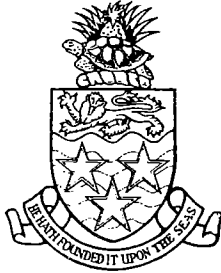


CAYMAN ISLANDS



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**THE MERCHANT SHIPPING
(CREW AGREEMENTS, LIST OF CREW
AND DISCHARGE OF SEAMEN) REGULATIONS 1992**

CAYMAN ISLANDS

THE MERCHANT SHIPPING ACT 1980

THE MERCHANT SHIPPING (CREW AGREEMENTS, LIST OF CREW AND DISCHARGE OF SEAMEN) REGULATIONS 1992

The Governor in Council, in exercise of his powers under sections 1(5) and (7), 2, 3, 69 and 92 of the Merchant Shipping Act 1970 and of all other powers enabling him in that behalf, makes the following Regulations –

PART 1 - CITATION, COMMENCEMENT AND INTERPRETATION

Citation and
commencement.

1. These regulations may be cited as the Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations 1992 and shall come into force on the 11th day of August 1992.

Interpretation.

2. In these Regulations –

"the Act" means the Merchant Shipping Act 1970 as extended to the Cayman Islands;

"Cayman Islands Ship" means a ship registered in the Cayman Islands or an unregistered ship in which a majority interest is owned by persons each of which is a citizen of the Cayman Islands or a body corporate which is established under the law of the Cayman Islands and has its principal place of business on a part of the Cayman Islands;

"citizen of the Cayman Islands" means a British Dependant Territory Citizen by virtue of a connection with the Cayman Islands;

"coastal voyage" means a voyage between places in the Cayman Islands or from and returning to such a place during which in either case, no call is made at any place outside the Cayman Islands;

"proper officer" means, in relation to a port of a country outside the

Cayman Islands that is not a foreign country, any officer exercising in that port functions similar to those of a shipping master, and in relation to any other port outside the Cayman Islands, a consular officer;

"ship" means a Cayman Islands ship but does not include a fishing vessel;

"unregistered ship" means a ship that is not registered in the Cayman Islands or elsewhere; and

reference to the gross or to the register tonnage of a ship are, in the case of a ship having alternative gross or alternative register tonnages, references to the larger of its gross tonnages or to the larger of its register tonnages, as the case may be.

PART – 2 ENGAGEMENT OF SEAMEN

Interpretation of Part 2.

3. In this Part "the appropriate shipping master or proper officer" means a shipping master or proper officer for the place at which a crew agreement, or an agreement with any person added to those contained in a crew agreement, is or is to be made.

Exemptions from requirements of section 1 (crew agreements).

4. (1) The requirements of section 1 of the Act relating to crew agreements shall not apply to the following descriptions of ships and voyages –

- (a) a ship belonging to the Port Authority of the Cayman Islands;
- (b) a ship of less than 100 register tons;
- (c) a pleasure yacht;
- (d) a voyage by any ship solely for the purpose of trials of the ship, its machinery or equipment which begins and ends at a place or places in one country and during which the ship does not call at any other place outside that country.

(2) The requirements of section 1 of the Act relating to crew agreements shall not apply to the following descriptions of seamen –

- (a) a person employed in a ship in connection with the construction, alteration, repair or testing of the ship, its machinery or equipment, and not engaged in the navigation of the ship;
- (b) a person solely employed in work directly related to –
 - (i) the exploration of the seabed or sub-soil or the exploitation of their natural resources; or
 - (ii) the storage of gas in or under the seabed or the recovery of gas so stored; or

- (iii) the laying, inspection, testing, repair, alteration, renewal or removal of any submarine telegraph cable; or
- (iv) the assembling, inspection, testing, maintaining, adjusting, repairing, altering, renewing changing the position of, or dismantling a pipe-line or length of pipe-line, other than a pipe-line which forms part of an off-shore installation or the equipment of any vessel or vehicle, or any activity ancillary to or carried out in connection with or for the purpose of such work; or
- (v) the provision of goods, personal services or entertainment on board;

and who is not employed by the owner or the person employing the master of the ship and is not engaged in the navigation of the ship in the deck, engine room, radio, medical or catering department of that ship and who has been given a written statement by his employer specifying—

- (A) the nature of the employment, the remuneration, the intervals at which the remuneration is to be paid and the length of notice which he is required to give and entitled to receive to determine his employment; and
- (B) any terms or conditions of his employment relating to sick pay hours of work (including any terms and conditions relating to normal working hours), pensions and entitlement to holidays;
- (c) a member of the naval, military or air forces of the Crown or of any service administered by the Defence Council, when acting as such a member.

Carrying of copy of crew agreement in ships.

5. (1) A ship required under section 1 of the Act to carry a crew agreement may, in the case of an agreement which relates to both that and to other ships and which is kept either at an address ashore in the Cayman Islands or at an address outside the Cayman Islands to which the Registrar of Shipping has given his consent to the agreement being kept, comply with that requirement by carrying a copy of the agreement certified in the manner provided by paragraph (2).

(2) A copy of a crew agreement carried in a ship in accordance with paragraph (1) shall bear a certificate signed by the master certifying that it is a true copy of the crew agreement and specifying the address at which the crew agreement is kept and the name of the person by whom it is so kept.

Delivery of crew agreement.

6. The employer shall, within three days of the date when the last person remaining employed under the crew agreement ceases to be employed under that agreement, or if it is not practicable within that period, as soon as practicable thereafter, deliver the crew agreement to a shipping master or proper officer for the place where the ship was

when that person ceased to be so employed. If the crew agreement covers an indefinite period the employer shall deliver a copy of the crew agreement within seven days of the crew agreement being opened to a shipping master or proper officer for the place where the ship was when the agreement opened.

Display of crew agreement.

7. The master of a ship shall cause –

- (a) a copy of any crew agreement relating to the ship; or
- (b) an extract containing the terms of that agreement applicable –
 - (i) to all seamen employed under it, and
 - (ii) to each description of seamen so employed,

to be posted in some conspicuous place on board the ship where it can be read by the persons employed under the crew agreement and he shall cause it to be kept so posted and legible so long as any seaman is employed in the ship under the crew agreement.

Supply and production of copy documents.

8. Upon a seaman making a demand of his employer or of the master, the employer or the master, as the case may be, shall, within a reasonable time –

- (a) cause to be supplied to him a copy of the crew agreement under which he is employed or such extracts therefrom as are necessary to show the terms on which he is employed; and
- (b) cause to be made available to him a copy of any document referred to in the agreement.

Production of documents to shipping masters, officers, to Customs and proper officers.

9. The master shall, on demand by a shipping master, an officer of Customs or a proper officer produce to him –

- (a) any crew agreement, or the copy of any crew agreement carried in the ship in pursuance of regulation 5; and
- (b) any certificate evidencing an exemption granted by the Governor in Council from the requirements of section 1 of the Act with respect to the ship or to any person in it.

Offences under Part 2.

10. (1) A person who fails to comply with an obligation imposed on him by or under regulation 6 or 8 shall be guilty of an offence.

(2) A master who fails to comply with an obligation imposed on him by or under regulation 7, 8 or 9 shall be guilty of an offence.

(3) An offence under this Regulation shall be punishable on summary conviction with a fine not exceeding \$5,000.

PART 3 – LISTS OF CREW

Interpretation of Part 3. 11. In this Part –

"endorsement", in relation to a certificate of competency or of service, means an endorsement in respect of a trading area, type of ship or dangerous cargo;

"seaman" includes the master of a ship; and

except where the context otherwise requires, references to the employment of a seaman in a ship include references to engagement, and references to discharge include references to termination of engagement.

Exemptions from the requirements of section 69 of the Act (lists of crew).

12. The duty imposed by section 69 of the Act to make and maintain a list of the crew shall not apply in relation to a pleasure yacht which is –

- (a) engaged on a coastal voyage; or
- (b) engaged on any other voyage, provided that not more than 4 members of the crew receive wages for their employment.

List of crew contained in crew agreement.

13. A list of crew may be contained in the same document as a crew agreement relating to one ship only and any particulars entered in the crew agreement shall be treated as forming part of the particulars entered in the list.

Particulars to be specified in list of crew.

14 (1) Subject to paragraphs (2) and (3), a list of crew shall contain the following particulars –

- (a) (i) the name of the ship, its port of registry and official number;
- (ii) the name of the owner of the ship and his address and of any person who is a charterer of the ship pursuant to a charter by demise;
- (iii) the number of the certificate evidencing an exemption granted by the Governor in Council from the requirements of section 1 of the Act (which relates to crew agreements) with respect to the ship or any person in it; and
- (b) subject to paragraph (4), with respect to every seaman from time to time on board the ship, whether or not he is employed under a crew agreement –
 - (i) his name and nationality;
 - (ii) his address;
 - (iii) the number of his current discharge book (if any) or the

date and place of his birth;

- (iv) the name of the ship in which he was last employed and, if he was discharged from that ship more than 12 months before he became employed in the ship to which the list of crew relates, the year in which he was so discharged;
- (v) the capacity in which he is employed in the ship;
- (vi) the grade (including any command, service or other endorsement) and number of any certificate of competency or of service held by him;
- (vii) the date on which he went on board the ship to commence his employment in it;
- (viii) the date on and place at which he left the ship and, if he left on discharge, the reason for his discharge;
- (ix) if he is left behind otherwise than on discharge, the date and place of and the reason (if known to the master) for this being done;
- (x) the name and relationship of his next of kin and the address of his next of kin, if different from that of the seaman.

(2) A list of crew which relates to a ship belonging to the Port Authority of the Cayman Islands need contain only the particulars referred to in paragraphs (1)(a)(i) and (1)(b)(i), (ii), (vii) and (viii).

(3) A list of crew which relates to seamen employed under a crew agreement need contain only the particulars referred to in paragraph (1)(a)(i) and, in respect of each seaman, the particulars referred to in paragraph (1)(b)(i), (ii), (iii) and (viii) if the remaining particulars referred to in paragraph (1) are contained in the crew agreement.

(4) With respect of a member of the naval, military or air forces of the Crown or of any service administered by the Defence Council when acting as such a member, a list of crew need contain only the particulars referred to in paragraph (1)(b)(i), (ii), (vii) and (viii).

Copies of list of crew.

15. (1) A copy of every list of crew (including all changes in it notified to the owner) shall be maintained by the owner of the ship either at an address in the Cayman Islands or at an address outside the Cayman Islands to which the Registrar of Shipping has given his consent to the list being kept.

(2) The master shall, as soon as practicable and in any event within 3 days of any change being made in the list of crew, notify the change to the owner of the ship.

Copy of list of crew to be delivered in certain circumstances.	16. When any person having in his possession the copy of a list of crew required to be maintained under regulation 15 has reason to believe that the ship to which it relates has been lost or abandoned, he shall immediately deliver the copy of the list to a shipping master or proper officer.
Copy of list of crew to be produced.	17. A person having in his possession a copy of a list of crew required to be maintained under regulation 15 shall produce it on demand to a shipping master or proper officer.
Delivery of list of crew to Registrar-General.	18. The owner shall, on demand, deliver to the Registrar of Shipping within 28 days of such demand being made a list of the crew on board the ship at a date specified by the Registrar.
Duration of list of crew.	19. Except in the case where a crew agreement for the ship covers an indefinite period a list of crew shall remain in force – (a) if any person is employed in the ship under a crew agreement, until all the persons employed under that agreement in that ship have been discharged; and (b) in the case of a ship engaged on coastal voyages for port authorities, whose crew are returned to shore within each period of 24 hours, for 12 months after the first entry relating to a seaman is made on a list; and (c) in any other case, until the ship first calls at a port more than 6 months after the first entry relating to a seaman is made in the list.
Delivery of list of crew.	20. (1) The master shall, within 3 days after a list of crew (other than one relating to a ship of less than 25 gross tons or to a ship belonging to the Port Authority of the Cayman Islands) has ceased to be in force or, if it is not practicable within that period, as soon as practicable thereafter, deliver the list to a shipping master or proper officer for the place where the ship is when the list of crew ceases to be in force. (2) Where the crew agreement covers an indefinite period the owner shall deliver a list every six months after the crew agreement is opened, showing all changes that have occurred since the list was last submitted, to the Registrar of Shipping within seven days of the expiry of each period of six months.
Production of lists of crew.	21. A master shall, on demand, produce to the Registrar of Shipping, a shipping master or proper officer, a surveyor of ships or an officer of Customs the list of crew required to be maintained in the ship.
Offences under Part 3.	22. (1) A master who fails to comply with an obligation imposed on him by or under regulation 15(2), 20(1) or 21 shall be guilty of an offence. (2) A person who fails to comply with an obligation imposed on him by regulation 15(1), 16, 17, 18 or 20(2) shall be guilty of an offence.

(3) An offence under this regulation shall be punishable on summary conviction with a fine not exceeding \$2,500.

PART 4 – DISCHARGE OF SEAMEN

Notice of discharge.

23. (1) In the event of any dispute about a seaman's wages, and that dispute is at the time of discharge to be submitted to a shipping master or proper officer under section 10 of the Act (which relates to disputes about seamen's wages), then subject to regulation 24 the master of a ship shall, not less than 48 hours before the seaman is discharged from the ship or, if it is not practicable within that period, as soon as practicable thereafter, give a notice of discharge in writing to a shipping master or proper officer for the place where the seaman is to be discharged.

(2) A notice of discharge shall contain the following particulars –

- (a) the name of the ship, its port of registry and official number;
- (b) the place, date and time of the seaman's discharge;
- (c) the capacity in which the seaman is employed in the ship.

(3) If a notice of discharge relates to more than one seaman, it shall state, in addition to the particulars specified in paragraph (2), the number of seamen being discharged.

Discharge.

24. A notice of discharge is not required in respect of a seaman discharged –

- (a) if the seaman is to be discharged from a ship exempted from the requirements of section 1 of the Act by regulation 4(1); or
- (b) if the seaman is exempted from the requirements of section 1 of the Act by regulation 4(2).

Procedure on discharge

25. (1) Where a seaman is present when he is discharged:

- (a) the master, or one of the ship's officers authorised by him in that behalf, shall, before the seaman is discharged –
 - (i) if the seaman produces his discharge book to him, record in it the name of the ship, its port of registry, gross or register tonnage and official number, the description of the voyage, the capacity in which the seaman has been employed in the ship, the date on which he began to be so employed and the date and place of his discharge; or
 - (ii) if the seaman does not produce his discharge book to him, give to the seaman a certificate of discharge containing the like particulars;

- (b) the master shall ensure that the seaman is discharged in the presence of –
 - (i) the master himself, or
 - (ii) the seaman's employer, or
 - (iii) a person authorised in that behalf by the master or employer;
- (c) the person mentioned in paragraph (1)(b) in whose presence the seaman is being discharged shall –
 - (i) make and sign an entry in the official log book recording the place, date and time of the seaman's discharge; and
 - (ii) make and sign an entry in the crew agreement or, if there is a list of crew separate from a crew agreement, in the list of crew, recording the place and date of, and the reason for, the seaman's discharge, and
- (d) the seaman shall sign the entry in the crew agreement and list of crew referred to in paragraph (1)(c)(ii).

(2) Where a seaman is not present when he is discharged, the master, or a person authorised in that behalf by the master, shall make the entries referred to in paragraph (1)(c).

(3) All entries in the official log book required under paragraphs (1) and (2) shall, in addition to being signed by the person making the entry, be signed also by a member of the crew.

(4) If a seaman so requests, within a period of 6 months from the date of his discharge from or his leaving the ship, the master, or one of the ship's officers authorised by him in that behalf, shall give to the seaman a certificate (which shall be separate from any other document) either as to the quality of his work or indicating whether he has fully discharged his obligations under his contract of employment.

Offences under
Part 4.

26. (1) Any person (including a master) –

- (a) who fails to comply with an obligation imposed on him by or under paragraph (1)(a), (1)(c) or (4) of regulation 25; or
- (b) who fails to comply with an obligation imposed on him by regulation 25(c)(ii) in relation to an entry in a crew agreement or in a list of crew,

shall be guilty of an offence.

(2) A master who fails to comply with an obligation imposed on him under regulation 23(1), 25(1)(b), 25(2) or 25(4) shall be guilty of an offence.

(3) A seaman who fails to comply with an obligation imposed on him by regulation 25(1)(d) shall be guilty of an offence.

(4) An offence under this regulation shall be punishable on summary conviction –

- (a) in the case of an offence referred to in paragraph (1)(a) or (1)(b) or (2), with a fine not exceeding \$10,000; and
- (b) in the case of an offence referred to in paragraph (3) of this regulation, with a fine not exceeding \$2,500.

Made in Executive Council this 14th day of July, 1992.

MEREDITH HEW
Acting Clerk of the Executive Council.