

CAYMAN ISLANDS



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THE MERCHANT SHIPPING (IBC CODE) (CAYMAN ISLANDS) REGULATIONS, 1988

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THE MERCHANT SHIPPING (IBC CODE) (CAYMAN ISLANDS) REGULATIONS 1988

The Governor in Council, after consultation with the Secretary of State for Transport of the United Kingdom, in exercise of the powers conferred on him by section 59 and 77 of the Merchant Shipping (Applicable Conventions) Law 1987 and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement
Interpretation

1.(1) These Regulations may be cited as the Merchant Shipping (IBC Code) (Cayman Islands) Regulations 1988 and shall come into operation in accordance with the provisions of the Merchant Shipping (Control of Pollution) (Cayman Islands) (Commencement) Regulations 1988.

(2) In these Regulations the following expressions have the following meanings-

"1974 SOLAS Convention" means the International Convention for the Safety of Life at Sea, 1974, as amended;

"BCH Code" means the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (1986 Edition) published by the International Maritime Organization;

"Cargo Ship Safety Construction Certificate", "Cargo Ship Safety Equipment Certificate", "Cargo Ship Safety Radiotelegraphy Certificate" and "Cargo Ship Safety Radiotelephony Certificate" mean respectively the certificates so entitled issued in conformity with the 1974 SOLAS Convention and, in the case of a United Kingdom ship, under or pursuant to the Merchant Shipping (Safety Provisions) Regulations 1988;

"Cayman Islands ship" means a ship which is registered in the Cayman Islands or a ship which is not registered under the law of any country but is wholly owned by persons each of whom is a citizen of the Cayman Islands or a body corporate which is established under the law of Cayman Islands and has its principal place of business in the Cayman Islands;

"chemical tanker" means a self-propelled cargo ship constructed or adapted and used for the carriage in bulk of any liquid substance listed in Chapter VI of the BCH Code; but does not include offshore support vessels or dry cargo ships with deep tanks;

"Chief Marine Surveyor" means the Chief Marine Surveyor appointed by the Governor under the Merchant Shipping (Applicable Conventions) Law 1987 or any person duly appointed to act on his behalf;

"constructed" on the expressions "constructed on or after" and "constructed before" means, in relation to a ship, having its keel laid or being at a similar stage of construction; and "similar stage of construction" means the stage at which-

(a) construction identifiable with the ship begins; and

(b) assembly of that ship has commenced, comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material. Whichever is the less;

"Control of Pollution by Noxious Liquid Substances Regulations" means the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) (Cayman Islands) Regulations 1988;

"IBC Code" means the International Code for the construction and equipment of ships carrying Dangerous Chemicals in Bulk (1986 Edition) published by the International Maritime Organization;

"IGC Code" means the International Code for the construction and equipment of ships carrying Liquefied Gases in Bulk set out in the Annex to Resolution MSC. 5(48) adopted by the Maritime Safety Committee of the International Maritime Organization on the 17th June 1983;

"in bulk" means directly and without intermediate form of containment in a tank forming an integral part of, or permanently located on, a ship;

"International Certificate of fitness for the carriage of Dangerous Chemicals in Bulk" means, in relation to a Cayman islands ship, a certificate issued pursuant to regulation 5 and, in relation to any other ship, a certificate issued in conformity with chapter 1 of the IBC Code by or on behalf of the government of the state in which the ship is registered;

"MARPOL 1973/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as amended;

"pollution hazard substance" means a substance listed in column "a" of the table in chapter 17 of the IBC Code and having against it in column "d" thereof an entry "P" only;

(3) In interpreting the IBC Code-

- (a) the provisions of the IBC Code having been made mandatory under regulation 3 the language thereof shall be construed accordingly;
- (b) the definitions set out in Chapter 1, paragraph 1.3 thereof, shall apply;
- (c) references to the Administration shall, in relation to Cayman Islands ships, be references to the Chief Marine Surveyor and references to the Port Administration shall in relation to all ships in the United Kingdom be references to the Chief Marine Surveyor;
- (d) each of the references to regulations of the 1974 SOLAS Convention listed in column 2 of the table in the Schedule hereto shall be construed as a reference to the corresponding provision contained in Regulations applied in the Cayman Islands by the Merchant Shipping (Safety Provisions) (Application) Order 1988 and listed opposite to it in column 3 of that table.

2. (1) These Regulations apply, subject to the following provisions of this regulation-

- (a) to chemical tankers constructed on or after 1st July 1986,
- (b) to ships converted to being chemical tankers on or after that date except oil tankers -
 - (i) which were built before that date; and
 - (ii) which are converted for the purpose of carrying pollution hazard substances only; and
 - (iii) the conversion of which consists only of modifications necessary for the compliance with chapter VA of the BHC Code; and
- (c) (to the extent that the chief Marine Surveyor considers reasonable and practicable) to chemical tankers which were constructed before, but undergo repairs, alterations and modifications of a major character on or after, that date.

(2) Where a chemical tanker is constructed or adapted to carry both -

- (a) one or more of the substances listed in chapter 17 of the IBC Code and in chapter 19 of the IGC Code; and
- (b) one or more of the substances listed in chapter 19 of the IGC Code and in chapter 17 of the IBC Code.

Then to the extent that the requirements of those two codes are inconsistent the requirements of the IGC Code shall prevail.

(3) These Regulations apply to all ship specified in paragraph (1) which are Cayman Islands ships wherever they may be and to other such ships while they are within a port in the Cayman Islands; provided that in the case of a ship registered in a state which is not a party to the 1974 SOLAS Convention or to the MARPOL 1973/78 they shall not apply by reason of its being in a port, in the Cayman Islands, if it would not have been there but for stress of weather or any circumstances which could not have been prevented by the owner, the master or the charterer (if any)..

3. Every ship to which these regulations apply shall be constructed, equipped and operated in accordance with the requirements relevant to it of chapter 2-17 inclusive and 19 of the IBC Code.

Application

Compliance with Code

Survey requirement

4. (1) The structure, equipment, fittings, arrangements and materials (other than items in respect of which a Cargo Ship Safety Construction Certificate, Cargo Ship Safety Equipment Certificate, Cargo Ship Safety Radiotelegraphy Certificate or Cargo Ship Safety Radiotelephony Certificate is issued) of a chemical tanker shall be subjected to the following surveys-

(a) an initial survey before the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk is issued for the first time, which shall include a complete examination of its structure, equipment, fittings, arrangements and materials in so far as the ship is covered by the IBC Code; an initial survey shall be such as to ensure that the structure, equipment, fittings, arrangements and materials fully comply with the relevant provisions of the IBC Code;

(b) a periodical survey at intervals not exceeding 5 years which shall be such as to ensure that the structure, equipment, fittings, arrangements and materials comply with the relevant provisions of the IBC Code;

(c) a minimum of one intermediate survey during the period of validity of the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk; in cases where only one such intermediate survey is carried out in any one certificate validity period, it shall be carried out not before 6 months prior to, nor later than 6 months after, the half-way date of the certificate's period of validity; intermediate surveys shall be such as to ensure that the equipment and associated pumps and piping systems comply with the relevant provisions of the IBC Code and are in good working order and condition; a record of such surveys in the form appropriate to an intermediate survey included in the form entitled "Endorsement for Annual and Intermediate Surveys" set out in the appendix to the IBC Code shall be endorsed by the surveyor on the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;

(d) an annual survey within 3 months before or after the anniversary date of the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk which shall include a general examination to ensure that the structure, equipment, fittings, arrangements and materials remain in all respects satisfactory for the service for which the ship is intended; a record of such survey in the form appropriate to an annual survey included in the form entitled "Endorsement for Annual and Intermediate Surveys" set out in the appendix to the IBC Code shall be endorsed by the surveyor on the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;

(e) an additional survey, either general or partial according to the circumstances, shall be made when it has been determined under regulation 6(3) to be necessary, or whenever any important repairs or renewals are made; such a survey shall ensure that the necessary repairs or renewals have been effectively made, that the materials and workmanship of such repairs or renewals are satisfactory, and that the ship is fit to proceed to sea without danger to the ship or persons on board; a record of such survey shall be endorsed by the surveyor on the International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk certifying that on completion of the survey the ship complied with the relevant provisions of the Code.

(2) Every such survey in the case of a Cayman Islands ship shall be carried out by a surveyor appointed by the Chief Marine Surveyor; and application for such a survey shall be made by or on behalf of the owner to the Chief Marine Surveyor.

5. (1) Upon satisfactory completion of an initial or periodical survey under regulation 4 of these Regulations and under regulation 23 of the Control of Pollution by Noxious Liquid Substances Regulations the Chief Marine Surveyor shall issue to a ship which complies with the relevant requirements of the IBC Code and of the Control of Pollution by Noxious Liquid Substances Regulations a certificate called an international Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk in the form so entitled set out in the appendix to the IBC Code. Such certificate shall be issued for a period not exceeding 5 years beginning on the date of completion of the survey in question.

(2) A certificate shall cease to be valid-

- (a) if any survey required by regulation 4(1)(c) or (d) is not completed within the period specified for that survey; or
- (b) if any survey required by regulation 4(1)(e) is not completed within such reasonable time as the surveyor may specify; or
- (c) upon transfer of the ship to registry in another state.

(3) In either of the cases specified in sub-paragraph (2)(a) or (b) the owner shall deliver up the certificate issued in relation to the ship to the Chief Marine Surveyor on demand.

(4) In the case of a ship which has transferred from registry in another state to registry in the Cayman Islands the Chief Marine Surveyor may, subject to such requirements as to survey or otherwise as he may think fit, if he is satisfied that, notwithstanding that the surveys were not carried out by a surveyor appointed by the Chief Marine Surveyor as required by regulation 4(2), that-

- (a) the ship has already been subjected to a satisfactory initial or periodical survey and to any intermediate, annual or additional surveys required; and
- (b) the ship was issued by or on behalf of the government of that other state with a certificate of fitness which would, but for the change of registry, have remained valid; and
- (c) the condition of the ship and its equipment has been maintained in conformity with the provisions of the IBC Code; and
- (d) since completion of the surveys referred to in sub-paragraph (a) no change has been made in the structure, equipment, fittings, arrangements and materials covered by those surveys without the sanction of the government of that other state or of the Secretary of State, except by direct replacement;

issue to that ship an International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk for a period to be determined by the Chief Marine Surveyor, but expiring not later than the expiry date of the certificate referred to in sub-paragraph (b).

(5) The International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk shall be kept on board the ship and shall be available for inspection at all reasonable times.

6. (1) The condition of the ship and its equipment shall be maintained so as to conform to the provisions of the IBC Code.

(2) After any survey of the ship under regulation 4 has been completed, no change shall be made in the structure, equipment, fittings, arrangements and materials covered by the survey, without the sanction of the Chief Marine Surveyor, except by direct replacement.

(3) Whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety or integrity of the ship, the safety of the crew or the efficiency or completeness of the equipment required by Part IV of the Control of Pollution by Noxious Liquid Substances Regulations, the master or owner of the ship shall report at the earliest opportunity to the Chief Marine Surveyor, who shall determine whether an additional survey is necessary. If the ship is in a port of another state the master or owner shall also report immediately to the appropriate authority of the government of the state in which the port is situated.

- Equivalents 7. Where the IBC Code requires that a particular fitting, material, appliance, apparatus, item of equipment or type thereof should be fitted or carried in a ship, or that any particular provision should be made, or any procedure or arrangement should be complied with, the Chief Marine Surveyor 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 that ship, if he is satisfied by trial thereof or otherwise that such fitting, material, appliance, apparatus, item of equipment or type thereof, or particular provision, procedure or arrangement is at least as effective as that required by the IBC Code.
- Exemptions 8. The Chief Marine Surveyor may exempt any ship or class or description of ship from any of the requirements of the IBC Code, subject to such conditions as he may specify, and may alter or cancel any exemption so granted.
- Loading and carriage in bulk of listed chemicals 9. No ship to which these Regulations apply shall load in bulk or carry in bulk any of the substances listed in Chapter 17 of the IBC Code-
- (a) unless-
 - (i) there is in force in respect of that ship an International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk covering the substance which the ship is loading or carrying; and
 - (ii) the loading and carrying is carried out in accordance with the terms of that certificate; or
 - (b) either-
 - (i) the Chief Marine Surveyor or the government of a state party to MARPOL 1973/78 has given written permission for its carriage; and
 - (ii) any conditions subject to which that approval was given are complied with.
- Penalties 10. (1) If there is a breach of -
- (a) Regulation 3, 5(5), 6 or 9 then the owner and master of the ship shall each be guilty of an offence.
 - (b) Regulation 4(2) of these Regulations then the owner of the ship shall be guilty of an offence punishable on summary conviction by a fine not exceeding ten thousand dollars.
- (2) It shall be a defence for a person charged with an offence under these Regulations to prove that he took all reasonable steps to ensure that the regulations in question were complied with.
- Power to detain 11. In any case where a ship does not comply with the requirements of these Regulations the ship shall be liable to be detained and sections 74, 75 and 76 of the Merchant Shipping (Applicable Conventions) Law 1987 shall have effect in relation to the ship, subject to the modification that for the words "this Law", wherever they appear, there shall be substituted the words "The Merchant Shipping (IBC Code) (Cayman Islands) Regulations 1988."

SCHEDULE 1 Regulation 1(4)(d)

TABLE OF CORRESPONDING REGULATIONS

Interpretation

1. In this Table:

"Cargo Ship Regulations 1984" means The Merchant Shipping (Cargo Ship Construction and Survey) Regulations 1984;

"Fire Protection Regulations 1984" means The Merchant Shipping (Fire Protection) Regulations 1984;

Table 1

COLUMN 1	COLUMN 2		COLUMN 3
Paragraph in IBC Code (1986 Edition)	1974 SOLAS Convention Regulations as amended		Corresponding United Kingdom Regulations
3.2.1	II-2/56		Regulation 10 Cargo Ship Regulations
8.2 (footnote)	II-2/59	59.1 59.2 59.3	Regulation 12 Cargo Ship Regulations Regulation 50 Fire Protection Regulations Regulation 13 Cargo Ship Regulations
10.1.1	II-1 Part D, Electrical requirements		Part IV Cargo Ship Regulations
11.1.1	II-2 Requirements for tankers		Part IIB Cargo Ship Regulations and Part IV Fire Protection Regulations
11.1.1.1-11.1.1.4	II-2/60,61 and 62		Regulation 49 Fire Protection Regulations
11.1.1.1-11.1.1.5	II-2/63		Regulation 51 Fire Protection Regulations
11.1.1.2	II-2/56.2		Regulation 10(3) Cargo Ship Regulations
11.1.1.3	II-2/4 II-2/7		Regulation 29 Fire Protection Regulations Regulation 33 Fire Protection Regulations
11.1.2	II-2/ Part D		Part IV and VIII Fire Protection Regulations and Regulations 10,11,12 and 13 Cargo Ship Regulations
	II-2/ Part C II-2/53		Part VII Fire Protection Regulations, Regulation 31 and 32 Fire Protection Regulations and Regulation 50 Cargo Ship Regulations
11.2.1.1-	II-2/5.1		Fire Protection Regulations
11.2.1.2	II-2/5.1.6		Schedule 10(1) - Schedule 10(1)(f)
11.2.1.1	II-2/5.2		Fire Protection Regulations Schedule 10(2)
11.2.1.2	II-2/5.3		Fire Protection Regulations Schedule 10(3)
12	II-2/59.3		Regulation 13 Cargo Ship Regulations
14.2.1-14.2.3	II-2/17		Regulation 53 Fire Protection Regulations

Made in Council this 20th day of April, 1988.
MONA N. BANKS-JACKSON
Clerk of the Executive Council.

EXPLANATORY NOTE

(This note is not part of the Regulation)

These Regulations require chemical tankers built on or after 1st July 1986 and carrying polluting or dangerous liquid substances in bulk, and ships undergoing major conversion on or after that date to being chemical tankers carrying such substances, to comply with the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk which was adopted by the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) on 5th December 1985. The code so adopted is an amended version of the Code of that name adopted by the Maritime Safety Committee of the IMO on 17th June 1983 (the MSC Version). The MSC version covered dangerous substances only.

The amended version extends the Code to cover carriage of pollution hazard substances of Category A, B and C as defined in the Code, and makes minor changes to the construction requirements of the Code.

The Regulations give effect to regulation 13(2) of Annex II to the International Convention for the Prevention of Pollution from Ships, 1973, as set out in the amendments thereto adopted by the MEPC on 5th December 1985. Annex II came into force internationally on 6th April 1987

In so far as the Regulations make the MSC version of the Code compulsorily applicable under Cayman Islands Law, they give effect to Part B of Chapter VII of the International Convention for the Safety of Life at Sea, 1974, as amended in 1981 and 1983.

Copies of the Code and of Annex II, as adopted by the MEPC, are obtainable from the International Maritime Organization, 4 Albert Embankment, London SE1. 7SR.