

CAYMAN ISLANDS



Merchant Shipping Law

**MERCHANT SHIPPING (GUARDING OF
MACHINERY AND SAFETY OF
ELECTRICAL EQUIPMENT)
REGULATIONS, 2004**

(SL 12 of 2004)

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Arrangement of Regulations

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(SL 12 of 2004)

The Governor, in exercise of the powers conferred on him by sections 255 and 459 of the Merchant Shipping Law (2004 Revision) makes the following Regulations:

Citation

1. These Regulations may be cited as the Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations, 2004.

Interpretation

2. (1) In these Regulations unless the context otherwise requires —
“**employer**” means the person for the time being employing the master; and
“**offshore unit**” has the meaning ascribed to it in section 162 of the *Merchant Shipping (Marine Pollution) Law, 2001*.
(2) For the purposes of these regulations, machinery is securely guarded if it is protected by a properly installed guard or device of a design and construction which prevents foreseeable contact between a person or anything worn or held by a person and a dangerous part of the machinery.

Application

3. (1) Subject to paragraph (2), these regulations except regulation 8, apply to —
- (a) Cayman Islands ships; and
 - (b) 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.
- (3) The Director may grant exemptions from all or any of these regulations, as may be specified in the exemption, for classes of cases or individual cases on such terms, if any, as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

Guarding of machinery

4. (1) Subject to paragraph (2), the employer and the master shall ensure that every dangerous part of the ship's machinery is securely guarded unless that part is of such construction, is so positioned or is otherwise safeguarded so as to be as safe to anyone on board as if it were securely guarded.
- (2) It is a defence for a person charged in respect of a contravention of paragraph (1) to show that it was necessary for the dangerous part of machinery to be in motion whilst it was not securely guarded to ensure the safety of the ship or for the purposes of an examination and any adjustment, lubrication or test shown by that examination to be immediately required so long as —
- (a) exposure of the dangerous part was the minimum that was necessary;
 - (b) exposure was authorised by a responsible ship's officer or other responsible person;
 - (c) examination was carried out only by a competent person;
 - (d) any person who was required to be close to the machinery had, so far as was reasonably practicable, an area which was of adequate size, properly illuminated and clear of obstructions and loose material in which to work;
 - (e) any person operating or close to the machinery had been instructed as necessary in the safe systems of work for that machinery and in the dangers arising from and the precautions to be observed while the machinery was operating; and



- (f) a conspicuous notice warning of the danger was exhibited on or close to the machinery.
- (3) The employer and the master shall ensure that all guards and other devices provided in pursuance of these regulations are of substantial construction and properly maintained and, subject to paragraph (2), kept in position whilst the parts to be guarded are in motion.
- (4) The employer and master shall ensure that there is a means for taking prompt action to stop any machinery and for cutting off the power in the event of an emergency.

Electrical equipment

- 5. The employer and the master shall ensure that all ship's electrical equipment and installations are so constructed, installed, operated and maintained that the ship and all persons are protected against electrical hazards.

Penalties

- 6. (1) An employer who contravenes regulation 4(1), (3), (4) or 5 is guilty of an offence and liable on summary conviction to a fine of four thousand dollars and on conviction on indictment to a fine and to imprisonment for two years.
- (2) A master who contravenes regulation 4(1), (3), (4) or 5 is guilty of an offence and liable on summary conviction to a fine of two thousand dollars.
- (3) It is a defence for a person charged under these regulations, including a person charged by virtue of regulation 7, to show that 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

- 7. Where an offence under these regulations is committed, or would have been committed except for the operation of regulation 6(3), by a person due to the act or default of some other person, that other person is guilty of the offence, and a person may be charged with and convicted of the 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

- 8. A person 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 all employees and other persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

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

9. (1) A person 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 an authorised person 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) An authorised person shall not in the 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.

