

CAYMAN ISLANDS



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**THE MERCHANT SHIPPING LAW (2001 REVISION)**

**THE MERCHANT SHIPPING (COUNTING AND REGISTRATION OF PERSONS ON  
BOARD PASSENGER SHIPS) REGULATIONS, 2002**

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**THE MERCHANT SHIPPING LAW (2001 REVISION)**

**THE MERCHANT SHIPPING (COUNTING AND REGISTRATION OF PERSONS ON BOARD PASSENGER SHIPS) REGULATIONS, 2002**

The Governor in Council, in exercise of the powers conferred by on him by sections 174(1) and 459 of the Merchant Shipping Law (2001 Revision) makes the following Regulations:

**PART I-Preliminary**

Citation

1. These Regulations may be cited as the Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations, 2002.

Interpretation

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

“adult” means any person who is not an infant or a child;

“appropriate search and rescue services” means, in relation to a ship involved in an emergency, the search and rescue services for the area in which the ship is located;

“Cayman Islands passenger ship” means a passenger ship which is a Cayman Islands ship;

“child” means a person who has reached his fourth birthday but not his sixteenth;

“Class 1” and “Class 2” in relation to passenger ships shall have the meanings given in the Merchant Shipping (Classes of Ships) Regulations, 2002;

“infant” means a person who has not yet reached his fourth birthday;

“landing point” means a berth, excursion point, floating pier or stage, link span, pier, port, stop or anchorage point from or to where passengers are embarked or disembarked;

“Law” means the Merchant Shipping Law (2001 Revision);

“passenger registrar” means the person appointed by the owner of a ship pursuant to regulation 8(1)(b);

“protected sea area” means a sea area sheltered from the open sea effects where a ship is at no time more than six miles from a place of refuge where shipwrecked persons can land and in which the proximity of search and rescue facilities is ensured;

“regular community service” means a regular service in a sea area where the annual probability of the significant wave height exceeding two metres is less than 10% and-

- (a) the voyage does not exceed thirty miles or thereabouts from the point of departure; or
- (b) the primary purpose of the service is to provide regular links to outlying communities for customary purposes;

“regular service” means a series of ships crossings operated so as to serve traffic between the same two or more ports either-

- (a) according to an established timetable; or
- (b) with crossings so regular or frequent that they constitute a recognisable systematic series;

“search and rescue services” means the search and rescue services responsible for the initiation and co-ordination of all maritime search and rescue activity required to provide assistance in the event of an emergency involving a ship, or its aftermath;

“ship” includes a hovercraft; and

“voyage” includes an excursion.

(2) Where a ship is managed or operated by a person other than the owner, whether on behalf of the owner or some other person, or on his own behalf, a reference in these Regulations to the owner shall be construed as including a reference to that other person.

Approvals and exemptions to be in writing

3. Any approval or exemption given pursuant to these Regulations shall be given in writing and shall specify the date on which it takes effect and the conditions (if any) on which it is given.

Application

4. (1) These Regulations apply to-

- (a) any Cayman Islands passenger ship wherever it may be; and
- (b) any other passenger ship while it is within Cayman Islands waters.

(2) These Regulations do not apply to-

- (a) ships of war and troop ships; and
- (b) pleasure vessels unless they are or will be crewed and carry more than twelve passengers for commercial purposes.

Passenger counting

5. (1) The owner of a passenger ship shall ensure that, in respect of a Cayman Islands passenger ship when it leaves a landing point and in respect of any other passenger ship when it leaves a landing point in the Islands, there is established a system of counting all persons on board which-

- (a) in the case of a passenger ship of Class 2 consists of a system of individual passenger boarding cards;
- (b) conforms to the requirements of paragraphs (2) to (5) and the Schedule; and
- (c) is approved by the Director.

(2) The system of counting established pursuant to paragraph (1) shall be such that-

- (a) all persons boarding such a ship at a landing point at the beginning of a journey are counted individually on, or just prior to, boarding and -
  - (i) all persons disembarking at subsequent landing points, during the course of a journey, are counted individually as they disembark;
  - (ii) all persons boarding at subsequent landing points, during the course of a journey, are counted individually on, or just prior to, boarding; and
  - (iii) the number of persons remaining on board at each landing point is determined; or
- (b) the number of persons is determined and recorded according to an alternative method approved by the Director, which shall be of equivalent effectiveness to the system referred to in subparagraph (a).

(3) Where the counting system established in respect of a passenger ship pursuant to paragraph (1) includes a system of individual passenger boarding cards, no passenger shall be permitted to board the ship unless he has been issued with an individual boarding card.

(4) Immediately before a passenger ship leaves any landing point the total number of persons on board at that time as determined by means of the counting system shall be communicated to the master of the ship and the owner's passenger registrar.

(5) Where in respect of a person on board a ship, there has been declared a need for special care or assistance in emergency situations, the owner shall ensure that such information is properly recorded and communicated to the master of the ship.

(6) No passenger ship shall leave any landing point-

- (a) unless the requirements of paragraph (4) have been complied with; and
- (b) in any event, if the total number of persons on board the ship exceeds the number of persons the ship is permitted to carry.

(7) The arrangements made in pursuance of the requirements in paragraph (1) shall be described in written instructions which shall be kept on board the ship at all times in the custody of the master.

Additional requirements  
for voyages of more  
than twenty miles

6. (1) This regulation applies to-

- (a) any Cayman Islands passenger ship leaving a landing point on a voyage of more than twenty miles from that landing point; and
- (b) any other passenger ship leaving a landing point in the Islands on a voyage of more than twenty miles from that landing point.

(2) The owner of a passenger ship to which this regulation applies shall ensure that, within three months of the date of commencement of these Regulations, the information specified in paragraph (3) is, for any voyage-

- (a) collected, in relation to each person on board, before the ship departs from the landing point;
- (b) communicated to the owner's passenger registrar within thirty minutes of the ship's departure from the landing point; and
- (c) in respect of any such information as is specified in subparagraph (e) of that paragraph, communicated to the master of the ship before the ship leaves the landing point.

(3) The information referred to in paragraph (2) is, in relation to each person on board the ship-

- (a) family name;
- (b) forenames or initials;
- (c) gender;
- (d) subject to paragraph (4), an indication of the category of age, such category being either adult, child or infant, to which the person belongs, or the age, or the year of birth, of the person; and
- (e) if volunteered by a person, information concerning the need for special care or assistance in emergency situations.

(4) Where the information in relation to a person indicates the category of age to which a person belongs but does not indicate the person's age or year of birth-

- (a) the information must be accompanied by an indication of the age range used to define each category; and
- (b) the age range used must be the age range used by the system for the registration of the information established in accordance with regulation 8(1).

Non-Cayman Islands  
ships on voyages from  
outside the Islands  
to the Islands

7. In respect of a passenger ship which is not a Cayman Islands ship on a voyage from a landing point outside the Islands to the Islands-

- (a) the total number of persons on board the ship; and
- (b) the information specified in regulation 6(3),

shall be readily available to the appropriate search and rescue services for the purposes of search and rescue in the event of an emergency or in the aftermath of an accident involving the ship.

Registration  
system

8. (1) The owner of a passenger ship to which regulation 5 or 6 applies shall-

- (a) establish a system for the registration of the information collected pursuant to these Regulations which-
  - (i) is in accordance with the requirements of the Schedule; and
  - (ii) is approved by the Director;
- (b) appoint a shore-based passenger registrar who shall be responsible for holding the information collected pursuant to these Regulations and for its transmission to appropriate search and rescue services in the event of an emergency or in the aftermath of an accident involving the ship; and
- (c) ensure that the information collected pursuant to these Regulations is at all times readily available for transmission to the appropriate search and rescue services for use in an emergency or in the aftermath of an accident involving the ship.

(2) Personal data which is collected solely pursuant to these Regulations by an owner shall be kept only for as long as is necessary for the purposes of these Regulations.

(3) The Director may appoint persons to carry out checks on the proper functioning of registration systems approved under this regulation.

(4) In performing the checks referred to in paragraph (3), the persons appointed shall-

(a) be entitled to board a ship to which the registration system relates and enter premises of the owner's passenger registrar; and

(b) have access to records and documents, including electronic and computer records, which comprise the owner's registration system.

Exemptions

9. (1) Subject to paragraphs (2) and (3), the Director may exempt any passenger ship from the requirements of these Regulations, subject to such conditions as he may specify, and may, subject to giving reasonable notice, alter or cancel the exemption so granted

(2) The Director may exempt any passenger ship leaving a landing point within the Islands from the requirements of regulation 5(4), in so far as they apply with respect to the passenger registrar, if the ship is engaged exclusively in a protected sea area on a regular service of less than one hour between calls at landing points.

(3) The Director may exempt any passenger ship from the requirements of regulation 6(2) if-

(a) in respect of a Cayman Islands passenger ship leaving a landing point outside the Cayman Islands on an international voyage, the scheduled voyages of the ship make it impracticable for such records to be prepared; and

(b) in respect of a passenger ship leaving a landing point within the Islands-

(i) the ship sails exclusively in a protected sea area between two landing points or from and to the same landing point without calling at an intermediate landing point; or

(ii) the ship is engaged on a regular community service.

False statements

10. A person shall not, in connection with a system for counting the persons on board a passenger ship or collecting the information specified in regulation 6(3)-

(a) knowingly or recklessly make a false statement liable or intended to lead to error in the determination of the total number of collection of the information specified in regulation 6(3); or

(b) falsify the information collected or transmitted to the owner's passenger registrar.

Offences

11. (1) Where there is a contravention of the requirements of these Regulations in respect of a passenger ship, the owner, and in respect of a contravention of regulation 5(6)(a) or 7, the master, is guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale and on conviction on indictment by imprisonment for two years and a fine of \$5,000.

(2) Any person contravening regulation 10 is guilty of an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale or on conviction on indictment by imprisonment for two years and a fine of \$5,000.

Defences

12. (1) It shall be a defence to a charge under these Regulations for the person charged to prove that he took all reasonable steps to avoid the commission of the offence.

(2) Without prejudice to paragraph (1), it shall be a defence to a charge under regulation 10 for a person providing information in respect of other persons, not being members of his family, to the owner of a ship, being information required by the owner pursuant to these Regulations, to prove that the information was collected by him in good faith.

## **SCHEDULE**

### **COUNTING AND REGISTRATION OF PERSONS ON BOARD PASSENGER SHIPS**

#### **PART I-General**

1. Alternative systems may be adopted in the counting and recording of persons on board as required by regulations 5 and 6 but no variation in the system chosen for a particular voyage may be made during that voyage; provided that it is not required to apply one system throughout a company's fleet of ships, nor in the case of the same ship, one system to operations from different ports or on alternative routes.

2. In this Schedule, unless the context otherwise requires-

“company” means the owner of a passenger ship or any other organisation or person such as the manager or demise charterer, who has assumed the responsibility for operating the passenger ship;

“designated authority” has the same meaning as “search and rescue services”;

“high speed craft” means a high speed craft as currently defined in Regulation 1 of Chapter X of the Safety Convention;

“person” includes all individuals on board the vessel irrespective of age; and “voyage” shall be taken to constitute a journey from one place to another, or back to the place of departure, where passengers can embark and disembark.

#### **PART II-Collection and Recording of Information (Regulations 5 & 6)**

##### **Collecting Information**

3. In accordance with the relevant regulations relating to counting and registration of persons on passenger ships, the following details must be observed:

(a) there must be maintained within the counting and registration system implemented by the company, the information necessary to comply with the Regulations;

(b) the company must appoint a shore-based “passenger registrar” responsible for the upkeep and transmission of this information in accordance with the Regulations;

(c) the system must be applied to all persons boarding and disembarking from a vessel for a voyage. A record must be made of each person, regardless of whether that person has been issued with a ticket or is a member of the crew;

(d) the system must be able to take into account all persons embarking or disembarking when a vessel stops in mid-voyage, those who remain on board from a previous voyage and any changes of personnel. The system must account for all persons on board the vessel, such as contractors, maintenance personnel, entertainers and travel industry personnel, who may not be recorded as passengers or included in the Crew List. Each person on board the vessel must have his or her relevant details recorded irrespective of whether or not the person is a fee paying passenger;

(e) the information is to be updated at each landing or stopping point where persons may embark or disembark from the vessel;

(f) the system must ensure that information concerning persons who have declared a need for special assistance or care in emergency situations is properly recorded and handed to the master prior to the ship's departure; and

(g) the system must be approved by the Director.

### **Communication and Availability of Information**

4. Prior to the ship's departure from a landing point the number of persons recorded on board must be communicated to the master of the vessel and to the company's passenger registrar at the shore-based company system. The master must ensure that the vessel does not depart if the total number of persons on board exceeds the total number that the vessel is permitted to carry.
5. (a) Information which is part of the passenger registration system must be obtained prior to the ship's departure and communicated within thirty minutes of departure to the company's passenger registrar at the shore-based company system.  
(b) Ship owners and operators should ensure that the information required for the registration of persons is collected in a manner that causes minimum disruption and delay to those boarding the vessel.
6. It is the responsibility of the company or the operator to ensure that the information collected in accordance with regulations 5 and 6 is readily available from the nominated passenger registrar for transmission to the emergency services in the event of an emergency or in the follow up to an accident. The name and contact point for the nominated passenger registrar must be provided to the Director or an officer of the Cayman Islands Shipping Registry designated by the Director for the purpose.
7. The information that is recorded by the company must be maintained and be-
  - (a) readily available to the emergency services in a format that is uncomplicated and easy to comprehend, especially in emergency situations; and
  - (b) protected from-
    - (i) accidental or unlawful destruction or loss;
    - (ii) accidental or unlawful alteration; and
    - (iii) unauthorised disclosure or access.

### **Back Up System**

8. It is essential that a suitable back up system is available in the event of a breakdown of the main systems which can provide the necessary facilities to meet the requirements of the Regulations without causing undue delay.

### **PART III-Approval of Systems**

9. All systems must be approved by the Director and will be subject to inspection to ensure the correct functioning of the system. In order to gain approval the company must satisfy the Director that-
  - (a) the system, at least, meets the requirements of the Regulations; and
  - (b) the name and contact details of the nominated passenger registrar have been provided to the Director or the designated officer referred to in paragraph 6. It will remain the responsibility of the company or operator to ensure that the information provided with respect to the nominated passenger registrar remains up to date.
10. Applications for approval should be in writing and should contain details of the proposed system and include examples of tickets and prints wherever possible. The application must be made to the Director at least twenty eight days before the required implementation of the system. The Director will then make necessary inquiries and may choose to visit the company to obtain further information.

#### **PART IV-Exemptions**

11. Applications for exemption or derogation should be made in writing giving full explanation for the application, to the Director.

12. Where a passenger ship is operating exclusively-

(a) in protected sea areas, with regular services of less than one hour between port calls, exemptions may be granted from the obligation in regulation 5 to communicate the number of persons on board to the passenger registrar; or

(b) in protected sea areas and between two ports or from and to the same port without intermediate calls, exemptions may be granted from obligations in regulation 6.

13. For regular services where passenger ships are sailing on domestic voyages in an area where the annual probability of the significant wave height exceeding two metres is less than 10%, and-

(a) the voyage does not exceed thirty miles from the point of departure; or

(b) the primary purpose of the service is to provide regular links to outlying communities for customary purposes; and

exemption may be granted, wholly or partly, from the requirements of regulation 6 if it is considered impracticable for companies to record the information. To this end, evidence of such impracticability must be provided. In addition, it must be demonstrated that in the area where such ships operate, shore-based navigational guidance and reliable weather forecasts are provided, that adequate and sufficient search and rescue facilities are available, and that the exemption if granted will not have any adverse effect on competition.

14. An exemption shall not be granted to any passenger ship sailing from a Cayman Islands port and flying the flag of another Safety Convention country which, under the relevant provisions of the Safety Convention, does not agree to the application of such exemption.

#### **PART V-Methods of Counting**

15. Owners may use one of the following methods of counting, or a similar system which meets the requirements of the Regulations.

##### **A. CLASS 1 PASSENGER SHIPS**

16. Passenger ships operating under Class 1 passenger certificates must ensure that there is a system by which all persons boarding will be counted prior to departure in accordance with paragraphs 4 to 10.

17. Because of the nature of the voyages generally undertaken by these vessels, the collection of registration information will normally be readily available prior to departure and should be recorded in accordance with paragraphs 4 to 10.

18. Persons who disembark at each landing point must be counted by means of landing cards or a similar arrangement. Landing cards may be issued in the same way that boarding cards are issued. A running tally must be kept of those boarding for the first time and those re-embarking so that the total number of persons on board for the voyage is always known prior to departure, in accordance with regulation 5.

19. Where any change of persons on board occurs, it is the responsibility of the master to ensure that the company's passenger registrar is informed and the registration details are updated within thirty minutes of departure.

20. Landing cards, if used, should be made of a material such as plastic, and wherever possible, should be used to draw the passenger's attention to safety information.

## **B. CLASS 2 PASSENGER SHIPS**

### **Manual boarding card system**

21. A manual boarding card system shall apply to all passengers boarding a ship operating under a Class 2 passenger certificate for a particular voyage. It must apply to foot passengers, cyclists, and drivers of automobiles, trucks, coaches and their passengers. There must be one boarding card per passenger regardless of whether the passengers have individual tickets, unless an appropriate exemption has been granted under regulation 9. Special arrangements must be made for passengers who remain on board from a previous voyage, crew members and other persons on board the vessel.

22. A boarding card system must conform to one of the following descriptions-

(a) there must be for each sailing, a book or books of numbered boarding cards. If more than one book is used the books must be consecutively numbered. To facilitate counting, each card must have an individually numbered counterfoil. One card will be issued to each passenger at, or shortly before, the time of boarding. However when a number of passengers travel together in one vehicle a card for each passenger may be issued in a block to the driver or to a responsible person in the vehicle provided that such a procedure will not affect the accuracy of the total passenger count. The total number of cards issued for a particular voyage will be determined from the number of cards remaining in the book or books, and from the numbered counterfoils;

(b) each passenger will be issued, before arriving at the embarkation point, a boarding card which may have a detachable portion. The detachable portion, or the complete card, must be collected by a representative of the master at, or shortly before, the time of boarding and the number of cards or detachable portions so collected will determine the number of passengers boarding. However, when a number of passengers travel together, a card for each passenger may be issued in a block to the driver or to a responsible person in the vehicle; provided that such a procedure will not affect the accuracy of the total passenger count; or

(c) when large numbers of passengers are involved, such as on ships certificated to carry more than two hundred passengers, the detachable portions, or the complete cards, may be counted by automatic passenger counting machines.

23. Other systems of manual counting may be provided if they-

(a) conform to the basic objectives set out in paragraphs 21 and 22;

(b) are straightforward, secure and effective; and

(c) can be easily checked and enforced without the necessity of arranging a full passenger count as passengers leave the ship.

### **Computerised Boarding Card System**

24. A computerised boarding card system should be capable of recording all information on persons required by regulations 5 and 6, including those persons who are not named on the Passenger or Crew List provided that the following points have been taken into account in the counting, boarding and registration procedures governing the system:

(a) where the passenger checks in;

(b) where the boarding card is issued;

(c) how the issue of the computerised boarding card corresponds to the aggregation of the count;

(d) what route the passenger takes to the ship;

(e) what other controls (for example, immigration control) the passenger passes through;

(f) how the total count is adjusted if a passenger belatedly decides not to travel;

(g) how passengers remaining on board are dealt with; and

(h) what contingency plans have been made in the event of the failure of the computerised system-

- (i) prior to landing; or
- (ii) during the course of loading.

25. In a computerised boarding card system, passengers travelling together in parties may be issued with one card only on which is indicated the total number of passengers in the party. In that case however, a physical check must be built into the counting procedures to ensure the accuracy of the total passenger count.

26. Boarding cards should be made of a material such as plastic and wherever possible should be used to draw the passenger's attention to safety information.

#### **Passengers remaining on board from a previous voyage**

27. The design of manual and computerised systems must take into account the counting of passengers remaining on board from a previous voyage or part of a voyage. The arrangements must also provide for these numbers to be included in the total count of passengers on that voyage.

28. A passenger remaining on board at the end of a voyage must be given a card for the return voyage which may be the boarding card for the return voyage. The passenger will be required to have the return boarding card marked or recorded whilst the vessel is docked to confirm the return journey.

29. Where a computerised boarding system is used it must include an effective method for counting those staying on board meeting the above criteria.

30. Passengers who disembark at each landing point must be counted by means of landing cards. Landing cards may be issued in the same way that boarding cards are issued. A running tally is to be kept of those boarding for the first time and those re-embarking must be maintained so that the total number of passengers on board for the voyage is always known prior to departure.

31. Where any change in the number of persons on board occurs it is the responsibility of the master to ensure that the passenger registrar is informed and registration details are updated within thirty minutes of departure.

32. Landing cards should be made of a material such as plastic and wherever possible should be used to draw the passenger's attention to safety information.

#### **Dual Systems**

33. Where the systems comply with the Regulations, and can be shown to be effective and secure, and meet the requirements of paragraphs 4 to 6, two discrete boarding card systems, for example, manual boarding cards for freight drivers, and a computerised system for the remainder of passengers may be considered, provided that they fully satisfy the requirements of the Regulations.

### **C. OTHER PASSENGER SHIPS**

#### **Boarding Card Systems**

34. The boarding card system must conform to the requirements for vessels of Class 2.

#### **Clicker System**

35. The master of the crew must count each passenger boarding using a consecutively numbering (hand-held) counting device and note the total number of passengers. When ships call at a number of landing points to land and take on passengers or crew, the persons disembarking at each landing point must be similarly counted and recorded. New passengers must then be boarded, and counted again using the clicker. The total number of passengers on board must be calculated before sailing using these figures as a basis. If the clicker can also subtract figures it can be used directly on passengers embarking and disembarking to maintain a running total of passengers on board.

**Information to be left Ashore**

36. The master or a member of the crew must, before departure, advise the passenger registrar ashore of the revised information of persons on board at that landing point. The passenger registrar will record the information together with the vessel's name, the landing point, the date, and the time of the transmission.

37. When a passenger ship plies to and from unmanned landing points the information of persons on board, the date and time of sailing and the name of the vessel must be recorded in writing and the record placed in a secure location ashore.

**Electronic System**

38. The master or a member of the crew must count each passenger boarding using electronic equipment at least as effective as the systems described above. The system must include the counting of any passengers remaining on board at the end of the voyage. Passengers who do not physically disembark must be given a card for the journey ahead. Alternatively, they might be physically counted off using the clicker. It is the responsibility of the shipowner to ensure that the system works and is effective.

Made in Executive Council the 25th day of June, 2002.

Carmena H. Watler.

Clerk of the Executive Council.