



## Sources of Police Enforcement Authorities Under the *Canada Shipping Act, 2001*

### Part 5 Vessel Operation Restriction Regulations (VORR)

- The powers and duties of enforcement officers are specified in section 17 of the VORR
- Classes of persons authorized to enforce the VORR are set out in section 16.

**16. For the purpose of ensuring compliance with sections 2 to 15\***, the persons or classes of persons set out in the table to this section are appointed or specified as enforcement officers.

- (1) a member of the Royal Canadian Mounted Police;
- (2) a member of any harbour or river police force;
- (3) a member of any provincial, county or municipal police force; and
- (4) etc.....(see **Section 16 for the complete list of classes of persons**)

**17.** An enforcement officer may

- (a) prohibit the movement of any vessel or direct it to move as specified by the enforcement officer; and
- (b) stop and board any vessel at any reasonable time, and
  - (i) direct any person to put into operation or cease operating any equipment on board the vessel,
  - (ii) ask any pertinent questions of, and demand all reasonable assistance from, any person on board the vessel, and
  - (iii) require that any person on board the vessel provide to the enforcement officer, for examination, any document or information that is in the person's possession.

#### Pleasure Craft (Part 10)

- Inspection authority "for the purpose of ensuring compliance" is found in sub-section 196(2)
- Authority to stop for the purpose of inspection, and to give direction is found in sub-section 196(4)
- Authority to stop where an offense is believed to have been committed is found in section 200

### Part 10 Pleasure Craft

#### CSA 2001, Sec 2.

"**pleasure craft**" means a vessel that is used for pleasure and does not carry passengers, and includes a vessel of a prescribed class. (*there are no prescribed classes of vessels for the purposes of this definition*)

#### Sec 194 "enforcement officer" means

- (a) a member of the Royal Canadian Mounted Police;
- (b) a member of any harbour or river police force;
- (c) a member of any provincial, county or municipal police force; and
- (d) any person, or member of a class of persons, designated (*by the Minister of Transport*) under subsection 196(1).

• **The powers and duties of enforcement officers are specified in sections 196 and 200 of the CSA 2001.**

• **Enforcement agencies that are not police are designated by the Minister under CSA 2001 section 196(1).**

**196(2)** "An enforcement officer may inspect a pleasure craft or any of its machinery or equipment for the purpose of ensuring compliance with any provision of this Part, other than section 197 (*manufacturers*), or the regulations made..." under paragraph 207(1)(a) to (e), (h) and (k) to (p)\*.

### Relevant Provisions (CSA 2001 - Parts 2, 3, 4, and 11)

Generally relates to non-pleasure vessels. Includes *Vessel Registration and Tonnage Regulations, Marine Personnel Regulations, and Small Vessel Regulations* as they apply to non-pleasure craft, but also includes pleasure craft under the *Collision Regulations*. (see over)

#### Section 12(1)

**12(1)** The Minister of Transport may authorize any person, classification society or other organization ... to carry out inspections under section 211...

- The Minister has authorized specific police departments and enforcement organizations to carry out inspections of non-pleasure vessels.
- The authorization is limited to ensuring compliance with requirements under Parts 2, 3, 4 and 11 of the *Act*, and regulations made under those Parts, with respect to vessels that are **not more than 24 metres in length but not including requirements relating to the construction of vessels.**
- **The powers and duties of persons authorized to conduct inspections are specified in section 211 of the CSA 2001**, (generally, to stop, board, inspect and direct the vessel or the master and crew for the purposes of the inspection).
- **A certificate of authorization has been issued to each authorized organization.**

#### \* Includes

- *pleasure craft licensing*
  - *pleasure craft operator age and competency*
  - *operational requirements for pleasure craft*
  - *pleasure craft compliance notices and labels*
  - *Hull Identification Numbers*
  - *pleasure craft machinery and equipment*
  - *pleasure craft safety equipment*
  - *documents to be carried on board*
- but does not include construction of pleasure craft**

## Offence and Penalty Sections in the CSA 2001

- Offence and penalty sections in existing regulations are inconsistent with the new Act, and therefore have no force after July 1, 2007. The CSA 2001 contains all the relevant offence and penalty sections.
- Penalties are by way of summary conviction. Limitation period is two years (section 256).

### Transitional Provisions in the CSA 2001

<p><b>253.</b> (1) Every person is guilty of an offence and liable on conviction on indictment to a fine or to imprisonment for a term of not more than five years, or to both, who, in committing an offence under this Act,</p> <p>(a) intentionally or recklessly causes a disaster that results in the loss of life or serious damage to the environment; or</p> <p>(b) shows wanton or reckless disregard for the lives or safety of other persons and thereby causes a risk of death or bodily harm to another person</p> <p><b>274(1)</b> Regulations made under the <i>Canada Shipping Act</i>, chapter S-9 of the Revised Statutes of Canada, 1985, remain in force and are deemed to have been made under this Act, in so far as they are not inconsistent with this Act, until they are repealed.</p> <p><b>274</b> (6) Every person who, or vessel that, contravenes a regulation that is in force under subsection (1) commits an offence and is liable on summary conviction <b>to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than 18 months, or to both.</b></p> <p>The <b>Contraventions Regulations</b> fine schedules and short form descriptions remain in effect in so far as they are not inconsistent with the <i>Canada Shipping Act, 2001</i>, or the new regulations made under the Act.</p>	<p><b>*Part 2 Registration, Listing and Recording</b></p> <p><b><i>Vessel Registration and Tonnage Regulations</i></b></p>	<p><b>Regulation making authority</b> s. 77</p> <p><b>Offences</b> ss. 79(1) &amp; (3)</p> <p><b>Penalties</b> s. 79(2) (not more than \$10,000)</p>
	<p><b>*Part 3 Personnel</b></p> <p><b><i>Marine Personnel Regulations</i></b></p> <p>• enforced through section 87 of the CSA 2001 (person must hold a certificate if one is required)</p>	<p><b>Regulation making authority</b> s. 100</p> <p><b>Offences</b> ss. 101(1), 102(1) and 103(1)</p> <p><b>Penalties</b> s. 101(2) (not more than \$1,000,000)  <b>s. 102(2) (not more than \$100,000)</b>  s. 103(2) (not more than \$10,000)</p>
	<p><b>*Part 4 Safety</b></p> <p><b><i>Collision Regulations</i></b></p> <p><b><i>Small Vessel Regulations</i></b> (as they apply to non-pleasure vessels)</p>	<p><b>Regulation making authority</b> s. 120</p> <p><b>Offences</b> ss. 121(1) and 123(1)</p> <p><b>Penalties</b> s. 121(2) (not more than \$1,000,000)  s. 123(2) (not more than \$100,000)</p>
	<p><b>Part 5 Navigation Safety</b></p> <p><b><i>Vessel Operation Restriction Regulations</i></b>—except age restrictions</p>	<p><b>Regulation making authority</b> s. 136 (1) (f), (g) &amp; (h)</p> <p><b>Offences</b> ss. 138(1)(j)</p> <p><b>Penalties</b> s. 138(2) (not more than \$100,000)</p>
	<p><b>Part 10 Pleasure Craft</b></p> <p><b><i>Small Vessel Regulations</i></b> (as they apply to pleasure craft)</p> <p><b><i>Competency of Operators of Pleasure Craft Regulations</i></b> (COPCR)</p> <p><b><i>Vessel Operation Restriction Regulations</i></b> age restrictions only (to be moved to the COPCR sometime in 2011)</p>	<p><b>Regulation making authority</b> s. 207</p> <p><b>Offences</b> ss. 208(1), 209(1)</p> <p><b>Penalties</b> s. 208(2) (not more than \$100,000) (builder, importer, or vendor)  s. 209(2) (not more than \$10,000) (owner or operator)</p>

\* Denotes “relevant provisions”. The term “relevant provision” is defined in section 210 CSA 2001 (See over)

- If proceeding by way of summary conviction, the CSA 2001 has significantly increased the maximum fines.
- If proceeding by way of *Contraventions Act* tickets, fine amounts remain the same until such time as they are replaced by new short-form descriptions and fine amounts.