

CAYMAN ISLANDS



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THE MERCHANT SHIPPING LAW (2001 REVISION)

THE MERCHANT SHIPPING (SAFETY OF NAVIGATION) REGULATIONS, 2004

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THE MERCHANT SHIPPING LAW (2001 REVISION)

THE MERCHANT SHIPPING (SAFETY OF NAVIGATION) REGULATIONS, 2004

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

PART I-Preliminary

1. These Regulations may be cited as the Merchant Shipping (Safety of Navigation) Regulations, 2004.

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

“Chapter V” means Chapter V of the Annex to the Safety Convention;

“Contracting Government” means the Government of a State which has consented to be bound by the Safety Convention;

“High Speed Craft Code” means the International Code of Safety for High-Speed Craft adopted by the Maritime Safety Committee of the IMO by Resolution MSC.36(63), as may be amended from time to time by the IMO;

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

“length” in relation to a registered ship means registered length, and in relation to an unregistered ship means the length from the fore part of the stem to the aft side of the head of the stern post or, if no stern post is fitted to take the rudder, to the fore side of the rudder stock at the point where the rudder passes out of the hull;

“new ship” means a ship the keel of which is laid or which is at a similar stage of construction on or after 1st July 1998;

“sea” means any navigable waters that are not internal waters as that term is defined in UNCLOS, and “seagoing” shall be construed accordingly; and

“UNCLOS” means United Nations Convention on the Law of the Sea, 1982.

(2) For the purposes of these Regulations, ships shall be arranged in Classes as set out in the Merchant Shipping (Classes of Ships) Regulations, 2002.

(3) A rigidly constructed composite unit of a pushing vessel and associated pushed vessel, when designed as a dedicated and integrated tug and barge combination, shall be regarded as a single ships for the purposes of these Regulations.

(4) Where a ship is managed by a person other than the owner (whether on behalf of the owner, of 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 person.

(5) Where, by virtue of regulation 4 of these Regulations, a regulation of Chapter V applies to a hovercraft, a reference to a “ship” or “master” in that regulation of Chapter V shall be construed as including a reference to a “hovercraft” or “captain” respectively.

3. (1) Subject to this regulation and to Chapter V, these Regulations apply to all Cayman Islands ships wherever then may be and to all other ships while they are within Cayman Islands waters.

(2) These Regulations do not apply to:

(a) warships and naval auxiliaries;

(b) ships, other than Cayman Islands ships, which are owned or operated by a Contracting Government and used only on government non-commercial service; or

Citation

Interpretation

Application

(c) ships navigating solely the Great Lakes of North America and their connecting and tributary waters as far east as the lower exit of the St. Lambert Lock at Montreal in the Province of Quebec, Canada.

(3) In their operation on regulations 19 and 20 of Chapter V, paragraphs 1 to 3 and 7 and 8 of regulation 18 of Chapter V do not apply in relation to ships below 150 gross tonnage engaged on any voyage.

(4) Regulation 19 of Chapter V does not apply to:

- (a) Cayman Islands ships which are neither passenger ships nor sea-going;
- (b) fishing vessels; or
- (c) high-speed craft to which the provisions of the High-Speed Craft Code or any regulations relating to high-speed craft made under the Law, apply.

(5) Paragraphs 2.1.1 to 2.1.6 and 2.1.8 and 2.1.9 of regulation 19 of Chapter V do not apply to pleasure vessels below 150 gross tonnage engaged on any voyage.

(6) Paragraph 2.4 of regulation 19 of Chapter V does not apply to Cayman Islands passenger ships which:

- (a) are not sea-going; or
- (b) are below 300 gross tonnage and not engaged on international voyages.

(7) Regulations 22 and 34 of Chapter V apply in addition to hovercraft registered in the Islands, wherever they may be, and to hovercraft while they are within Cayman Islands waters.

(8) Regulations 23 of Chapter V does not apply to:

- (a) ships below 150 gross tonnage engaged on any voyage;
- (b) ships below 500 gross tonnage not engaged on international voyages; or
- (c) fishing vessels,

unless they are engaged on a voyage during the course of which a pilot is likely to be employed.

(9) Regulations 24 to 26 of Chapter V do not apply to ships other than sea-going ships.

4. (1) Subject to paragraphs (3) and (4), a ship to which these Regulations apply shall comply with such of the requirements referred to in paragraph (2) as apply in relation to a ship of its description.

(2) The requirements are those referred to in the following provisions of Chapter V:

- paragraph 3 of regulation 7;
- paragraph 7 of regulation 10;
- paragraph 7 of regulation 11;
- paragraphs 2 and 3 of regulation 17;
- paragraphs 1 to 3 and 7 and 8 of regulation 18; regulation 19;
- paragraph 1 of regulation 20; regulations 21 to 30;
- paragraphs 1 and 4 of regulation 31;
- paragraphs 1, 2, 4 and 5 of regulation 32;
- paragraphs 1 and 2 of regulation 33; and regulation 34.

(3) A ship to which these Regulations apply shall comply with such of the requirements as apply in relation to a ship of its description.

(4) The requirements referred to in paragraph (3) include alternative or additional requirements which relate to amendments from time to time of Chapter V.

(5) Where there is a footnote to a regulation of Chapter V, and the footnote specifies a recommendation, resolution, guidance, code or other document which sets out a standard, that footnote shall be treated as a requirement for the purposes of paragraph (1) or (3), as the case may be.

(6) Where a regulation of Chapter V, or a recommendation, resolution, guidance, code or other document setting out a standard with which a ship must comply by virtue of these Regulations, refers to “should”, that word shall accordingly be construed as “shall” for the purposes of these Regulations.

(7) Nothing in regulations 24 to 26 of Chapter V relating to the use of an automatic pilot shall override special rules made by an appropriate authority for roadsteads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by sea-going ships; and for these purposes an “appropriate authority” means any person empowered by law to make the special rules.

Supplementary provisions or navigation requirements

5. Supplementary provisions relating to the safety relating to the safety of navigation requirements are set out in the First Schedule.

Exemptions and allowance f

6. (1) This regulation is subject to regulation 7.

(2) The Director may grant exemptions in respect of regulations 17 to 19 (except paragraph 2.1.7 of regulation 19), 20, 22 and 24 to 28 of Chapter V, for ships without mechanical means of propulsion on such terms as he may specify.

(3) In the circumstance set out in paragraph (4) the Director may in an individual case-

(a) grant exemptions from all or any of the provisions of these Regulations as may be specified in the exemption on such terms, if any, as he may specify; or

(b) allow any fitting, material, appliance or apparatus, or type thereof, to be fitted or carried in a ship, or allow other provision to be made in the ship, in the place of any particular fitting, material or appliance or apparatus, or type thereof, or provision, which is required under these Regulations, if he is satisfied by trial or otherwise that it is at least as effective as that so required.

(4) The circumstances set out in paragraph (3) are that the Director is satisfied that the ship is engaged on a voyage where the maximum distance of the ship from the shore, the length and nature of the voyage, the absence of general navigational hazards, and other conditions affecting safety are such as to render the full application of Chapter V unreasonable or unnecessary, and he has taken into account the effect such an exemption may have upon other ships.

(5) The Director may grant exemptions for classes of ships or individual ships from the requirements of regulation 18, 19 or 20 of Chapter V, on such terms, if any, as he may specify.

(6) The Director may grant exemptions from the requirements of regulation on Chapter V for ships of unconventional design, on such terms, if any, as he may specify.

(7) The Director on such terms, if any, as he may specify, grant exemptions from the requirements of paragraphs 1 and 2 of regulation 26 of Chapter V for ships which regularly engage on voyages of less than 24 hours duration and which carry out checks and tests required by those paragraphs at least once every week.

Restrictions on the granting

7. (1) The Director shall not grant an exemption under regulation 7 unless he is satisfied that-

(a) compliance with that regulation is either impracticable or unreasonable for the class of ship or individual ship concerned; and

(b) the exemption is subject to such conditions and limitations as will provide a level of safety which is at least equivalent to that provided by the provision from which exemption is being granted.

(2) The Director may, on giving reasonable notice, alter or cancel any exemption granted under paragraph (1).

(3) An exemption granted under regulation 6, or allowance made for an equivalent under regulation 6(3)(b), shall be in writing and shall specify the date on which it takes effect and the terms, if any, on which it is given.

Approvals

8. (1) Where a regulation of Chapter V refers to anything requiring-

- (a) the approval of the Administration;
- (b) compliance, to the satisfaction of the Administration; or
- (c) performance acceptable to the Administration,

the Director, or a person authorised by him, may grant an approval for that thing in accordance with Chapter V.

(2) The Director, or a person authorised by him, may cancel or alter the terms of any approval given under this regulation by the Director or the authorised person, respectively.

(3) Any approval given under this regulation 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.

Offences and penalties

9. The provisions relating to offences and penalties as set out in the Second Schedule shall have effect.

Detention

10. In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and section 439 of the Law shall have effect in relation to that ship, as if for the words "this Law" wherever they appear, there were substituted the words "the Merchant Shipping (Safety of Navigation) Regulations, 2004.

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS

1. (1) In this Schedule-

“Passenger Ship Safety Certificate” means the certificate of that name referred to in section 186(a) of the Law or in the case of a ship which is not a Cayman Islands ship, the certificate of that name issued by the Administration of the ship concerned in accordance with the Safety Convention;

“relevant Admiralty publications” means the following publications of the Admiralty-

- (a) Admiralty charts; and
- (b) Sailing Directions,

and any amendment, correction or replacement, which the United Kingdom National Hydrographer considers relevant from time to time; and

“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 to persons in distress at sea.

(2) In this Schedule, a reference to a numbered regulation is a reference to the regulation of that number in Chapter V.

Regulation 7

2. (1) For the purposes of paragraph 3 of regulation 7-

- (a) “appropriate search and rescue services” means, in relation to a ship, the search and rescue services responsible for the initiation and co-ordination of all search and rescue activity for the area of operation of the ship; and
- (b) the guidelines developed by the IMO are the IMO Guidelines for Preparing Plans for Co-operation between Search and Rescue Services and Passenger Ships contained in Maritime Safety Committee Circular 1000.

(2) The owner of a ship to which that paragraph applies shall prepare the plan referred to in that paragraph, and shall consult the appropriate search and rescue services in preparing the plan.

(3) The owner shall submit the plan to those services for approval.

(4) Those services may reject the plan, or approve it with or without modifications.

(5) Where the plan is approved, the approval shall be in writing and shall specify the date on which it takes effect and the conditions, if any, subject to which it is given.

(6) A ship to which paragraph 3 of regulation 7 applies shall carry on board a plan which has been so approved.

Regulation 10

3. For the purposes of paragraph 7 of regulation 10, the mandatory ships’ routeing system with which ships must comply is the routeing system which has been adopted by the IMO in accordance with the requirements of regulation 10 for mandatory use by ships or certain categories of ships.

Regulation 11

4. (1) For the purposes of paragraph 7 of regulation 11-

(a) “adopted reporting system” means a ship reporting system that has been established by a Government or Governments after it has been adopted by the IMO as complying with all the requirements of regulation 11 of Chapter V; and

(b) the “appropriate authority” means the authority specified in the adopted ship reporting system.

(2) In relation to a Cayman Islands ship, the adopted reporting system with which the master must comply is any adopted reporting system which applies in relation to his ship.

(3) In relation to a ship which is not a Cayman Islands ship, the adopted reporting system with which the master must comply while in Cayman Islands waters is any Cayman Islands adopted reporting system which applies in relation to his ship.

Regulation 21

5. For the purposes of regulation 21, the International Code of Signals with which ships are required to comply is the Code referred to in section 153(6) of the Law.

Regulation 23

6. For the purposes of regulation 23, the owner of a ship to which that regulation applies shall ensure that the ship is provided with the equipment, and has the procedures in place, which comply with the pilot transfer arrangements in that regulation.

7. For the purposes of regulation 23, the master of a ship to which that regulation applies shall ensure that-

(a) all pilot transfer arrangements meet the requirements in that regulation;

(b) all transfer pilot equipment is properly maintained, stowed and regularly inspected in accordance with that regulation;

(c) the rigging and testing of equipment for pilot transfer, and the procedures in place for such transfers, comply with that regulation; and

(d) each pilot ladder is used only for the embarkation and disembarkation of pilots and by officials and other persons authorised by the master on arrival at or departure from a port.

8. For the purposes of paragraph 2.2 of regulation 23-

(a) the master of the ship shall nominate an officer of the ship to be the responsible officer; and

(b) the responsible officer shall (in addition to the duties expressly allocated to him by that paragraph) ensure that personnel engaged in rigging and operating any mechanical equipment are instructed in the safe procedures to be adopted and that the equipment is tested prior to use.

Regulations 24 and 26

9. For the purposes of regulation 24 to 26-

(a) in relation to paragraph 3 of regulation 24, the responsible officer shall be the officer in charge of the navigational watch or, if there is no such officer, the master;

(b) the details specified in paragraph 6 of regulation 26 shall be recorded in the ship’s official log book; and

(c) the owner of a ship to which regulation 26 applies shall ensure that the simple operating instructions and block diagram required by paragraph 3.1 of that regulation are provided.

Regulation 30

10. For the purposes of paragraph 3 of regulation 30, the list together with any necessary explanations shall be set out in a document appended to the ship's Passenger Ship Safety Certificate.

Regulation 31

11. (1) For the purposes of paragraph 1 of regulation 31, the competent authorities are the appropriate national or NAVAREA Co-ordinators.

(2) For the purposes of paragraph 4 of regulation 31, "Radio Regulations" has the meaning given in section 153(6) of the Law.

Regulation 33

12. (1) For the purposes of paragraph 1 of regulation 33-

- (a) a "distress alert" means a signal of distress from a ship or information from any source that a ship or hovercraft is, or persons on or from a ship or hovercraft are, in distress at sea;
- (b) the search and rescue service which the master must inform (in either instance referred to) is the search and rescue service for the area within which the persons in distress at sea are located; and
- (c) the recommendation of the IMO which the master must take into account is set out in the International Aeronautical and Maritime Search and Rescue (IAMSAR) manual adopted in 2000 by IMO Resolution A.894(21).

(2) A master shall be released from a duty imposed in paragraph 1 of regulation 33 in the circumstances set out in paragraph 3 of regulation 33, and from the duty imposed in paragraph 1 or 2, as the case may be, of that regulation in the circumstances set out in paragraph 4 of that regulation.

(3) A master of a ship in distress, or the search and rescue services concerned, may requisition a ship in the circumstances set out in paragraph 2 of regulation 33.

(4) Compliance by a master with the requirements of regulation 33 shall not affect his right, or the right of any other person, to salvage.

SECOND SCHEDULE

OFFENCES AND PENALTIES

1. In this Schedule:

- (a) a reference to a numbered regulation is a reference to the regulation of that number in Chapter V; and
- (b) where a regulation applies to a hovercraft, a reference to a ship shall be construed as including a reference to a hovercraft and a reference to the master of the ship shall be construed as including a reference to the captain of the hovercraft.

Offences and Penalties

2. Where a ship, to which paragraph 3 of regulation 7 applies, proceeds or attempts to proceed on any voyage or excursion without complying with the requirements to carry on board a plan approved in accordance with paragraph 2 of the First Schedule, the owner of the ship is guilty of an offence, and liable on summary conviction to a fine of twenty-five thousand dollars and on conviction on indictment to imprisonment for one year and a fine, of twenty-five thousand dollars.

3. A contravention of paragraph 7 of regulation 10 is an offence by the owner, the master and any other person for the time being responsible for the conduct of the ship, and the offender is liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

4. A contravention of paragraph 7 of regulation 11 is an offence by the master and he is liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

5. A contravention of paragraph 2 or 3 of regulation 17 is an offence by the owner and the master and the offender is liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

6. Where a ship, to which regulation 19 or paragraph 1 of regulation 20 applies, proceeds or attempts to proceed on any voyage or excursion without complying with a requirement in-

- (a) regulation 19, or paragraph 1 of regulation 20, respectively, or
- (b) paragraph 1, 2, 3, 7 or 8 of regulation 18, in a case where such paragraph applies,

the owner and the master are guilty of an offence, and each is liable on summary conviction to a fine of twenty-five dollars and on conviction on indictment to imprisonment for one year and a fine of twenty-five thousand dollars.

7. Where a ship, to which regulation 21 applies, proceeds or attempts to proceed on any voyage or excursion without complying with a requirement in that regulation, the owner and the master are guilty of an offence and each is liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale.

8. Where a ship, to which paragraph 1 or 2 of regulation 22 applies, proceeds or attempts to proceed on any voyage or excursion without complying with paragraph 1 or 2 the owner and the master are guilty of an offence and each is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

9. In relation to a requirement in regulation 23 with which the owner, master or responsible officer of a ship is, under paragraph 7, 8 or 9 respectively of the First Schedule, obliged to ensure compliance, any contravention is an offence and the offender is liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

10. In relation to paragraph 4 of regulation 24, and paragraphs 1 and 2 of regulation 26, any person who is directed to do so but fails to carry out a check or test required under any of those paragraphs is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

11. In relation to the requirement in paragraph 3.1 of regulation 26, with which the owner is, under paragraph 9(c) of the First Schedule, obliged to ensure compliance, a contravention is an offence by the owner who is liable on summary conviction by a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

12. A contravention of any other requirement in regulation 24, 25 or 26 is an offence by the master who is liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

13. Where a ship, to which regulation 27 applies, proceeds or attempts to proceed on any voyage or excursion without complying with that regulation, the owner and the master are guilty of an offence and each is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

14. A contravention of regulation 28 is an offence by the master who is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

15. A contravention of regulation 29 is an offence by the owner and the master and each is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

16. A contravention of regulation 30 is an offence by the owner who is liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

17. A contravention of paragraph 1 of regulation 31 is an offence by the master who is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

18. A contravention of paragraph 1 or 2 of regulation 33 is an offence by the master, who is liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

19. Where a ship, to which paragraphs 1 and 2 of regulation 34 apply, proceeds or attempts to proceed to sea without complying with a requirement in either of those paragraphs, the master is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to imprisonment for one year and a fine of ten thousand dollars.

20. A person who contravenes paragraph 3 of regulation 34 is guilty of an offence and liable on summary conviction to a fine of twenty-five thousand dollars and on conviction on indictment to imprisonment for one year and a fine of twenty-five thousand dollars.

Defences

21. In relation to paragraph 7 of regulation 10 it is a defence to show that there were compelling reasons not to use a particular mandatory ships' routing system and that such reasons were recorded in the ship's log-book at the time.

22. In relation to any other offence under these Regulations, it is a defence for a person charged under these Regulations to show that he took all reasonable steps to avoid the commission of the offence.

Made in Cabinet the 6th day of January, 2004.

Meridith Hew

Acting Clerk of the Cabinet.