated in sub-regulation (2) shall surrender the certificate to the certifying authority upon demand.

(4) A person whose certificate of competence has been suspended or cancelled may appeal in writing to the Authority against the suspension or



cancellation, as the case may be, not later than three months after the date of the decision to suspend or cancel the certificate.

(5) Upon receiving an appeal, the Authority shall designate one or more officials to hear any representations made by the appellant and the certifying authority and to report to the Director-General, who shall then determine the appeal.

(6) In determining an appeal, the Director-General may confirm, vary or set aside the suspension or cancellation of an appellant's certificate, and the certifying authority shall give effect to the Director-General's determination.

(6) A person aggrieved by a decision taken under subregulation (4) may—

- (a) notwithstanding any other provisions in this regulation, appeal to the High Court in the first instance; or
- (b) where dissatisfied with the decision of the Director-General under subregulation (6), further appeal to the High Court.

(7) The holder of a certificate of competence shall keep the original certificate, or a certified copy thereof, available for inspection at all reasonable times.

(8) A skipper who is not permanently resident in Kenya who holds or carries a certificate of competence or licence issued by a foreign government and which authorizes the skipper to operate the type of vessel shall be deemed to hold a certificate of competence in terms of these regulations for a period of three

(9) months after arrival in Kenya, provided that he or she carries such certificate with him or her:

Provided that the person shall within the period of three months, apply for and obtain a certificate of competence from the Authority.

Physical and mental fitness.

17. (1) No person may operate a vessel if he or she is not physically able to do so or is not of sound mental health.

(2) No person shall operate a vessel or any of a vessel's equipment or machinery while under the influence of intoxicating liquor or a narcotic drug

to such an extent that his or her ability to carry out his or her duties relative to the vessel is impaired.

(3) No person shall operate a vessel or any of a vessel's equipment or machinery while—

- (a) the concentration of intoxicating liquor in any specimen of blood taken from any part of his or her body is 0,05 gram or more per 100 millilitres; or
- (b) the concentration of intoxicating liquor in any specimen of breath exhaled by such person is 0,24 milligrams or more per 1 000 millilitres.

(4) For the purposes of sub-regulation (3)(b), the concentration of intoxicating liquor in any breath specimen shall be ascertained by using the equipment prescribed under section 119(1) of the Traffic Act.

(5) No person shall refuse that a specimen of blood, or a specimen of breath, be taken of him or her.

(6) Section 44 of the Traffic Act shall apply, with the necessary modifications, in relation to any prosecution for contravening a provision of sub-regulation (3). Cap. 403.

Age limitations.

18.(1) A person under the age of eighteen years shall not serve in the capacity of skipper of a commercial small vessel.

(2) A person under the age of sixteen years shall not operate a power-driven pleasure vessel having a propulsion power exceeding fifteen horsepower, unless—

- (a) that person does so under the guidance and constant supervision of a person who is the holder of a valid certificate of competence;
- (b) in the case of a single-handed vessel, that person does so under the guidance and supervision of an authorized agency or a person referred to in paragraph (a); or
- (c) that person is certified by an authorized agency to be a competent person engaged in training for competitive sport.

Unauthorized intoxicating liquor or narcotic drugs.

19.(1) This regulation shall apply only to commercial small vessels.

(2) A person in Kenya or on board a Kenyan registered ship elsewhere shall not—

- (a) take any unauthorized intoxicating liquor or illicit drugs having narcotic effect on board a vessel;
- (b) have any unauthorized intoxicating liquor or illicit drugs having a narcotic effect in his or her possession on board a vessel;
- (c) allow another person to take on board a vessel, or to have in his or her possession on board a vessel, any unauthorized intoxicating liquor or illicit drugs having narcotic effect; or
- (d) intentionally obstruct another person in the exercise of powers conferred on that person by sub-regulation (3).

(3) Where an enforcement officer has reason to believe that an offence against sub-regulation (2) has been committed in relation to any vessel, the enforcement officer may, without a warrant—

(a) go on board the vessel and search it and any property on it; and

(b) take possession of any intoxicating liquor or drugs having narcotic effect found on the vessel and believed to be unauthorized intoxicating liquor or illicit drugs having narcotic effect and may detain the intoxicating liquor or drugs having narcotic effect for the period needed to ensure that the intoxicating liquor or drugs having narcotic effect are available as evidence in proceedings for the offence.

(4) In this regulation—

"illicit narcotic drug" means a drug the use or possession of which is prohibited by law;

"narcotic drug" has the same meaning as in section 2 of the Narcotic Drugs and Psychotropic Substances Control Act; (Cap 245).

"intoxicating liquor" means spirits, wine, beer, cider and any other fermented, distilled or spirituous liquor;

"unauthorized intoxicating liquor", in relation to—

- (a) a fishing boat, means intoxicating liquor of any kind; and
- (b) any other vessel, means intoxicating liquor in respect of which permission to take it on board the vessel has not been given either by the skipper or the owner of the vessel or by a person authorized by the owner of the vessel to give such permission.

Any reference in sub-regulation (4) to the owner of a vessel shall be construed to exclude any member of the crew of the vessel.

#### PART IV—SPECIAL PROVISIONS FOR UNREGISTERED PLEASURE VESSELS

##### Application of Part.

20.(1) This Part applies to pleasure vessels provided for in section 57 of the Act and pleasure vessels used on inland waters.

(2) This Part does not apply to sailing vessels or other vessels propelled by human power alone.

##### Recording and marking of vessels.

21.(1) Neither the owner nor the skipper of a vessel to which this Part applies shall cause or allow the vessel to be operated on any waters within Kenya, unless—

- (a) there is in force in respect of that vessel an approved marking; and
- (b) the vessel has been marked in accordance with sub-regulation (4) with that marking.

(2) An approved marking is obtained either from the Authority or from an authorized agency and applications for an approved marking shall be accompanied by the particulars required by the Director-General for recording purposes.

(3) The Authority and the authorized agencies shall be responsible for ensuring that the Director-General receives the data as required in paragraph (2).

(4) The Director-General shall be responsible for the database of vessels and ensuring that the information is available to the relevant authorities and organizations.

(5) Subject to sub-regulation (8), the approval of a marking remains in force until such time as the particulars of the vessels as recorded by the Director-General are no longer valid and during that period the display on the vessel of any other identification marking is prohibited.

(6) The owner of a vessel shall ensure that the marking approved in respect of the vessel is displayed and continued on the vessel in accordance with the directions of the Authority, and that the information recorded with the Authority is correct.

(7) The owner shall, at least every two years, confirm with the Authority or an authorized agency that the particulars recorded with the Authority are correct, failing which the approved marking shall be invalidated by the Authority.

(8) The owner of a vessel shall in writing notify the Authority or relevant agency of any change of ownership in the vessel and of any change in the particulars of the owner furnished pursuant to sub-regulation (2), not later than fourteen days after the change occurs.

(9) The owner of a vessel may, within fourteen days, in writing notify the Authority or relevant agency if—

- (a) the vessel is permanently withdrawn from service;
- (b) the vessel is removed from his or her possession other than as a result of its sale;
- (c) any marking referred to in sub-regulation (2) ceases to be valid;  
or
- (d) the vessel has been abandoned, lost or destroyed.

(10) The Authority or relevant agency shall revoke the approval of a marking if—

- (a) it believes on reasonable grounds that the approval was obtained fraudulently or on wrong information; or

(b) being a marking referred to in sub-regulation (2), it has ceased to be valid.

(11) Whenever the Authority or relevant agency revokes the approval of a marking, it may give the directions it thinks fit regarding the removal of the marking; and the owner of the vessel concerned shall comply with any direction so given and, upon demand, surrender the instrument of approval to the Authority or relevant agency.

(12) The Authority or relevant agency shall, in the absence of a marking referred to in sub-regulation (2) assign an approved marking to a vessel.

Vessels not to be used without local certificate of fitness.

22. (1) Neither the owner nor the skipper of a vessel to which this Part applies shall cause or allow the vessel to be operated anywhere in Kenya, unless there is on board a valid local certificate of fitness in respect of that vessel.

(2) Sub-regulation (1) does not prohibit a vessel in previously unregulated inland waters from being operated without a local certificate of fitness for the period expiring 12 months after the commencement of these regulations.

Initial and renewal inspection for local certificate of fitness.

23.(1) The structure, equipment, appliances, arrangements and material of a vessel referred to in regulation 22 shall be subjected to the following inspections:

- (a) an initial inspection, before a local certificate of fitness is issued for the first time, which shall include a complete examination of the vessel's structure, equipment, appliances, arrangements and material in so far as the vessel is covered by these regulations and which shall be such as to ensure that the structure, equipment, appliances, arrangements and material comply with the requirements of these regulations; and
- (b) a renewal inspection, at intervals not exceeding twelve months, which shall be such as to ensure that the structure, equipment, appliances, arrangements and material comply with the requirements of these regulations.

(2) An inspection provided for in sub-regulation (1) shall be conducted by a surveyor in the case of the Authority, or a safety officer designated for the purpose by an authorized agency; and any application for such an inspection shall be made by or on behalf of the owner of the vessel to the Authority or authorized agency, as the case may be.

Issue of local certificate of fitness.

24.(1) Upon satisfactory completion of an initial or renewal inspection provided for in regulation 23, the certifying authority shall issue in respect of a vessel that complies with the requirements of these regulations a local certificate of fitness, stating—

- (a) the name of the vessel;
- (b) the marking assigned to the vessel;
- (c) the name, identity number and address of the owner of the vessel;
- (d) the type and category of vessel;
- (e) the overall length of the vessel and, where available, its gross tonnage;
- (f) the vessel's home port; and
- (g) the maximum number of persons permitted to be carried on the vessel, as determined in accordance with sub-regulation (2).

(2) In determining the maximum number of persons that a particular vessel may safely carry, a certifying authority shall take into account—

- (a) the specifications and guidance issued by the manufacturer of the vessel;
- (b) the available deck space;
- (c) the living accommodation, if applicable;
- (d) the mass the vessel can safely carry;
- (e) the safety equipment provided;
- (f) the intended operation of the vessel; and

the manner of launching the vessel.

Duration of local certificate of fitness.

25.(1) Subject to sub-regulation (2) and regulation 26(1), a local certificate of fitness shall remain in force for a period not exceeding twelve months beginning on the date of completion of the inspection in question, but may be extended by the certifying authority for a maximum period of six months in special circumstances.

(2) A local certificate of fitness issued in respect of a vessel ceases to be valid if—

- (a) the vessel ceases to be subject to the jurisdiction of the authorized agency ; or
- (b) the vessel ceases to be a vessel to which this Part applies.

Cancellation of local certificate of fitness.

26.(1) The Authority or an authorized agency may cancel a local certificate of fitness if it believes on reasonable grounds that—

- (a) the certificate was obtained fraudulently or on wrong information; or
- (b) since the certificate was issued, the structure, equipment, arrangements or material of the vessel has, by reason of any alteration made thereto, or by reason or any damage sustained by the vessel, or for any other reason, does not comply with the requirements of these regulations;
- (c) since the certificate was issued, the vessel has for any reason become unseaworthy; or
- (d) the vessel no longer complies with all the requirements of these regulations, to the same extent to which it complied with the regulations when the certificate was issued.

(2) For the purposes of this regulation, "alteration", in relation to the structure, equipment, arrangements or material of a vessel, includes the renewal of any part thereof.

(3) Whenever a local certificate of fitness is cancelled, the Authority or authorized agency shall notify the owner or skipper of the vessel concerned of the cancellation.

Surrender of expired or cancelled local certificate of fitness.

27. Upon the expiry of a local certificate of fitness and in each of the cases mentioned in regulation 25(2) and 26(1), the owner or skipper of the vessel in respect of which the local certificate of fitness was issued shall upon



demand by the Authority or authorized agent surrender the certificate to the authority or authorized agency.

Custody and production of local certificate of fitness.

28. The owner and skipper of a vessel shall ensure that the original local certificate of fitness issued in respect of the vessel, or a certified copy thereof, is kept available on board the vessel for inspection at all reasonable times.

Maintenance of conditions after inspection.

29. The owner and skipper of a vessel shall ensure that the condition of the vessel and its equipment, structure, appliances, arrangements and material are maintained so as to comply with the requirements of these regulations.

#### PART V- SUPPLEMENTAL

Authorized agencies.

30.(1) Subject to sub-regulation (2), the Authority may, with the concurrence of a governing body, or a club or an organization affiliated with a governing body, designate such body, club or organization as an authorized agency, entrusting to it in the instrument of designation the performance of one or more of the following functions:

- (a) the determination, for the purposes of regulation 11, of the maximum number of persons that a pleasure vessel may safely carry;
- (b) the recording of voyage details for the purposes of regulation 12;
- (c) the determination of whether a pleasure vessel is sufficiently and efficiently manned;
- (d) for the purposes of regulation 16, the issuing, suspension or cancellation of certificates of competence in accordance with its designation from the Authority, and to demand the surrender of any such certificates that have been suspended or cancelled;
- (e) in respect of pleasure vessels, to require a person to furnish medical evidence for the purposes of regulation 17(1) or (2);
- (f) the supervision and certification of persons under the age of 16 years for the purposes of regulation 16(2);
- (g) the conducting of initial and renewal inspections of vessels under regulation 23;

- (h) the issuing and cancellation of certificates of fitness, and to demand the surrender of cancelled certificates, contemplated in regulations 24, 26 and 27, respectively; and
- (i) the approval of controlled events.

(2) Designation under sub-regulation (1) is subject to the conditions, which may include provision in respect of periodical inspections or audits, which the Authority may determine and specify in the instrument of designation, in the case of the designation of a club or organization affiliated with a governing body, after consultation with that governing body.

(3) The Authority may suspend or revoke a designation under sub-regulation (1) if it believes on reasonable grounds that the body, club or organization concerned has failed—

- (a) to comply with these regulations or any condition imposed there-under; or
- (b) to perform diligently and faithfully the functions entrusted to it in terms of these regulations.

(4) An authorized agency shall, for the purpose of performing its functions under these regulations, designate as a safety officer any member of the authorized agency who, in its opinion, is qualified to be so designated.

(5) An authorized agency shall furnish every safety officer with a certificate attesting to his or her designation as a safety officer setting out the provisions of these regulations that the safety officer is authorized to enforce, and a safety officer shall, if so required, produce the certificate in the course of performing his or her functions under these regulations.

(6) Designation as a safety officer shall terminate if—

- (a) the designee's membership of the authorized agency is suspended or terminated; or
- (b) the designation is otherwise revoked by the authorized agency and the person concerned shall upon demand surrender the certificate issued to him or her in terms of sub-regulation (4)(b) to the authorized agency.

Powers of enforcement officers.

31.(1) Subject to sub-regulation (3), an enforcement officer may, in order to verify and ensure compliance with these regulations—

- (a) board and inspect a small vessel and its appliances and equipment, ask any pertinent questions of, and demand all reasonable assistance from, the owner or skipper, or any person who is in charge or appears to be in charge, of the vessel; and
  - (b) require the owner or skipper or other person who is in charge or appears to be in charge of the vessel to produce—
    - (i) personal identification; and
    - (ii) any document or certificate required by these regulations.
- (2) (a) Subject to paragraph (b) and sub-regulation (3), an enforcement officer may, in order to ensure compliance with these regulations and in the interests of public safety, direct the movement of a small vessel or prohibit the operation of a small vessel.
- (b) Except in an emergency, an enforcement officer shall not give a direction or prohibition under paragraph (a) in respect of any small vessel in a public harbour for which a harbour master is appointed without the prior consent of the harbour master.
- (c) The owner or skipper of a vessel whose operation has been prohibited under paragraph (a) may, at own expense, submit the vessel to inspection by the Authority, who may confirm, vary or set aside the prohibition.

(3) An enforcement officer who is a safety officer may exercise the powers of an enforcement officer under sub-regulations (1) and (2) only for the purpose of enforcing the provisions of these regulations that he or she has been authorized to enforce pursuant to regulation 30(4).

(4) Every person shall comply with the valid instructions of an enforcement officer in the course of performing functions under these regulations.

Where the particulars of any vessel, including a commercial vessel, are found to differ substantively from the particulars registered, or are not registered with the Authority, the Authority shall detain the vessel until the vessel's ownership or deficiency been satisfactorily explained or rectified.

Equivalents and exemptions.

32.(1) Where these regulations require that a particular fitting, material, appliance, apparatus, item of equipment or type thereof be fitted or carried in a vessel, or that any particular provision be made, or any procedure or arrangement be complied with, the Authority may allow any other fitting, material, appliance, apparatus, item of equipment or type thereof to be fitted or carried, or any other provision, procedure or arrangement to be made in the vessel, if it is satisfied by trial thereof or otherwise that such fitting, material, appliance, apparatus, item of equipment or type thereof, or that any particular provision, procedure or arrangement is at least as effective as that required by the regulations.

(2) The Authority may grant exemptions, on such terms, if any, as it may specify, from any of the provisions of these regulations for individual cases or classes of cases and may, after reasonable notice, alter or cancel any such exemption.

(3) Any approval given pursuant to these regulations is to be given in writing and shall specify the date when the approval is to come into force and the conditions if any to which it is subject.

Exemption in respect of controlled events.

33. (1) Subject to sub-regulation (2), the owner and skipper of a vessel that participates in an approved controlled event in Kenya or in the territorial waters of Kenya are, in respect of such vessel and for the duration of the event, exempt from these regulations.

(2) Application for the approval of a controlled event shall be lodged with the Authority or the relevant authorized agency not later than 10 days before the intended date of the event, unless waived by the Authority or authorized agent and shall be accompanied by full details of the event and of the rules and manner of supervision, including safety measures, to be applied and by the other particulars that the Authority may require.

(3) The Authority or authorized agency may extend a standing approval under sub-regulation (2) for any controlled event subject to such conditions as are considered appropriate by the Authority or authorized agency and may at any time on reasonable grounds revoke such approval.

Offences, penalties and defences.

34.(1) Any person who contravenes any of the provisions of these Regulations commits an offence and shall be liable on conviction to a fine

not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

(2) In proceedings for an offence in terms of sub-regulation (1) it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid committing the offence.

(3) In proceedings for an offence in terms of sub-regulation (1) in relation to regulation 17(2) it is an additional defence to prove that, at the time of the conduct alleged against the accused, he or she was under the influence of a drug taken by him or her for medicinal purposes and either that he or she took it on medical advice and complied with any directions given as part of that advice or that he or she had no reason to believe that the drug might have the influence it had.

Offences due to fault of another person.

35. Where the commission by any person of an offence in terms of regulation 34(1) is due to the act or omission of some other person, that other person also commits the offence and may be charged with and convicted of the offence by virtue of this regulation, whether or not proceedings are taken against the first-mentioned person.

#### PART VI—REQUIREMENTS FOR WATER SKIING

Supplementary requirements for water-skiing.

36.(1) Waters in which water-skiing is allowed shall be so indicated by the regulating authority.

(2) A person shall not water-ski—

- (a) in any waters other than those contemplated in sub-regulation (1);
- (b) at night;
- (c) while under the influence of intoxicating liquor or any substance having a narcotic effect.

(3) A water-skier—

- (a) shall wear a suitable flotation aid of the type and quality prescribed in First Schedule;

- (b) shall have knowledge of the standard hand signals as described by marine notice;
- (c) may not purposefully let go of the rope in a congested area; and
- (d) shall comport himself or herself in such a way as not to create a nuisance or danger for other water users.

(4) The owner or skipper of the towing vessel may not use a steel or other metallic rope or wire to tow a water-skier.

(5) The skipper of the towing vessel shall ensure that there is a competent person in the vessel to observe the water-skier.

(6) The skipper of the towing vessel shall carry a 500 millimetre square red flag in the vessel and cause it to be clearly exhibited when the vessel is engaged in picking up a water-skier or dragging a tow.

(7) As soon as the tow is dropped by a water-skier, the skipper of the towing vessel shall either move to the nearest safe place, stop and pull in the tow, or if the tow was accidentally dropped, reduce speed and return immediately to pick up the water-skier.

(8) The skipper of a vessel may not follow closer than 100 metres in the wake of another vessel towing a person, water-skier or a towable aquatic or airborne device.

Supplementary requirements for personal watercraft, etc. etc.

37.(1) On inland waters a vessel may enter only the water from those areas or places permitted by the regulating authority, except that however vessels contemplated in this Part may, subject to sub-regulation (2), operate as directed in any areas under the jurisdiction of a regulating authority.

(2) Personal watercraft or jet-skis under three metres may only operate in demarcated areas specifically set aside for that purpose by the regulating authority and in addition shall not proceed further than 1000 metres offshore.

(3) Power-driven vessels with less than 15 horsepower, sailing dinghies and non-power driven vessels under 7 metres in overall length need not comply with regulations 6, 9, Part 4 and the First Schedule, but shall—

- (a) have sufficient buoyancy to keep the vessel afloat when completely swamped; and

- (b) shall carry the safety equipment provided for in the table in the Second Schedule.

#### PART VII—ADMINISTRATIVE ARRANGEMENTS

Authority may establish an advisory committee.

38.(1) For the purpose of promoting efficient administration of these regulations, the Authority, may in writing—

- (a) establish any co-ordinating structures the Authority deems fit; and
- (b) determine the membership and functions of any established structure.

(2) Before establishing a structure contemplated in sub-regulation (1), the Authority may consult—

- (a) the Ministry responsible for matters relating to transport; and
- (b) any other organ of state or person required in writing by the Authority to be consulted.

(3) The structures contemplated in sub-regulation (1) shall meet at least once every year to consider amendments to these regulations and their implementation.

Transitional arrangements.

39.(1) The Director-General shall provide, by notice in the Gazette, the date, time and the manner in which all vessels shall be marked with an approved marking and relevant information to be provided to the Director-General for recording purposes.

(2) The date by which existing vessels need to comply with the design and construction provisions of regulation 6(3) is two years after the commencement of these regulations unless directed to do so sooner by a surveyor or safety officer due to safety considerations.

(3) The date by which commercial vessels previously exempted need to comply with item 1 of the First Schedule is two years after the commencement of these regulations.

(4) A local certificate of fitness in existence on the date of the coming into operation of these Regulations, shall remain valid until its expiry date, unless cancelled prior to that date.

(5) A local safety certificate in existence on the date of the coming into operation of these Regulations shall remain valid until its expiry date, unless cancelled prior to that date.

Authority may impose penalty upon admission of guilt.

40.(1) If any person —

- (a) admits to the Authority that he has failed to comply with any provision of these regulations or the Act, or that he has failed to comply with any provision with which it was his duty to comply;
- (b) agrees to abide by the decision of the Authority; and
- (c) deposits with the Authority such sum as may be required of him but not exceeding the maximum fine which may be imposed upon conviction for the failure to comply in question,

the Authority may, after such enquiry as it deems necessary, determine the matter and may, without legal proceedings, order by the way of a penalty the whole or only part of the said deposit to be forfeited.

(2) A person aggrieved by a determination or order by the Authority under sub-regulation (1) whereby a penalty exceeding twenty thousand shillings is imposed may appeal to the Minister, provided such right is exercised within a period of three months from the date of such determination or order.

(3) The Authority shall not bring legal proceedings against any person who pays a penalty under subregulation (1).

(4) Nothing in this regulation shall in any way affect liability to forfeiture of ships, shares therein or goods.

## FIRST SCHEDULE

(R.6)

### CONSTRUCTION REQUIREMENTS

1 Built-in buoyancy



(1) The vessels described below may in lieu of carrying the liferafts contemplated in Second Schedule, be fitted or constructed with built-in buoyancy or comply with other arrangements as follows-

- (a) Any category B, C, D and E vessel, other than a passenger vessel, may operate in an unrestricted manner if it has buoyancy built into the vessel which complies with sub-items (2) and (3).
- (b) Sailing pleasure vessels are exempt from built-in buoyancy on inland waters and at sea when operating within 15 miles of the shore and within 30 miles of a safe haven.
- (c) Inflatable vessels of any category intending to go to sea, whether fully inflatable or semi-rigid, may in lieu of fitted buoyancy be constructed with at least three separate buoyancy chambers and have the capacity to stay afloat despite the largest two of the chambers being completely deflated. For the purpose of this paragraph, the hull of a semi-rigid inflatable vessel is not considered to be one of the three buoyancy chambers required.
- (d) Category R vessels may make any suitable and reasonable provisions to ensure that the vessel retains positive buoyancy when fully flooded, swamped or capsized.
- (e) Vessels participating in an organized event are exempted from these requirements for the duration of the event and whilst practising for an event under the auspices of an authorized agency or affiliated club.

(2) Watertight compartments and watertight empty cases are not a substitute for built-in buoyancy referred to in sub-item (1): Provided that a decked vessel may, instead of built-in buoyancy, be provided with at least two watertight bulkheads so positioned and of sufficient strength that, in the event of flooding of the largest compartment formed by the bulkheads, the vessel will remain afloat in its worst envisaged load condition with positive transverse stability

(3) Built-in buoyancy shall consist of a material, such as foam, or approved plastic bottles that are not affected by oil or oil products. Built-in buoyancy shall be capable of keeping the vessel afloat when fully flooded, swamped or capsized. It shall be capable of

floating the vessel, when capsized, in such a manner as to provide a level platform onto which the full complement of the vessel can be secured. In passenger vessels, built-in buoyancy shall be such that the vessel will remain afloat with positive transverse stability when fully flooded in its worst envisaged load condition.

(4) It is the duty of the owner of a vessel to show, by certification, calculation or test, that—

- (a) a vessel with watertight bulkheads complies with sub-item (2) ;
- (b) a vessel with built-in buoyancy complies with sub-item (3) ;  
and
- (c) an inflatable vessel with buoyancy chambers complies with sub-regulation (1) (c).

## 2 Hatches and hatch coamings

- (1) Subject to sub-item (4), hatches on the open deck shall be provided with hatch covers that are watertight when dogged down. Special care is to be given to the dogging down arrangements of flush deck hatches.
- (2) Where a fishing vessel is designed so that the hatch containing the catch can be opened to the sea, the cover of the hatch need not have securing devices making it watertight, but the cover shall be capable of being secured in an emergency.
- (3) All watertight hatches shall be capable of withstanding a hose test.
- (4) On sailing vessels aft-facing companionway hatches that are closed by washboards need not be watertight but shall be constructed so that the ingress of water is substantially retarded in the event of the vessel being capsized or pooped.

## 3 Guard rails etc.

- (1) Subject to sub-items (2) and (3)—
  - (a) every power-driven vessel which goes to sea and has an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement,

around the outboard edge of the deck to a height of at least—

- (i) 600 millimetres above the deck on vessels of 9 metres or more in overall length; and
- (ii) 450 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category D and E motor vessels of less than 9 metres in overall length are exempt from this requirement if—
  - (aa) every occupant of the vessel wears a flotation aid when underway; and
  - (bb) the vessel does not go to sea at night.

(b) every commercial sailing vessel going to sea and having an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement, around the outboard edge of the deck to a height of at least—

- (i) 560 millimetres above the deck on vessels of 9 metres or more in overall length; and
- (ii) 410 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category D and E sailing vessels are exempt from this requirement if—
  - (aa) every occupant of the vessel wears a flotation aid when on deck and underway; and
  - (bb) the vessel does not go to sea at night.

(c) every sailing pleasure vessel having an open deck on which persons can walk shall be provided with efficient guard rails, or an equivalent arrangement, around the outboard edge of the deck to a height of at least—

- (i) 560 millimetres above the deck on vessels of 9 metres or more in overall length; and
- (ii) 410 millimetres above the deck on vessels less than 9 metres in overall length: Provided that category C, D, E and R sailing pleasure vessels are exempt from this requirement if—
  - (aa) such vessel is within 30 miles of a safe haven; and
  - (bb) every occupant of the vessel wears an approved flotation aid in rough weather when on deck.

(4) Power-driven vessels operating through the surf are exempt from sub-item (1) if fitted with bulwarks having a height of at least 450 millimetres forward and 300 millimetres aft.

(5) Power-driven vessels constructed so that the cabin-top extends nearly to the vessel's side, with a crew-only access forward, are exempt from sub-item (1) if provided with a substantial, secure handrail on each side of the cabin and with a toe rail of at least 50 millimetres in height along the outer edge of the deck.

#### 4 Towing arrangements

Every vessel shall be provided with an efficient means of securing a tow rope or anchor cable.

#### 5 Underwater hull fittings

Inlet and discharge pipes attached to the underwater part of the hull shall be properly flanged to the hull and be provided with a valve or shut-off cock inserted in the line as close as possible to the hull.

#### 6 Ventilators

(1) Ventilators serving engine or accommodation compartments shall be provided with proper closing devices or water traps to prevent the ingress of water into the compartment.

- (2) Ventilators serving only an engine compartment shall be provided with a means of shutting off the air flow in the event of fire in the engine compartment.

7 Engine power

- (1) Every motorized vessel going to sea shall be provided with an engine capable of propelling the vessel, in its full load condition, at a speed in calm water of at least 5 knots. Additionally, if the vessel is to be operated in the surf, the engine shall be capable of propelling the vessel at a safe speed when operating in surf conditions.
- (2) Sub-item (1) of this Schedule does not apply to sailing vessels, not being sailing passenger vessels, or to dinghies under oars.
- (3) Every category A, B and C power-driven vessel that employs outboard engine propulsion shall be provided with at least two engines either of which shall be capable of propelling the vessel, in its full load condition, at a speed in calm water of at least 5 knots. Additionally, if the vessel is to be operated in the surf, either engine shall be capable of propelling the vessel at a safe speed when operating in surf conditions.
- (4) Vessels fitted with inboard petrol engines shall comply with the following-
  - (a) the engine shall be installed in a compartment that is protected from water spray and flooding and is adequately ventilated;
  - (b) a manual bilge pump shall be fitted in the engine compartment;
  - (c) batteries shall be stowed in a separate compartment that is protected from sea spray and flooding and is adequately ventilated;
  - (d) a marinised carburettor with flash arrester shall be fitted;
  - (e) a spark-less alternator with starter shall be fitted;
  - (f) a flameproof extractor fan set to operate for a minimum of 30 seconds before the engine starts shall be fitted in the engine compartment;
  - (g) a remote controlled fire extinguishing system shall be fitted in the engine compartment;

(h) in the case of category A, B and C vessels fitted with a single inboard petrol engine, an auxiliary outboard engine shall be provided.

(5) Exhaust pipes and silencers shall be water cooled or lagged.

## 8 Fuel tanks

(a) Fuel tanks shall be efficiently secured and of adequate capacity and shall be constructed of suitable material.

(b) Outlets of built-in fuel tanks shall be fitted with shut-off valves or approved automatic shut-off and anti-siphoning devices. Shut-off valves that cannot readily and safely be accessed shall be capable of remote operation.

(c) Fuel filler pipes to built-in fuel tanks shall be adequate for the purpose and shall be provided with adequate sealing threaded plugs or caps. Only non-corrosive materials may be used.

(d) All fuel tanks shall be fitted with adequate breathers or breather pipes led to a height allowing the vessel to heel to 50 degrees without fuel escaping through them. The breathers or breather pipes shall be led to the outside of the hull and shall be constructed so as to prevent the ingress of water into the tank in all operating conditions.

(e) All fuel tanks shall be provided with a suitable means for determining the amount of fuel in the tank.

(f) All fuel tanks holding petrol shall be fitted or stored outside engine and battery compartments.

(g) Where gauge glasses are provided, they shall be fitted with self-closing valves.

## 9 Electrical installations

(1) (a) Subject to paragraph (b), every category A, B and C power-driven vessel shall be provided with an electrical installation that includes at least two identical banks of batteries. Each bank of batteries shall be capable of providing sufficient power in

accordance with the engine manufacturer's recommendations and have facilities for parallel connection.

- (b) Vessels fitted with hand-start engines may be provided with one bank of batteries.
- (2) Every category D, E and R power-driven vessel shall be provided with at least one bank of batteries, unless the vessel is fitted only with hand-start engines.
- (3) Every sailing vessel fitted with an inboard auxiliary engine shall be provided with at least one bank of batteries, unless the vessel is fitted only with hand-start engines.
- (4) Vessels required to be provided with one or more banks of batteries shall be provided with a suitable battery charging appliance, and if more than one engine is fitted each engine shall be provided with a battery charging appliance capable of charging both banks of batteries.
- (5) All electrical installations shall conform to good, established marine practice and all electrical equipment shall be constructed so that there will be no danger of injury to any person handling the installation in the proper manner.
- (6) A single bank of batteries shall be capable of providing at least 12 hours' auxiliary power for navigation lights, electric bilge pumps (if provided) and fixed radio equipment.

#### 10 Emergency steering arrangements

A means of emergency steering shall be provided in every vessel that is not steered by means of a tiller, including a tiller control arm of an outboard engine. The emergency steering shall be capable of operation at all angles and when an outboard engine is fitted and tilted. The emergency steering may be portable, in which case it shall be stored in a readily accessible position for rapid attachment in an emergency.

#### 11 Bilge pumping arrangements

- (1) This item does not apply to—

- (a) ski-boats having self-draining decks;
  - (b) inflatable or semi-rigid inflatable vessels having self-draining decks;or
  - (c) sailing or rowing dinghies, but such vessels shall be provided with an efficient bailing device.
- (3) Every category A power-driven decked vessel shall be provided with two power-driven bilge pumps. Each bilge pump shall have its own prime mover and may be driven off the vessel's main engines if more than one main engine is installed; otherwise, the configuration shall be such that one pump is driven off the main engine and the other by a standby engine. The pump driven off the standby engine may be electrically powered.
- (4) Every category B, C, D and E power-driven decked vessel of 7 metres or more in overall length fitted with an inboard main engine shall be provided with a power-driven bilge pump having as its prime mover the vessel's main engine. Where the configuration of the inboard engine is such that it cannot act as the prime mover, the bilge pump may be electrically powered. In addition, every such vessel shall be provided with a hand-operated bilge pump situated above the main deck. All other category B, C, D and E power-driven decked vessels of 7 metres or more in overall length shall be provided with two hand-operated bilge pumps, one of which may be installed below the main deck, the other above the main deck.
- (5) Every category B, C, D and E power-driven decked vessel of less than 7 metres in overall length shall be provided with at least one hand-operated bilge pump.
- (6) Every category A decked sailing vessel shall be provided with two hand-operated bilge pumps, and every category B, C, D, E and R decked sailing vessel over 7 metres in length shall be provided with one hand-operated bilge pump.
- (7) Every category R power driven vessel which does not have a self-draining arrangement shall be fitted with at least one efficient pump and where the fitting of such arrangements is clearly impracticable, an efficient bailer should be provided,



but, no vessel over seven metres may be exempted from fitting a suitable pump.

- (8) All power-driven and hand-operated bilge pumps shall have a minimum pumping capacity of 3 000 litres and 2 000 litres per hour, respectively.
- (9) All bilge pumps shall be fitted, where necessary, with piping arrangements, valves, suction and strainers to pump out every compartment in a vessel, other than a compartment used exclusively for catches of fish and which can be flooded without adversely affecting the vessel's buoyancy or stability.
- (10) Every bilge pumping arrangement discharging, in any operating condition, below the waterline shall be fitted with a sufficient number of non-return valves to prevent back-flooding.
- (11) Portable pump levers for hand-operated bilge pumps shall be kept in a readily accessible space as near to the pump as possible and, in the case of pumps above the main deck, in a readily accessible space or locker above the main deck.

## 12 Visibility at steering position

Where a steering position is not situated in the open, visibility from 112,5 degrees to port and starboard of the centre line ahead shall be through safety-toughened clear glass or a Kenyan Bureau of Standards approved alternative, and protection from the glare of the sun may be afforded by means of portable tinted screens.

## 13 Maintenance of propulsion and steering machinery

The propulsion and steering machinery of a vessel shall be periodically serviced, maintained and, if necessary, repaired in accordance with the manufacturer's instructions and specifications so as to ensure at all times its effective functioning. The period between servicing may not exceed the period recommended by the manufacturer. All servicing, maintenance and repair work on the propulsion and steering machinery of power-driven vessels fitted with a propulsion engine of more than 15 horsepower shall be performed by competent persons.

14 Crew accommodation in commercial small vessels

Every commercial small vessel that goes to sea for a continuous period of 16 hours or more out of every 24 hours and on which a person is to live while the vessel is in port shall be provided with crew accommodation, as follows:

- (a) not more than 10 persons may be accommodated in a space that has only one access;
- (b) bunks shall be single and have clear access from one side. A bunk may not be less than 1.8 metres in length and, in the forecabin space, a bunk may taper in width along its length but may not be less than 600 millimetres at its head and 460 millimetres at its foot. Where bunks are stacked one on top of the other, the height between bunks may not be less than 500 millimetres between the base of the lower bunk and the base of the bunk above. Bunks shall be so positioned to avoid water drips from access ladders and ventilators. Protection boards encasing the back of an access ladder or drip traps are acceptable when there is no other option but to install a bunk under a ladder or ventilator. Each bunk shall have a cubby hole for the storage of personal items. Bunks butting onto each other shall be separated with a board having a minimum height of 500 millimetres;
- (c) sleeping arrangements are not permitted in engine room or galley spaces. Sleeping arrangements are permitted in the steering space provided the steering gear is enclosed, has a separate escape hatch to the deck and the bulkhead between the steering and engine room spaces is made gas tight. Exhaust pipes passing through the steering space shall be boxed in and ventilated to the outside;
- (d) galleys fitted with gas stoves may not have an access to the engine room. Where this cannot be avoided, there shall be installed a gas-tight access between the engine room and galley. The immediate area about the stove shall be insulated to inhibit the spread of fire;

- (e) at least one toilet and shower shall be provided on vessels carrying up to ten persons and at least two toilets and showers shall be provided on vessels carrying not more than 19 persons. An additional toilet and shower shall be provided for every additional 10 persons, or part of that number, carried. Toilets and showers shall be located outside, but adjacent to, sleeping spaces;
- (f) all accommodation spaces shall be provided with adequate ventilation with closing devices to prevent water ingress from spray or rain and air ingress in the event of a fire in the space;
- (g) all accommodation spaces shall be provided with adequate electrical lighting; and
- (h) all accommodation spaces shall provide a minimum head height of at least 1,8 metres; this may be reduced in way of bunks, cupboards and other spaces where persons would not normally need to stand or walk in the upright position.

15 Gas appliances

Every gas operated cooker or refrigerator installed in a commercial small vessel shall be fitted with a safety device capable of preventing the build up of an explosive atmosphere in the event of a flame-out. The device shall be maintained in good working order at all times.

16 Additional requirements for passenger vessels

- (1) Every passenger vessel shall comply with the following the requirements in addition to the requirements contemplated in Part 2 of these regulations:
  - (a) two outboard engines, complying with item 7(3), or an inboard diesel engine shall be fitted;
  - (b) petrol outboard engines shall be provided with either approved portable fuel tanks; containing a maximum combined total of 50 litres, or inboard tanks built and

fitted to the appropriate ISO standards containing a combined maximum of 200 litres in total at any time.

- (c) inboard engine compartments shall be protected by—
    - (i) smoke and heat sensors linked to an alarm generating device located at the conning position; and
    - (ii) a manual fire smothering system capable of remote operation;
  - (d) a bilge alarm shall be fitted in every compartment having a hull fitting open to the sea; and
  - (e) seating arrangements shall be adequate for the number of persons authorized to be carried by the vessel's local safety certificate.
- (2) Every passenger vessel certified to carry a maximum of 20 passengers shall comply with following requirements in addition to the requirements contemplated in sub-item (1):
- (a) with the vessel in the worst anticipated intact condition and, as far as is practicable, with 75 per cent of the passengers congregated on one side of the vessel and 25 per cent on the other side, the angle of heel may not exceed 7 degrees and may not result in deck-edge immersion of the vessel;
  - (b) with the vessel in the worst anticipated intact condition and, as far as is practicable, with all of the passengers congregated on one side, neither may a capsizing moment be introduced nor may the resultant angle of heel result in a down-flooding point being reached; and
  - (c) with the vessel in its fully loaded condition including passengers, crew and fuel, the freeboard at the lowest point may not be less than 381 millimetres for vessels not exceeding 6,1 metres in length and 762 millimetres for vessels of 18,3 metres in length; for

vessels of intermediate length, the freeboard is to be obtained by linear interpolation.

- (3) Compliance with the requirements as contemplated in sub-item (2) may be demonstrated theoretically or practically.
- (4) Every passenger vessel certified to carry more than 20 passengers shall comply with the stability criteria applicable to ships classified as class VI passenger ships in terms of the Safety of Navigation or with sub-item (2) in the case of category R passenger vessels, as decided by the Authority.

17 Additional requirements for dive boats

Every dive boat shall comply with the following requirements in addition to the requirements contemplated in Part 2 of these regulations:

- (a) on vessels operating through the surf, adequate seating arrangements with grab points shall be provided for all divers on board; such arrangements shall not be located on the gunwale unless the gunwale is formed by the outside buoyancy tube of an inflatable or semi-rigid inflatable vessel; and
- (b) adequately secured racks capable of accommodating all air tanks on board shall be provided.

SECOND SCHEDULE (R.7)

SAFETY APPLIANCES AND EQUIPMENT

<i>Safety item No.</i>	<i>Description of safety appliances and equipment</i>	<i>Category of vessel</i>					<i>Additional remarks</i>
		<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E &amp; R</i>	
1	Authority approved lifejacket*	X	X	X	<b>X†</b>	—	<p>One lifejacket of appropriate size to be provided for each person on board.</p> <p>* Lifejackets carried on all category A vessels as well as passenger vessels operating at night to be fitted with a light and all lifejackets to be tested to the compulsory performance standard and comply with quality standard specification SABS 146/1979, or the equivalent CE or ISO standard.</p>

<i>Safety item No.</i>	<i>Description of safety appliances and equipment</i>	<i>Category of vessel</i>					<i>Additional remarks</i>
		<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E &amp; R</i>	
2	Authority approved buoyancy aid*	X†	X†	X†	<b>X†</b>	X†	† One buoyancy aid of appropriate size to be provided— for the skipper and each member of the crew of a commercial small vessel, where required in terms of regulation 7(2) in lieu of an approved lifejacket on category D vessels. One buoyancy aid of appropriate size to be provided for each person on board. * Buoyancy aid to be tested to the compulsory performance standard and comply with quality standard specification SABS 1417/1987, or the equivalent CE or ISO standard.
3	Lifebuoy	X	X	X	X	—	Required only on non-planing vessels.
4	Dan buoy	X	X	X	X	—	Required only on trawling vessels and on sailing vessels of 9 metres or more in overall length.
5	Unexpired approved projectile flare set	—	—	—	—	X	Minimum of 6 flares. Not required on category R vessels.

Safety item No.	Description of safety appliances and equipment	Category of vessel					Additional remarks
		A	B	C	D	E & R	
6	Unexpired approved hand-held red distress flares	X 4	X 4	X2	X2	—	

7	Unexpired approved red rocket parachute flares	X 4	X 4	X 2	X 2	—	
8	Unexpired approved floating orange smoke marker	X	X	X	X	—	
9	Unexpired approved hand-held smoke marker	—	—	—	—	X	Not required on category R vessels.
10	Waterproof torch including full set of spare batteries and a spare bulb	X	X	X	X	X	Spare bulb and batteries to be kept in a watertight container. Required only on vessels operating at night.
11	Hand-held spotlight with own 12 volt battery	X	X	X	X	X	Required only on dive boats operating at night.



1 2	Sound signalling device (other than a lifejacket whistle)	X	X	X	X	—	Fundamental frequency range 250 Hz – 700 Hz. Range of audibility not less than 1 kilometre over water in still conditions. Required only on vessels operating to the west of Port Alfred.
1 3	Ships bell or sound signalling device capable of making the signal "R"	X	X	X	X	X	Not required on category R vessels. Required only on vessels of 20 metres or more in overall length.
1 4	Code Flags "N" and "C"	X	—	—	—	—	
1 5	Code Flag "A" (rigid)	X	X	X	X	X	Required only on dive boats.
1 6	2 Black balls or shapes of at least 400 millimetres in diameter	X	X	X	X	X	Not required on category R vessels Not required on vessels of less than 12 metres in overall length.

17	Radar reflector of at least 400 millimetres in diameter or patent type of equivalent echoing capability	X	X	X	X	—	Required to be fitted permanently on power-driven vessels of 9 metres or more in overall length operating to the west of Port Alfred.
18	Marine VHF or 29 MHz radio	X	X	X	X	—	As appropriate to the area of operation: Provided that a VHF radio shall be carried on passenger vessels regardless of the area of operation. A VHF radio shall, as a minimum, be capable of operating on channel 16 and on one other working channel. A 29 MHz radio shall be capable of operating on local marine channels A, B and C. Appropriate alternative arrangements shall be made for category R passenger vessels.
19	MF/HF SSB radio	X*	—	—	—	—	* Except sailing pleasure vessels.

20	Approved emergency position-indicating radio beacon (EPIRB)* capable of transmitting distress alerts through the COSPAS-SARSAT satellite service operating in the 406 MHz band	X†	—	—	—	—	†EPIRB to be— installed in an easily accessible position; ready to be manually released and capable of being carried by one person into a survival craft; capable of floating free if the vessel sinks; capable of being activated manually; and automatically activated when afloat.
21	Depth-sounding device or hand lead line	X	X	X	X	X	Required only on dive boats.
22	Suitable steering magnetic compass	X	X	X	X	—	
23	Suitable navigation charts for the voyage or area of operation	X	X	—	—	—	Up-to-date charts, corrected in accordance with the South African Notices to Mariners, or renewed every six years.
24	Suitable fire extinguisher	X	X	X	X	X	One per engine and, in decked vessels of 9 metres or more in overall length, one in each of the following compartments where formed by complete transverse bulkheads: sleeping accommodation, galley and wheelhouse.

25	Power-driven or hand-operated fire-pump with hose.	—	—	—	X	X	Required only on passenger vessels of 9 metres or more in overall length. The hose shall be capable of reaching all parts of the vessel and of delivering a jet of water of at least 3 metres in length, through an adjustable jet or spray nozzle of no less than 5 millimetres in diameter.
26	2 oars or paddles	—	—	—	X	X	Required only on a power driven vessel fitted with a single outboard petrol engine.
27	Grab-line fitted to outside of gunwale	X	X	X	X	X	Required only on dive boats. Not required on vessels equipped with a boarding ladder extending into the water.
28	Capsize rope for use when vessel is inverted in water	X	X	X	X	X	Required only on, inflatable vessels and on ski-boats of less than 9 metres in overall length.
29	Full set of sails, including suitable storm sails where appropriate	X	X	X	X	X	Required only on sailing vessels.
30	Suitable means of cutting standing rigging	X	X	X	X	—	Required only on sailing vessels.
31	Suitable sea anchor fitted with hawser and tripping line (rigged and ready for use)	X	X	X	X	X	Required only on surf-launched vessels of less than 9 metres in overall length.

32	Proper patent anchor and chain with suitable length of rope of suitable strength for the area of operation	X	X	X	X	X	<p><i>Length of chain</i> Vessels of 6 metres or more in overall length—at least 5 metres. Vessels less than 6 metres in overall length—at least 3 metres.</p> <p><i>Length of rope</i> At least 50 metres for category E vessels, and at least 100 metres for vessels of the other categories.</p>
33	Watertight capsized bottle attached to vessel with rope readily accessible in event of vessel capsizing	X	X	X	X	X	To contain flares and other survival and emergency equipment. Not required on category R.
34	Space blankets	X2	X2	X2	X2	—	
35	One litre of drinking water per person	X	X	X	X	—	
36	First-aid kit	X	X	X	X*	X*	<p>Suitable for the vessel's size, complement and intended operation, to the satisfaction of the surveyor or safety officer. First-aid kit to include elementary first-aid manual, such as the publication entitled <i>First on the Scene</i>, published by St Johns Ambulance.</p> <p>* Only power driven vessels with engine power exceeding 15 horsepower.</p>

37	Suitable air bellows	X	X	X	X	X	Required only on inflatable vessels.
38	Approved self-inflating liferaft capable of carrying all persons on board and stowed on deck or in a readily accessible position	X	X*	X*	X*	X*	* Not required on vessels, other than passenger vessels, provided the vessel complies with the built-in buoyancy in accordance with Annexure 1, paragraph 1. Not required on passenger vessels operating solely within the confines of the breakwaters of a port. Not required on category R vessels.
39	Spares	X	X	X	X	X	Adequate for the purpose of carrying out emergency repairs to machinery and essential equipment on board.
40	Tools	X	X	X	X	X	Adequate for the purpose of carrying out emergency repairs to machinery and essential equipment on board.
41	2 metres by 2 metres canvas as provided for in regulation 9	X	X	X	X	—	Only applies to vessels which are not painted in visible colours.

**EXPLANATORY NOTE**  
*(This note is not part of the regulations)*

These regulations introduce safety requirements for small vessels which are required to be licensed in terms of the Act. They also introduce requirements for Skippers to be certificated. In addition, for Sport and recreation vessels, there is the possibility of appointing Authorized Agencies to undertake various aspects of the inspection and control. Therefore, these regulations are for all small vessels both commercial and sport and recreation.

Dated the 2nd October, 2012.

AMOS KIMUNYA,  
*Minister for Transport.*