SUBSIDIARY LEGISLATION 499.23

COMMERCIAL VESSELS REGULATIONS

1st October, 2002

LEGAL NOTICE 284 of 2002, as amended by Legal Notice 425 of 2007; Act XV of 2009; and Legal Notice 426 of 2012.

Preliminary

1. (1) The title of these regulations is the Commercial Vessels Regulations. Citation.

(2) The Code of Practice for the Safety of Commercial Vessels shall form part of these regulations and be enforceable as part of the Laws of Malta.*

2. These regulations and the Code of Practice shall regulate the owners of commercial vessels certified to ply for hire or reward within the ports, internal waters and territorial waters of Malta, and the safety and manning requirements of such vessels. Scope.

3. In these regulations, unless the context otherwise requires: Interpretation. *Amended by: XV. 2009.49.*

"Authority" means the Authority for Transport in Malta as established by the Authority for Transport in Malta Act; Cap. 499.

"bunker barge" shall have the same meaning as that assigned to it in the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations; S.L.499.12

"bunkers" shall have the same meaning as that assigned to it in the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations; S.L.499.12

"certificate of competency" means a qualification issued under these regulations limited to service on commercial vessels operating in Maltese ports and internal or territorial waters;

"certificate of insurance" means a certificate of insurance issued by an insurer in terms of the provisions contained in the Code of Practice;

"certifying authority" means the Authority for Transport in Malta or any other person authorised by it;

"Code of Practice" means the Code of Practice for the Safety of Commercial Vessels and any subsequent amendments thereto issued and published by the Authority, governing the construction, machinery, equipment, stability, operation, manning, certification and maintenance of commercial vessels;

"commercial vessel" means a vessel engaged in or intended for use in any trade, business or calling or plying for hire or reward within the ports, internal waters and territorial waters of Malta; for the purposes of these regulations and of the Code of Practice unless

*Paragraphs 30.2.4 and 30.3.1 of the Code of Practice for the Safety of Commercial Vessels are in force as from 1st May, 2004 - vide Legal Notice 327 of 2004.

otherwise specified the term "vessel" shall have the same meaning as commercial vessel;

"commercial vessel boatman" means a person holding a valid certificate issued by the Authority in terms of the provisions contained in the Code of Practice;

"commercial vessel boatmaster" means a person holding a valid certificate issued by the Authority in terms of the provisions contained in the Code of Practice;

"commercial vessel engineer" means a person holding a valid certificate issued by the Authority in terms of the provisions contained in the Code of Practice;

"commercial vessel engine driver" means a person holding a valid certificate issued by the Authority in terms of the provisions contained in the Code of Practice;

"commercial vessel general purpose hand" means a person holding a valid certificate issued by the Authority in terms of the provisions contained in the Code of Practice;

"commercial vessel master" means a person holding a valid certificate issued by the Authority in terms of the provisions contained in the Code of Practice;

"commercial vessel mate" means a person holding a valid certificate issued by the Authority in terms of the provisions contained in the Code of Practice;

"commercial vessel certificate" means a certificate valid for a specified period, issued by the Authority in terms of these regulations, on the basis of a survey conducted by a surveyor or organisation recognised by the Authority, certifying that at the time of survey, the vessel was found to comply with all the relevant requirements of the Code of Practice;

"commercial vessel assignment of freeboard certificate" means a certificate issued by the Authority under the relevant provisions as prescribed in the Code of Practice;

"commercial vessel minimum safe manning document" means a certificate issued by the Authority under the relevant provisions as prescribed in the Code of Practice;

"commercial vessel oil pollution prevention certificate" means a certificate issued by the Authority under the relevant provisions as prescribed in the Code of Practice;

"commercial passenger vessel safety certificate" means a certificate issued by the Authority under the relevant provisions as prescribed in the Code of Practice;

"commercial cargo vessel safety construction certificate" means a certificate issued by the Authority under the relevant provisions as prescribed in the Code of Practice;

"commercial cargo vessel safety equipment certificate" means a certificate issued by the Authority under the relevant provisions as prescribed in the Code of Practice;

"convention vessel" means a vessel which due to its tonnage, usage or dimensions would, if trading in international waters or on international voyages, fall within the requirements of any, or any part, of the IMO Conventions to which Malta has acceded to;

"crew" means persons employed or engaged in any capacity on board a vessel, other than the Master;

"dangerous goods" shall have the same meaning as that assigned to it in the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations; S.L.499.12

"effective" means in relation to a fitting or piece of equipment or material, that all reasonable and practicable measures have been taken to ensure that it is suitable for the purpose for which it is intended to be used;

"engine driver" means a person holding an "A" (Steam) Sea First or Second Grade, or "B" (Motor) Sea First or Second Grade Special Licence issued under the herein repealed Mechanically Driven Boats (Passengers and Cargo) Regulations; S.L.10.23

"existing commercial vessel" means a vessel which is not a new vessel;

"freeboard" means the distance measured vertically downwards amidships from the lowest point of the upper edge of the freeboard deck to the waterline in still water, or from the upper edge of the deck line to the upper edge of the related load line, as appropriate;

"gross tonnage" means the gross tonnage registered in the certificate of registry or the tonnage recorded in the Tonnage Certificate of a vessel applying for a certificate under these regulations;

"IMO" means the International Maritime Organisation;

"insurer" means an assurance company established in terms of the Laws of Malta;

"length" unless expressly provided otherwise, means 96% of the total length on a water line at 85% of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with a rake keel the waterline on which this length is measured shall be parallel to the designed waterline;

"length overall" means the overall length from the foreside of the foremost fixed permanent structure to the aftside of the aftermost permanent structure of the vessel;

"licence" means a licence issued by the Authority to the owner in terms of these regulations;

"Master" means the Master or person other than a pilot or watchman, having command, charge or management of a vessel for the time being;

"Master with special licence" means a person licensed to serve as Master of a boat trading within the internal and territorial waters of Malta, under the herein repealed Mechanically Driven Boats S.L.10.23.

(Passengers and Cargo) Regulations;

"Minister" means the Minister responsible for maritime transport;

"new commercial vessel" means a vessel to which these regulations apply, the keel of which was laid or the construction or lay-up was started on or after the date when these regulations came into force, or an existing vessel not already being a vessel to which these regulations apply, but obtained and proposed to be newly used as such a vessel on or after that date;

"non-convention vessel" means a vessel other than a convention vessel;

"owner" means the registered owner or the owner or the managing operator of the registered owner or owner or disponent owner, or Master of the vessel;

"passenger" means a person on board a commercial vessel other than:

(*a*) the Master and the members of the crew or other person employed or engaged in any capacity on board a vessel on the business thereof;

(*b*) a person on board the vessel either in pursuance of the obligation laid upon the Master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the Master nor the owner, if any, could have prevented; and

(*c*) a child under one year of age;

"pilot boat" means a vessel, of whatever size, employed or intended to be employed in pilotage services;

"pleasure craft" means any ship which is used exclusively for:

(*a*) pleasure purposes other than for the carriage of passengers on sightseeing tours between and within the ports, internal waters and territorial waters; or

(*b*) the use of which a passenger, if any, is not charged a separate and distinct fare;

"policy" means a policy of insurance which is issued by an insurer in respect of the risks described in regulation 19(3)(*k*);

S.L.499.12

"polluting goods" shall have the same meaning as that assigned to it in the Dangerous Cargo Ships, Marine Terminals and Facilities and Bunkering Regulations;

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"ports" shall have the same meaning as that assigned to it in the Ports and Shipping Act and any harbour, bay, cove, creek, seashore or any navigable waters;

"qualifying service" means the recorded time spent in service aboard a vessel relevant to the issue of a certificate or other qualification, calculated and documented as approved by the Authority;

"register" means a register of licences maintained at the Authority for Transport in Malta pursuant to these regulations;

"safety of navigation" means all equipment, appliances, machinery, manning levels, navigational instruments and the due professional care and attention of the Master and all crew on board, which appertains to the safe conduct of operations, both for the vessel involved and other vessels, people or property which may become involved in such operations;

"ship" shall have the same meaning as that assigned to it in the Ports and Shipping Act; Cap. 352.

"surveyor" means a person appointed as a surveyor of ships in terms of the Merchant Shipping Act, or a person so appointed by a classification society approved by the Authority, or a person appointed by the Authority for the purpose of examining and surveying vessels in terms of these regulations; Cap. 234.

"territorial and internal waters" shall have the same meaning as that assigned to them in the Ports and Shipping Act; Cap. 352.

"watertight" means capable of preventing the passage of water in either direction;

"weather deck" means the main deck which is exposed to the elements.

Application.

4. These regulations and the Code of Practice shall apply to all vessels engaged in any trade, business or calling within the territorial or internal waters or within any port of Malta, provided that they shall not apply to:

(*a*) a pleasure craft;

(*b*) a fishing boat;

(*c*) ship owned or operated for non-commercial service;

(*d*) ships of war or official vessels unless used on a commercial service.

Code of Practice.

5. (1) The purpose of the Code of Practice shall be to regulate all aspects, relating to the safety of commercial vessels including, but not limited to construction, machinery, equipment, stability, operation, manning, certification and maintenance.

(2) The Authority shall have the responsibility of publishing and monitoring the application of the Code of Practice which shall be read and construed in conjunction with these regulations and which will be published on the date of bringing into force of these regulations.

(3) The Authority shall from time to time amend the Code of Practice through the issuing of relative notices.

(4) In case of conflict between these regulations and the Code of Practice and the requirements prescribed in a recognised administration's or classification society rules, the former shall prevail.

Use of commercial vessel.

6. No person shall use a vessel nor shall its owner cause or permit the use of such vessel to ply for hire or reward within the ports, internal or territorial waters of Malta, unless it is certified in terms of the Code of Practice.

When regulations apply.
Amended by: XV. 2009.49.

7. These regulations shall apply to a commercial vessel when it is water-borne, moored or anchored:

Provided that if such commercial vessel is berthed, moored or anchored, but is not regularly used in accordance with the uses for which it is certified, its owner shall comply with any requirements in respect of such vessel as the Authority may prescribe from time to time.

No person to act as operator of vessel without consent of owner.

8. No person authorised by the owner of a vessel to act as operator of such vessel shall, except in case of necessity, allow any other person to act as operator of such vessel, without the consent of the owner thereof, and no person shall, except in case of necessity, act as operator of a vessel without the consent of the owner of such vessel.

Commercial vessel and landing place.
Amended by: XV. 2009.49.

9. (1) A commercial vessel shall only ply between those landing places, areas and by routes, as may be prescribed from time to time by the Authority.

(2) A commercial vessel may not be operated outside the areas assigned to it or be used for a purpose other than that prescribed in the commercial vessel certificate without the approval of the Authority.

(3) A commercial vessel may only be exposed for hire or moored at places appointed by the Authority.

Commercial vessel certificate to be displayed on board.
Amended by: XV. 2009.49.

10. (1) The owner of a commercial vessel shall prominently display the commercial vessel certificate on board the vessel and where this is not possible, shall produce the certificate to the Authority on demand.

(2) In the case of a commercial vessel carrying passengers, the owner shall also prominently display or have clearly and permanently marked in a suitable position, as appropriate, the maximum number of passengers which such vessel is certified to carry.

(3) All other certificates issued in terms of the Code of Practice shall be kept on board the vessel.

Commercial Vessel Operator's Licence

Licence.
Amended by: XV. 2009.49.

11. (1) No person shall act as a commercial vessel operator unless he is in possession of a valid licence issued by the Authority in accordance with the provisions of these regulations.

(2) The Authority may, in its discretion and under such terms and conditions as it may deem appropriate, grant such a licence to any person for the provision of services contemplated in these regulations.

(3) The Authority may also make any arrangements or enter into any agreement, as it may deem appropriate or expedient, with any person for any of the purposes relating to its functions in terms of the Authority for Transport in Malta Act.

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12. A person shall not be eligible for a licence, unless he is an owner of a vessel and is -

Eligibility for an operating licence. *Amended by: XV. 2009.49.*

(*a*) in the opinion of the Authority of good character, has good knowledge of the relevant regulations relating to transport and considered competent to provide such service within the internal and territorial waters of Malta; or

(*b*) a body corporate established under and subject to the Laws of Malta, or a foreign corporate body enjoying legal personality in terms of the law under which it has been established or constituted, and satisfying the Authority that it can and will ensure due observance of all the laws and regulations relating to transport within the internal and territorial waters of Malta.

13. A licence referred to in this Part of the regulations may be granted after an application on the appropriate form is presented to the Authority, accompanied by all the documentation and certification prescribed therein.

Granting of a licence. *Amended by: XV. 2009.49.*

14. The Authority may at the time of issue, or at any other time, attach to a licence any condition or conditions which it may deem fit.

Conditions. *Amended by: XV. 2009.49.*

15. At any time the Authority may, without assigning any reason thereof, suspend, cancel, revoke or refuse renewal of any licence previously granted or renewed by it under these regulations.

Abrogation of a licence. *Amended by: XV. 2009.49.*

16. Any person or body corporate whose licence under these regulations has been suspended, cancelled or revoked by the Authority under these regulations, shall within forty-eight hours of such suspension, cancellation or revocation, deliver his licence to the Authority.

Delivery of licence. *Amended by: XV. 2009.49.*

17. The holder of any licence under these regulations shall comply with any instructions, orders or directives given by the Authority from time to time.

Compliance with instructions by the Authority. *Amended by: XV. 2009.49.*

18. Every person or body corporate licensed under these regulations shall carry or display such licence when acting in the capacity for which he is licensed and produce same to an officer authorised by the Authority on demand.

Display of licence. *Amended by: XV. 2009.49.*

19. (1) An owner shall not be eligible to be licensed under these regulations unless he satisfies all the requirements laid down in these regulations.

Application for a licence. *Amended by: XV. 2009.49; L.N. 426 of 2012.*

(2) No licence shall be issued unless the vessel which he owns is duly registered in accordance with the Authority for Transport in Malta Act.

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(3) An application for a licence shall be submitted to the Authority together with such documentary or other evidence acceptable to the Authority, including:

(*a*) legally valid identification document or passport of applicant or applicants;

(*b*) the certificate of incorporation;

(*c*) copy of the Memorandum and Articles;

(*d*) registration and ownership of the vessel;

(*e*) the hull type, dimensions, tonnage, specifications and details of the engine as certified by an administration or classification society recognised by the Authority, or a surveyor;

(*f*) the purpose for which the vessel is to be used, the mooring berth when it shall be off hire or laid-up and the places requested to be moored, ply or hired out from;

(*g*) a commercial vessel certificate;

(*h*) the relevant certificates for the type as required by the Code of Practice;

(*i*) if the vessel is in class with a classification society or built to standards specified by an administration recognised by the Authority:

(i) a certificate of class or administration approval;

(ii) such other documents as relate to the fitness of the vessel as required by the Code of Practice;

(*j*) where applicable, evidence of compliance with the IMO Conventions and Recommendations to which Malta has acceded to and any other regulations made under the Merchant Shipping Act, the Authority for Transport in Malta Act, or any other Act under the Laws of Malta;

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(*k*) proof of a valid insurance policy, under which the owner or Master of a vessel is adequately insured for an amount which he may become liable to pay in respect of:

(i) any liability which may be incurred in respect of the death of or bodily injury to any person caused by or arising out of the use of the vessel;

(ii) any liability which may be incurred in respect of loss or damage to property belonging to any third party arising out of the use of the vessel;

(iii) salvage and wreck removal cost;

(iv) pollution damage and costs of preventing or reducing damage resulting from the discharge or escape of dangerous or polluting goods;

(*l*) in addition to the requirements of paragraph (*k*) the Authority may also request a bank guarantee for such an amount and under such conditions as he may establish;

(*m*) if applicable, the relevant valid certification held by the Master, officers or crew issued under these regulations or by an administration recognised by the Authority; and

(*n*) such other information and particulars of the proposed vessel and crew as may be required by the Authority.

Inspection of vessel. *Amended by: XV. 2009.49.*

20. The Authority may require the owner, who has applied for a licence or prior renewal of a licence, to bring the vessel to a place at an appointed date and time for an inspection by a surveyor or any other person appointed by the Authority.

Acceptance or decline of licence. *Amended by: XV. 2009.49.*

21. The Authority may either accept or decline to issue a licence.

Dispensation.

22. An owner of a vessel, which prior to the date of the coming into force of these regulations was in possession of a valid licence and has conducted within the ports, internal and territorial waters of Malta the same commercial activity for which a licence is required under these regulations, shall, on expiration of the former licence or within one year from the date of the coming into force of these regulations, comply with all the provisions contained within these regulations.

Validity of licence.

23. Without prejudice to regulations 14 and 15, the licence shall be valid for a period of not more than twelve and not less than six months from the date of issue.

Licence and register. *Amended by: XV. 2009.49.*

24. (1) A licence shall contain such particulars as the Authority may consider necessary for the purposes of these regulations.

(2) The Authority shall keep a register of licences.

Licence renewal. *Amended by: XV. 2009.49.*

25. (1) Every licensee shall file an application for the renewal of a licence at least one calendar month before the expiry date.

(2) If a licence is not to be renewed, the owner of the vessel shall immediately inform the Authority in writing as to the reason for not requesting renewal and what his intentions are in respect of the vessel.

(3) When a licence is not renewed, the Authority may require the owner to remove or dispose of his vessel within such time and to such a place as it may require and if the owner fails to comply, the Authority may cause removal or disposal of such vessel at the risk and expense of the owner.

Licence not transferable.

26. A licence issued under these regulations shall not be transferable.

Change of ownership. *Amended by: XV. 2009.49.*

27. (1) Prior to any change of ownership of a vessel, the buyer and the licensee shall, within twenty-one days prior to such change of ownership, submit to the Authority the licence together with an application for a new licence by the buyer.

(2) A new licence shall be issued to the new owner following the submission of such documentary or other evidence of said transfer or change of ownership as the Authority may require.

(3) Upon the issue of a new licence by the Authority, the licence of the previous owner is thereby cancelled or modified by the Authority.

(4) Upon the death or dissolution of the owner, the licence issued in respect thereof shall become null and void and has to be surrendered to the Authority within twenty-one days.

Revocation, suspension or non-renewal of a licence. *Amended by: XV. 2009.49.*

28. Without prejudice to regulation 15, the Authority may revoke, suspend or refuse renewal of a licence if the licensee:

(*a*) has made a false declaration or representation;

(*b*) is guilty of any fraudulent practice or crime in the use of the commercial vessel or during the execution of his trade;

(*c*) has contravened or failed to comply with any of the requirements of these regulations, or any other relevant legislative provisions, or any directions of the Authority, or any of the terms and conditions of the licence;

(*d*) has not, for a period of one year, carried out the operation for which he is licensed.

Registered owner and Master.

29. The persons whose name appear in the register as -

(*a*) the owner and Master;

(*b*) the owner; or

(*c*) the Master of a commercial vessel,

shall, for all the purposes of these regulations, be deemed to be the owner and Master or the owner or the Master thereof respectively.

Change of particulars notification. *Amended by: XV. 2009.49.*

30. (1) The owner of a commercial vessel shall inform the Authority of any requested changes, or report any incident, which may alter any of the particulars prescribed in these regulations or the Code of Practice.

(2) Upon receipt of such a request or report, the Authority may require the inspection of the vessel, or such other measures to be taken as may be necessary to maintain the licence and the commercial vessel certificate valid.

Endorsement of licence and register notation.

31. Whenever an approved change occurs in any of the particulars appearing in the register, such change shall be entered in the register and where applicable, endorsed upon the licence or certification.

Replacement. *Amended by: XV. 2009.49.*

32. (1) In the event of any licence or certificate being lost, destroyed, illegible or otherwise not recoverable, the licensee shall forthwith apply to the Authority for a replacement.

(2) Where the Authority is satisfied that a licence or a certificate has been lost or damaged it may issue a duplicate licence or certificate, as the case may be, on payment of a fee.

Return of licence to the Authority. *Amended by: XV. 2009.49.*

33. If a licence or certificate has expired, or has been cancelled, revoked or suspended by the Authority, the owner or holder of the licence or certificate, as the case may be, shall surrender such licence or certificate to the Authority forthwith. It shall be lawful for the Authority to order that the vessel is removed or disposed of, and if the owner fails to comply, the Authority may

cause removal or disposal of such vessel at the risk and expense of the owner.

Operation of Commercial Vessels

Establishment of routes.

34. The Authority may from time to time, for the better organisation of the maritime transport service, do all or any of the following:

(*a*) establish routes for the conveyance of passengers or cargo from one part of Malta to another, or from one island to another;

(*b*) group together two or more routes or all the routes;

(*c*) determine which vessel shall operate on any such route;

(*d*) allot the service on any such route to any licensee;

(*e*) vary, cancel or revoke any such route or any grouping of routes or any allotment of service thereon, and may do so upon such conditions as the Authority may direct;

(*f*) in making any allotment of service under this regulation the Authority may make such allotment to the exclusion of any other licensee;

(*g*) determine a schedule of service and the fares or charges for such routes;

(*h*) establish conditions on the licensee for operating a route;

(*i*) amend or cancel allotted routes previously established; and

(*j*) investigate complaints by users of commercial vessels.

Withdrawal subject to re-issue of licences.

35. Where the service on any route is allotted to an owner in terms of regulation 34, all licences held by the owners of any vessel to ply on that route shall be withdrawn, subject to their being re-issued at the discretion of the Authority, under the conditions laid down in the last preceding regulation.

Directions in cases of emergency. *Amended by: XV. 2009.49.*

36. It shall be lawful for the Authority notwithstanding any agreement made in terms of regulation 34, in case of any emergency, or of an unusual concourse of people or cargo, to order that other commercial vessels, not ordinarily operated or certified for that route, be run for such time and under such conditions as the Authority may direct and no claim shall be entertained for damages suffered in consequence of such order being contrary to the conditions contained in any agreement between the Authority and any other owner.

Owner not to demand fares higher than the established tariff.

37. (1) When a tariff is established in terms of regulation 34, it shall not be lawful for the owner or operator of any such vessel to demand a fare higher than the established tariff, or, if a lesser sum is agreed upon, more than such sum.

(2) The owner or operator of a vessel let out on hire shall not permit any person or thing to be carried in, on or about such vessel,

whilst on hire, without the consent of the hirer.

Requisition by the Authority of a commercial vessel in case of stoppage or suspension of service. *Amended by: L.N. 425 of 2007.*

38. (1) In the event of a stoppage or of a suspension for any cause whatsoever of any service on any established route or in any other part of Malta usually served by commercial vessels, which may affect, or be likely to affect the reasonable requirements of the inhabitants of Malta for transport, it shall be lawful for the Authority to seize and take possession of and use, any commercial vessel and for such purpose to authorise any member of the Authority or other public officer to enter any premises.

(2) The owner of any such commercial vessel, shall receive such compensation in respect of the use thereof as the Authority may, previously or subsequently, fix.

(3) From the decision of the Authority an appeal shall lie to the Court of Appeal. Such appeal shall be entered by an application within four working days from the date on which the decision was given. The application shall be served to the Authority which shall file an answer thereto within four working days. The pleadings on any such appeal shall be deemed to be closed with the answer of the Authority, or at the expiration of the time for such answer.

(4) Any person who shall obstruct or hinder any public officer from taking possession of any commercial vessel, or shall in any way interfere with or incite others to interfere with the use of any vessel requisitioned under the provisions of this section, shall be liable, on conviction, to a fine (*multa*) of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (1,164.69) and not more than eleven thousand and six hundred and forty-six euro and eighty-seven cents (11,646.87) or to imprisonment for a term not exceeding three months.

(5) If any person shall by reason of any requisition in terms of this regulation be prevented from fulfilling any contract, such person shall not be deemed to have thereby committed a breach of contract, but such contract shall be suspended by such requisition so far as its fulfilment is thereby rendered impossible.

Safety and Pollution Prevention

Authority's authority not abrogated. *Amended by: XV. 2009.49.*

39. Nothing in these regulations shall abrogate the authority of the Authority in respect of any safety and pollution prevention and control requirement for any commercial vessel within any port and the territorial and internal waters of Malta.

Authority's prerogative to have emergency use of equipment and resources. *Amended by: XV. 2009.49.*

40. The Authority reserves the right to be given as required for the purposes of combating any emergency or pollution incident, immediate access to, use and control of any or all such safety and pollution equipment or resources as are required under these regulations to be provided on any vessel. Such equipment shall be provided free of charge, but used at the risk of the Authority and reasonable costs incurred by the provider in respect of any consumables used, or equipment damaged, will subsequently be reimbursed.

Obstruction in ports and on wharves.
Amended by: XV. 2009.49.

41. (1) Save as provided for in any other law, it shall not be lawful to leave in any port or on any wharf or on any landing place anything which might impede the free navigation or obstruct the passage, embarkation or disembarkation of persons, merchandise or other things, or leave therein any unserviceable vessel, abandoned or sunk.

(2) It shall be lawful for the Authority to give orders to Masters of vessels with a view to avoiding accidents or obstruction to free navigation, or other inconveniences.

Throwing of noxious things in ports.

42. (1) No owner, Master or crew member shall leave in any port or on any wharf or any landing place anything which may cause injury to public health, or a nuisance, or throw into the waters of any port or into any part of the internal waters or of the territorial waters of Malta any ballast, solid material rubbish or dirty liquid which may cause a nuisance.

(2) If any owner or Master is found guilty of an offence under this regulation, he shall be liable for all damages caused and all costs occasioned by the facts constituting the offence, and the court shall, at the demand of the prosecution made at any time of the proceedings prior to final judgement, order in the same judgement the offender to make good and pay to the Authority all such damages and costs as shall be liquidated by the same court, which order shall be executable in the same manner as if it had been given in a civil action duly instituted by the Authority against the offender:

Provided that nothing in this regulation shall affect the right of third parties to institute any civil action against the offender for any damage suffered by them.

Unsafe operation.

43. (1) No owner or Master of a commercial vessel shall cause or permit such vessel to be operated in a way which could endanger the life or property of others or present a hazard to the marine environment.

(2) It shall not be lawful for any person to operate a vessel at a high speed or while he is in a state of intoxication, or by improper operation, or other wilful misconduct, to damage the property of any other person.

(3) Where any damage has been caused to the property of others as aforesaid, it shall be lawful for the court by which the owner is convicted, to direct that the owner of the vessel shall pay such a sum, as appears to the court a reasonable compensation for such damage.

Prevention of collision and good seamanship.

44. (1) The Master of a vessel shall, if he conveniently can, give way to any other vessel and avoid obstructing the operator of any other vessel.

(2) Masters of commercial vessels shall comply with the Merchant Shipping (Prevention of Collisions) Regulations, and the Merchant Shipping (Signals of Distress) Rules, made in terms of the Merchant Shipping Act, which for the purpose of these regulations shall take effect as if enacted herein, and shall at all

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times take such precautions as may be required by the ordinary practices of seamen, or by special circumstances of the case.

Assistance to vessels in distress.

45. No vessel shall, in case of distress, refuse to assist any vessel requiring assistance.

Number of persons or amount of cargo carried. *Amended by: XV. 2009.49.*

46. A commercial vessel shall at no time carry on board more persons or passengers or cargo than that stated on the relevant certificate issued by the Authority in terms of these regulations and the Code of Practice.

Carriage of passengers. *Amended by: XV. 2009.49.*

47. Whilst carrying passengers, a commercial passenger vessel shall not be used for any other purpose provided that:

(*a*) cargo may be carried on board a commercial passenger vessel if so certified and so authorised by the Authority;

(*b*) it shall always remain the responsibility of the Master to ensure that such cargo is not in any way harmful to passengers by its nature, quantity or stowage.

Equipment and appliances required to be provided on board commercial vessel. *Amended by: XV. 2009.49.*

48. Every licensee shall ensure that the vessel has on board:

(*a*) the relevant effective life-saving and fire-fighting appliances and other effective equipment prescribed in the Code of Practice;

(*b*) any other substitute provision or type, material, appliance, apparatus or equipment which the Authority may accept as being at least as effective an alternative to those required in these regulations.

Manning

Manning of commercial vessel.

49. The minimum manning on board a commercial vessel for the safety of navigation shall at all times be in compliance with the requirements of the Code of Practice.

Proof of certificate of competency. *Amended by: XV. 2009.49.*

50. Any Master or crew member shall produce his certificate of competency to the Authority on demand.

Qualifications. *Amended by: XV. 2009.49.*

51. No person shall be permitted to serve as a Master, or a crew member on a vessel unless he holds a certificate of competency issued by the Authority, in accordance with the relevant requirements prescribed in the Code of Practice or such other qualifications as may be recognised by the Authority:

Provided that a person who prior to the coming into force of these regulations was in possession of a special licence to perform the duties of master or an engine driver of a vessel in terms of the Mechanically Driven Boats (Passengers and Cargo) Regulations shall, within one year from the date of coming into force of these regulations, obtain a commercial vessel master certificate or commercial vessel engine driver certificate, respectively:

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Provided also that the holder of any other qualification shall, within one year from the date of the coming into force of these regulations, obtain the appropriate qualifications under the requirements of the Code of Practice:

Provided further that if within the five years immediately prior to the application for the relevant certificate, such a person has not served within the same capacity on a similar vessel for at least twelve months total service, the Authority may require him to undergo a further practical, written or oral test prior to being permitted to be employed on a commercial vessel.

Offences by Master or crew member. *Amended by: L.N. 425 of 2007; XV. 2009.49.*

52. (1) If any Master or crew member in the exercise of his duties has contravened any of the provisions of these regulations or has disobeyed any order or directive given by the Authority, the Authority shall hand over to the offender a notice containing a general description of the offence and may:

(*a*) suspend or revoke the certificate of such master or crew member;

(*b*) impose a penalty of not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) in respect of each offence and which has to be paid to the Authority within such time indicated in the notice, which in no case shall be less than seven days, or provided that where any penalty imposed under this regulation is not paid within the aforementioned period, ordinary proceedings in respect of the offence may be taken in accordance with the provisions of these regulations.

(2) The suspension or revocation of a certificate or the payment of any penalty ordered under this regulation shall for all intents and purposes of law, be deemed to be an admission of the commission of the offence and no further action shall be taken in respect of such offence.

Revalidation of qualification. *Amended by: XV. 2009.49.*

53. (1) A certificate of competency issued under these regulations shall be valid for a period of five years, unless cancelled or suspended in terms of regulation 52 or any other legislative provisions.

(2) Any certificate of competency issued to a Master or crew member shall remain valid only if the holder has served in the capacity allowed by such certificate for at least a total of twelve months within every consecutive five year term commencing from the date of issue of such certificate; if this requirement is not met, the Authority may require the holder to undergo a practical, written or oral test prior being permitted to be employed on a commercial vessel.

Miscellaneous Provisions

Alteration of commercial vessel. *Amended by: XV. 2009.49.*

54. (1) No alteration affecting the tonnage or description of the vessel is permitted without the prior written approval of the Authority.

(2) Before returning the commercial vessel to service after completion of such an approved alteration, the owner shall present the vessel for inspection at such place and time as appointed by the Authority.

(3) On such inspection as prescribed in subregulation (2), the Authority may either approve the continuing validity of the issued certificate or endorse lesser or greater conditions to the certificate or revoke the licence if the Authority deems that the vessel is no longer fit for its intended purpose.

Commercial vessel cleanliness.

55. Every commercial vessel shall at all times be maintained in a clean and sanitary condition by the owner or Master.

Incidents. *Amended by: XV. 2009.49.*

56. (1) The owner or Master of a vessel involved in an incident involving injury or loss of life to persons on board or elsewhere, collision with other vessel or property, causing damage to or loss of other vessel, or damage to the marine environment or other property, shall immediately provide a verbal report of such incident to the Authority and within twenty-four hours of the occurrence of such incident, furnish a written report to the Authority in such detail as it may require.

(2) In case of such an incident, the Authority may inspect the commercial vessel or may suspend or revoke its certification.

(3) Without prejudice to any other regulation herein:

(i) where an incident which has been reported or observed is deemed by the Authority to be a significant accident or dangerous occurrence, the Authority may appoint a person to carry out an inquiry into the circumstances and possible causation of same;

(ii) the commercial vessel owner shall assist the person or persons making such inquiry in all aspects relevant to the conducting of the inquiry;

(iii) upon conclusion of the inquiry, the person appointed shall submit a report on his findings to the Authority.

Inspections. *Amended by: XV. 2009.49.*

57. (1) The Authority shall appoint any person to examine, investigate or inspect a vessel or the licence or a certificate or any other relevant document.

(2) The Authority may at any time require the owner to present the vessel for an inspection.

(3) A person appointed by the Authority to carry out such functions as established by this regulation shall have the power to:

(*a*) board freely and without previous notice a vessel at any place and at any time of day or night;

(*b*) to request the assistance of a member of the Police force in the execution of his duties;

(*c*) to question any person connected with the execution of these regulations;

(*d*) to inspect any document the keeping of which is prescribed by these regulations;

(*e*) to order any owner, master or crew member to suspend the operation of a vessel.

(4) Whoever shall hinder or obstruct a person appointed by the Authority to inspect a vessel from allowing him to inspect such

vessel or refuses to comply with the directions which he may give shall be guilty of an offence.

58. The owner shall provide on demand any particulars and information as may be required by the Authority, including particulars of the person who was in charge of the vessel on any occasion.

Licensee to provide information. *Amended by: XV. 2009.49.*

59. The Authority may issue directives to owners and Masters of commercial vessels for the purpose of avoiding inconvenience, accidents or impediments to safe and free navigation, the safety of passengers, the prevention of pollution to the marine environment and the removal of vessel wastes by an approved contractor through approved disposal routes.

Issue of directives. *Amended by: XV. 2009.49.*

60. (1) If an owner or Master of any vessel fails to comply with any of the requirements of these regulations or directives given by the Authority or the terms and conditions of the licence, the Authority shall hand over to such person a notice containing a general description of the offence and may:

Authority's power to suspend licence or impose penalties. *Amended by: L.N. 425 of 2007; XV. 2009.49.*

(*a*) suspend or revoke the licence or a certificate of such vessel and may require the owner to remove such vessel within such a time and to such a place as he may require and if the owner fails to comply, the Authority may cause removal of such vessel at the risk and expense of the owner;

(*b*) impose a penalty of not more than two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37) in respect of each offence and which has to be paid to the Authority within such time indicated in the notice, which in no case shall be less than seven days, or provided that where any penalty imposed under this regulation is not paid within the aforementioned period, ordinary proceedings in respect of the offence may be taken in accordance with the provisions of these regulations.

(2) The suspension or revocation of the licence or certificate or the payment of any penalty ordered under this regulation shall for all intents and purposes of law, be deemed to be an admission of the commission of the offence, and no further action shall be taken in respect of such offence.

61. Notwithstanding anything contained in these regulations, the Authority may exempt or prescribe any other requirements upon any commercial vessel or owner, Master or crew member.

Authority's prerogative. *Amended by: XV. 2009.49.*

62. (1) Any person who fails to comply with any of the requirements prescribed in these regulations or any of the conditions subject to or upon which a licence or a certificate is issued under these regulations shall, for a first offence on conviction be liable to a fine (*multa*) not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (2,329.37), for each such offence, and in the case of a continuing offence or offences, to a further fine not exceeding one thousand and one hundred and sixty-four euro and sixty-nine cents

Offences. *Amended by: L.N. 425 of 2007.*

(1,164.69) for each offence for every day or part thereof.

(2) It shall also be lawful for the court, in the case of any contravention committed by the owner or Master of a vessel to order the sequestration of the vessel, for a time not exceeding three months, at the expense of the owner.

(3) In the case of a second or subsequent conviction for any contravention it shall be lawful for the court to cancel the licence or certificate, or to suspend the same for any time, in its discretion.

(4) Where any offence against the provisions of these regulations is committed by a body of persons or body corporate, every person who, at the time of the commission of the offence was a director, manager or other similar officer of such body of persons or body corporate, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Liability and responsibility of the Authority.

63. The liability and responsibility for the observance of these regulations and any other legislative provisions shall rest solely with the owner and Master of the vessel. The Authority shall not be held liable for any consequences arising from any acts of omission or commission in respect to any of the requirements of these regulations.

Proceedings before Court of Magistrates.

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64. Proceedings for an offence against these regulations shall be taken before Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

Transitory arrangements. *Amended by: XV. 2009.49.*

65. The Authority may establish transitory arrangements for the provision of arrangements in respect of technical matters relating to the requirements of these regulations.

Rights and powers.

66. Nothing contained in these regulations shall abrogate or prejudice any of the rights or powers conferred on the Authority.

Regulations not in derogation of any other legislative provisions.

67. The provisions contained in these regulations are in addition to and not in derogation of the provisions of any other regulations in force, or law of Malta.

Fees.

68. The fees payable in respect of commercial vessel operator's licences and for certification and inspections issued under these regulations shall be as established, from time to time, by the Authority.