

CAYMAN ISLANDS



Merchant Shipping Law

MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) (FOOD AND CATERING) REGULATIONS, 2014

(SL 42 of 2014)

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(SL 42 of 2014)

The Cabinet, in exercise of the powers conferred by sections 106, 110 and 463 of the Merchant Shipping Law (2011 Revision), makes the following Regulations —

Citation

1. These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) (Food and Catering) Regulations, 2014.

Definitions

2. In these Regulations —

“**authorized person**” means a person authorized by the Chief Executive Officer to carry out inspections and audits for the purposes of these Regulations and includes any surveyor of ships appointed under section 419 of the Law;

“**catering department**” means the galley, mess rooms and any other areas on board intended or used for the storage or preparation of food for seafarers or the service of meals to seafarers;

“**catering staff**” means seafarers whose normal duties include the preparation and storage of food, the service of meals to seafarers on board the ship or other work in the galley or in areas where food is stored or handled;

“**Chief Executive Officer**” means the Chief Executive Officer of MACI appointed under section 9 of the *Maritime Authority Law (2013 Revision)*;

“**CISN 05/2011**” means Shipping Notice CISN 05/2011 published by MACI regarding Issue of Endorsements Attesting to the Recognition of a Certificate of Competency, as amended from time to time;

“**CISN 07/2014**” means Shipping Notice CISN 07/2014 published by MACI regarding requirements and guidance for the provision of food and fresh water on ships, as amended from time to time;

“**Maritime Labour Certificate**” and “**interim Maritime Labour Certificate**” mean a Certificate issued in accordance with the Maritime Labour Convention;

“**Maritime Labour Convention**” means the Convention adopted on 23rd February 2006 by the General Conference of the International Labour Organization, as may be amended from time to time;

“**qualified ship’s cook**” means a person who has been issued with a valid ship’s cook certificate which has not expired or been cancelled or suspended;

“**seafarer**” means any person, including a master, who is employed or engages or works in any capacity on board a ship and whose normal place of work is on a ship;

“**shipowner**” means —

- (a) in relation to a ship which has a valid Maritime Labour Certificate, the person identified as the shipowner on that Certificate; or
- (b) in relation to any other ship, the owner of the ship or, if different, any other organization or person such as the manager, or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the owner; and

“**ship’s cook certificate**” means a certificate of competency which is recognized under regulation 9.

Application

3. (1) Subject to paragraph (3), these Regulations (other than regulations 13 to 15) apply to —
- (a) Cayman Islands ships, wherever they may be; and
 - (b) while they are in Cayman Islands waters, to ships —
 - (i) which are not Cayman Islands ships; and
 - (ii) to which regulations 13 to 15 do not apply.
- (2) Regulations 13 to 15 apply to non-Cayman Islands ships, while they are within Cayman Islands waters if —



- (a) the Maritime Labour Convention is in force for the State whose flag the ship is entitled to fly; and
- (b) the ship carries —
 - (i) a Maritime Labour Certificate to which a Declaration of Maritime Labour Compliance is attached; or
 - (ii) an interim Maritime Labour Certificate.
- (3) These Regulations do not apply to —
 - (a) pleasure vessels;
 - (b) fishing vessels;
 - (c) warships or naval auxiliaries; or
 - (d) offshore installations whilst on their working stations.

Provision of food and drinking water

4. (1) It shall be the duty of the shipowner and master of every ship to ensure that there shall be provided on the ship, food and drinking water which —
- (a) are suitable in respect of quantity, nutritive value, quality and variety having regard to —
 - (i) the number of seafarers on board and the character, nature and duration of the voyage; and
 - (ii) the different religious requirements and cultural practices in relation to food of the seafarers on board;
 - (b) do not contain anything which is likely to cause sickness or injury to health or which renders any food or water unpalatable; and
 - (c) are otherwise fit for consumption.
- (2) The shipowner and master shall ensure that food and drinking water provided in accordance with paragraph (1) are provided free of charge to all seafarers whilst they are on board.

Organization and equipment of the catering department

5. The shipowner and the master shall ensure that —
- (a) food and drinking water which are provided for seafarers are stored and handled; and
 - (b) the catering department is organised and equipped,
so as to permit the provision to seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions in accordance with the requirements set out in CISN 07/2014.

Inspection of food and catering provision

6. (1) It shall be the duty of the master to ensure that the master, or a person authorized by the master, together with a member of the catering staff on the ship, inspects, not less than once a week —
- (a) the supplies of food and drinking water on board to check compliance with regulations 4 and 5; and
 - (b) the catering department and its equipment to check compliance with regulation 5.
- (2) The master shall ensure results of any inspections required by paragraph (1) are recorded in the official log book of the ship.

Complaints about food or drinking water

7. (1) If three or more seafarers employed in a ship to which these Regulations apply consider that the food or drinking water provided for the seafarers employed in that ship are not in accordance with the requirements of these Regulations they may complain to the master, who shall investigate the complaint.
- (2) If the seafarers are dissatisfied with the action taken by the master as a result of the master's investigation or by the master's failure to take any action they may state their dissatisfaction to him and may claim to complain to a Shipping Master or proper officer and thereupon it shall be the duty of the master to make adequate arrangements to enable the seafarers to do so as soon as the service of the ship permits.
- (3) The shipping master or proper officer to whom a complaint has been made under this regulation shall investigate the complaint and may examine the food or drinking water or cause them to be examined.
- (4) Where the master has been notified in writing by the person making an examination under paragraph (3) that any food or drinking water is found not to be in accordance with the requirements of these Regulations, then —
- (a) it shall be the duty of the shipowner and the master to replace or replenish such food or drinking water within a reasonable time; and
 - (b) except where the complaint relates solely to the quantity of the food or water, it shall be the duty of the master not to permit such food or water to be used.

Requirement to carry a qualified ship's cook

8. (1) Subject to paragraph (2), where a Cayman Islands ship ordinarily operates with ten or more seafarers on board, the shipowner and the master shall ensure that the ship shall carry a qualified ship's cook who is the holder of a ship's cook certificate that is recognized under regulation 9.



- (2) In circumstances of exceptional necessity the Chief Executive Officer may grant an exemption from paragraph (1) —
 - (a) until the next port of call; or
 - (b) for a period not exceeding one month,but only if there is a person on board the ship who is trained or instructed in areas including food and personal hygiene and handling and storage of food on board ships in accordance with the requirements set out in CISN 07/2014.
- (3) The Chief Executive Officer may approve as respects a particular ship, or as respects ships of a particular description, requirements which, when taken together with the conditions and limitations to which the approval is subject, the Chief Executive Officer considers are substantially equivalent to the requirement in paragraph (1) to have a qualified ship's cook on board.
- (4) An exemption or approval by the Chief Executive Officer shall be given in writing, may be given subject to such conditions and limitations as the Chief Executive Officer may specify, and may be altered or cancelled.

Recognition of ship's cook certificates

- 9.** (1) Subject to paragraph (2), a ship's cook certificate —
- (a) granted under the Merchant Shipping (Certification of Ships' Cooks) Regulations, 2004;
 - (b) treated as equivalent under regulation 7 of those Regulations, or
 - (c) deemed under regulation 8 of those Regulations to be issued pursuant to section 110 of the Law,
- which is in force on the date when these Regulations come into force has effect as if it is a ship's cook certificate recognized under paragraph (3)
- (2) A certificate to which paragraph (1) applies remains valid for a period of five years starting on the date when these Regulations come into force unless it is suspended or cancelled in accordance with section 125 of the Law.
 - (3) A ship's cook certificate which has been issued to a person by an authority empowered to issue such certificates by the laws of any country or territory outside the Cayman Islands listed in Shipping Notice CISN 05/2011 is for the purposes of these Regulations equivalent to a ship's cook certificate issued under these Regulations.
 - (4) The Chief Executive Officer may approve a ship's cook certificate which has been issued to a person by an authority empowered to issue such certificates by the laws of any country or territory outside the Cayman Islands not listed in Shipping Notice CISN 05/2011; and such certificates shall be equivalent to a ship's cook certificate issued under these Regulations.

Training requirements for catering staff and other persons processing food in the galley

- 10.** The shipowner and the master of a ship shall ensure that each member of the catering staff is properly trained or instructed for that member's position and shall be trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship, in accordance with the requirements set out in CISN 07/2014.

Inspection of ships

- 11.** (1) For the purpose of checking compliance with these Regulations, an authorized person may at all reasonable times go on board a ship and inspect the ship, its equipment, any article and any document carried on it.
- (2) Sections 421(2) and (4) of the Law apply in relation to paragraph (1) as if references in those subsections to "subsection (1)" were references to paragraph (1).
- (3) Sections 422 (1), (2), (3) and (5) to (8) and 423(1) and (2) of the Law apply in relation to the inspection of a ship for the purposes of checking compliance with these Regulations as they apply in relation to the inspection of a ship for the purposes of checking compliance with the Law, as if —
- (a) references in those sections to "this Law" were to these Regulations;
 - (b) for section 422(1)(b) there were substituted a reference to any ship to which this regulation applies; and
 - (c) in section 422(2)(h)(iii) the words "or any instrument made under it" were omitted.
- (4) Sections 423 to 429 of the Law apply for the purposes of these Regulations as if the relevant statutory provisions included these Regulations

Detention of ships

- 12.** (1) Where an authorized person has clear grounds for believing that, in relation to a ship to which these Regulations apply —
- (a) the ship is not in compliance with regulation 4 to 10; and
 - (b) the non-compliance represents —
 - (i) a significant danger to the safety, health or security of seafarers, or
 - (ii) a serious breach or the latest in a series of repeated breaches of the requirements of regulations 4 to 10,
- the ship is liable to be detained.
- (2) The power under this regulation to detain a ship shall only be exercised if the ship in question is —



- (a) a Cayman Islands ship; or
 - (b) a non-Cayman Islands ship without a Maritime Labour Certificate whilst in a Cayman Islands port or Cayman Islands waters.
- (3) Section 444 of the Law applies where a ship is liable to be or is detained under this regulation as if references to the detention of a ship under that Law were references to these Regulations.
- (4) Where a ship is liable to be detained under these Regulations an authorized person shall serve on the master of the ship or other person for the time being in charge of the ship a detention notice which states the grounds for detention and the requirements to be complied with in respect of the notice in order for the ship to be released from the detention.
- (5) Where a ship which is detained under these Regulations is not a Cayman Islands ship, the Chief Executive Officer shall immediately inform the Consul or a diplomatic representative of the State whose flag the ship is entitled to fly, or the appropriate maritime authorities of that State, of the detention and the grounds therefor.
- (6) Where a ship is detained under these Regulations, an authorized person shall release the ship in accordance with the applicable provisions of section 444 of the Law.
- (7) It is prohibited for a ship on which a detention notice has been served to proceed to sea or attempt to proceed to sea unless a release from the detention has been issued in writing by an authorized person.
- (8) Notwithstanding that a detained ship may be eligible for release where any applicable fine, cost and expenses have been paid by the master or owner of the ship, or a security paid, in accordance with section 444 of the Law the ship shall not be released until any deficiency for which the vessel was detained has been rectified to the satisfaction of the Chief Executive Officer.

Food and catering requirements for non-Cayman Islands ships with Maritime Labour Certificates

- 13.** (1) The shipowner and the master of a ship to which this regulation applies shall ensure that the ship complies with the requirements of Regulation 3.2 and Standard A3.2 of the Maritime Labour Convention.
- (2) The shipowner of a ship to which this regulation applies and the master of such a ship shall comply with the requirements of Regulation 3.2.3 and Standard A3.2.3.
- (3) The master or a person acting under the master's authority shall —
- (a) carry out inspections of a ship to which this regulation applies in accordance with Standard A3.2.7 of the Maritime Labour Convention; and

- (b) record the findings of such inspections and keep them available for review.

Inspection of non-Cayman Islands ships with Maritime Labour Certificates

- 14.** (1) An authorized person may —
- (a) review the ship's Maritime Labour Certificate and Declaration of Maritime Labour Compliance or the ship's interim Maritime Labour Certificate; and
 - (b) where Standard A5.1.3 of the Maritime Labour Convention applies, carry out a more detailed inspection, in accordance with that Standard.
- (2) Where an authorized person has power to inspect a ship under this regulation, regulation 11 applies to that ship.

Detention of non- Cayman Islands ships with Maritime Labour Certificates

- 15.** (1) Where an authorized person inspects a ship under regulation 14(1)(b) and has clear grounds for believing that —
- (a) the ship does not comply with the requirements of the Maritime Labour Convention; and
 - (b) the non-compliance represents —
 - (i) a significant danger to the safety, health or security of seafarers; or
 - (ii) a serious breach or the latest in a series of repeated breaches of the requirements of the Maritime Labour Convention,
- the ship is liable to be detained.
- (2) An authorized person may permit a ship which is liable to be detained or is detained under this regulation to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.
- (3) Where a ship is liable to be detained or is detained under this regulation, section 444 of the Law applies as if references to the detention of a ship under the Law were references to detention of the ship in question under this regulation.
- (4) Where a ship is detained under this regulation, the Chief Executive Officer shall immediately inform the Consul or a diplomatic representative of the State whose flag the ship is entitled to fly, or the appropriate maritime authorities of that State, of the detention and the grounds therefor.
- (5) Where a ship is detained under this regulation but the failure to comply referred to in paragraph (1) has ceased, a person having power to detain the ship shall, at the request of the shipowner or master, immediately release the ship.



Offences and penalties

- 16.** (1) A contravention of regulation 4, 5, 8(1), 10, 13(1) or 13(2) by a shipowner or a master is an offence punishable —
- (a) on summary conviction by a fine of ten thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*; and
 - (b) on conviction on indictment, by a fine of fifty thousand dollars.
- (2) A contravention of regulation 6(1) or (2) or 13(3)(a) or (b) is an offence by the master punishable on summary conviction by a fine of ten thousand dollars, notwithstanding sections 6(2) and 8 of the Criminal Procedure
- (3) Without prejudice to regulation 18, in any proceedings for an offence under this regulation it is a defence for the person charged to prove that all reasonable steps had been taken by that person to ensure compliance with the requirements of the provision in question.

Right of appeal and compensation

- 17.** Regulations 12 and 13 of the Merchant Shipping (Port State Control) Regulations, 2003 shall have effect in relation to a detention notice served under these Regulations subject to the reference in those Regulations to inspector being taken to include a reference to a surveyor.

Defence

- 18.** It is a defence for a person charged with an offence under these Regulations to show that the offence was committed without that person's knowledge or, where the person had such knowledge, that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Repeal

- 19.** (1) The Merchant Shipping (Provisions and Water) (Cayman Islands) Regulations, 1989 are repealed.
- (2) The Merchant Shipping (Certification of Ships' Cooks) Regulations, 2004 are repealed.

Made in Cabinet the 19th day of August, 2014.

Meredith Hew
Acting Clerk of the Cabinet.

