

CAYMAN ISLANDS



Merchant Shipping Law

MERCHANT SHIPPING (ENTRY INTO DANGEROUS SPACES) REGULATIONS, 2004

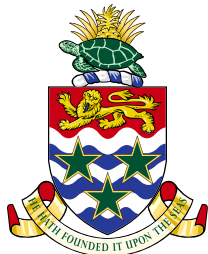
(SL 11 of 2004)

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Arrangement of Regulations

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(SL 11 of 2004)

The Governor, in exercise of the powers conferred on him by sections 173 and 459 of the Merchant Shipping Law (2004 Revision), makes the following Regulations:

Citation

1. These Regulations may be cited as the Merchant Shipping (Entry into Dangerous Spaces) Regulations, 2004.

Interpretation

2. In these Regulations, unless the context otherwise requires —

“**dangerous space**” means an enclosed or confined space in which it is foreseeable that the atmosphere may at some stage contain toxic or flammable gases or vapours, or be deficient in oxygen, to the extent that it may endanger the life or health of a person entering that space;

“**employer**” means the person for the time being employing the master;

“**gas carrier**” means a ship constructed or adapted for the carriage in bulk of liquefied gas; and

“**offshore unit**” has the meaning ascribed to it by section 162 of the *Merchant Shipping (Marine Pollution) Law, 2001*.

Application

3. (1) Subject to paragraph (2) —
- (a) these regulations, except regulation 11, apply to Cayman Islands ships wherever they may be; and
 - (b) these regulations, other than regulations 6 and 10, apply to ships other than Cayman Islands ships when they are in Cayman Islands waters.
- (2) These regulations do not apply to —
- (a) fishing vessels;
 - (b) pleasure vessels;
 - (c) offshore installations whilst on or within 500 metres of their working stations; or
 - (d) ships in which there is for the time being no master or crew or watchman.

Entrances to dangerous spaces

4. Except when necessary for entry thereto, the master of a ship shall ensure that all entrances to unattended dangerous spaces on the ship are either kept closed or otherwise secured against entry.

Entry into dangerous spaces

5. (1) The employer shall ensure that procedures for ensuring safe entry and working in dangerous spaces are clearly specified.
- (2) The master shall ensure that the procedures laid down pursuant to paragraph (1) are observed on board the ship.
- (3) No person shall enter or remain in a dangerous space except in accordance with the procedures laid down pursuant to paragraph (1).
- (4) In fulfilling their duties under paragraphs (1), (2) and (3) the employer, master and any other person shall take full account of any directions that may be published by the Director.

Drills

6. The master of —
- (a) a tanker or gas carrier of five hundred tons and over; and
 - (b) any other ship of one thousand tons and over,
- shall ensure that drills simulating the rescue of a crew member from a dangerous space are held at intervals not exceeding two months, and that a record of each such drill is entered in the official log book.



Testing equipment

7. (1) The employer shall ensure that each ship where entry into a dangerous space may be necessary shall carry or otherwise have available an oxygen meter and such other testing device as is appropriate to the hazard likely to be encountered in any dangerous space on board.
- (2) The master shall ensure that meters and testing devices referred to in paragraph (1) are maintained in good working order and, where applicable, regularly serviced and calibrated according to the manufacturers' recommendations.

Penalties

8. (1) An employer who contravenes regulations 5 or 7 commits an offence and is liable on summary conviction to a fine of four thousand dollars or on conviction on indictment to a fine and imprisonment for two years.
- (2) A master who contravenes regulations 4, 5, 6 or 7 commits an offence and is liable on summary conviction by a fine of two thousand dollars.
- (3) A person other than an employer or a master who contravenes regulations 5(2) or 5(3) commits an offence and is liable on summary conviction by a fine of one thousand dollars.
- (4) It is a defence for a person charged under this regulation, including a person charged by virtue of regulation 9, to show he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Offences due to the act or default of another

9. Where an offence under any of these regulations is committed, or would have been committed save for the operation of regulation 8(4), by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of an offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

Inspection and detention of a Cayman Islands ship

10. A surveyor or any other person duly authorised by the Director may inspect any Cayman Islands ship and if he is satisfied that there has been a failure to comply in relation to that ship with the requirements of these regulations he may detain the ship until the health and safety of those persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

Inspection and detention and other measures in respect of ships registered outside the Islands

- 11.** (1) A surveyor or any other person duly authorised by the Director may inspect any ship other than a Cayman Islands ship when the ship is in Cayman Islands waters and if he is satisfied that the ship does not conform to the standards of health and safety required of Cayman Islands ships by these regulations, he may —
- (a) send a report to the Government of the country in which the ship is registered and a copy thereof to the Director General of the International Labour Organisation; and
 - (b) where conditions on board are clearly hazardous to safety or health —
 - (i) take such measures as are necessary to rectify those conditions; and
 - (ii) detain the ship.
- (2) The measures specified in paragraph(1)(a) and (b) may be taken only when the ship is in Cayman Islands waters in the normal course of business or for operational reasons.
- (3) Where the surveyor or person duly authorised takes either of the measures specified in paragraph (1)(b) he shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.
- (4) The surveyor or person duly authorised shall not in exercise of his powers under this regulation unreasonably detain or delay a ship.

Made in Cabinet the 30th day of November, 2004.

Carmena H. Watler
Clerk of the Cabinet.

