

CAYMAN ISLANDS



Merchant Shipping Law

MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) (MEDICAL CARE) REGULATIONS, 2014

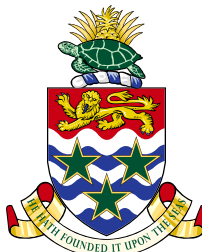
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The Cabinet, in exercise of the powers conferred by section 110 and 463 of the Merchant Shipping Law (2011 Revision), makes the following Regulations —

Citation

1. These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) (Medical Care) Regulations, 2014.

Definitions

2. (1) In these Regulations —

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

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

“**CISN 06/2014**” means Shipping Notice CISN 06/2014 published by the Maritime Authority regarding the carriage of medical stores on Cayman Islands ships;

“**Land Earth Station**” means a terrestrial communications station serving satellites forming part of the Global Maritime Distress and Safety System

introduced by amendments to the Safety Convention adopted on 11th November 1988;

“Maritime Labour Certificate” and **“interim Maritime Labour Certificate”** means 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;

“medical practitioner” means a medical practitioner who is entitled to practise in the country or territory in which that practitioner is based and whose qualifications are as equivalent to those required of a practitioner based in the Islands who is a registered medical practitioner;

“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 organisation 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

“STCW” means the International Convention on Standards of training and Certification and Watchkeeping for Seafarers, 1978 as amended.

Application

3. (1) Subject to paragraph (3), these Regulations, other than regulations 14 and 15, apply to —
- (a) Cayman Islands ships, wherever they may be; and
 - (b) while they are in Cayman Islands waters, ships —
 - (i) which are not Cayman Islands ships; and
 - (ii) to which regulations 14 and 15 do not apply.
- (2) Subject to paragraph (3), regulations 14 and 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.

Medical Care onboard Ship and Ashore

4. (1) A seafarer working onboard a ship to which these Regulations apply shall be given health protection and medical care as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise.
- (2) The protection and care in accordance with paragraph (1) —
- (a) shall be provided at no cost to the seafarer; and
 - (b) is not limited to treatment of the sick or injured seafarer but includes measures of a preventive character such as health promotion and health education programmes.

Shipowner duty to make provision for seafarer medical and other expenses

5. (1) This regulation applies in relation to a seafarer who experiences sickness or injury which —
- (a) first occurs during a period which starts on the date on which that seafarer's seafarer employment agreement commences and ends on the date on which the shipowner's duty to repatriate that seafarer under regulation 6 of the Merchant Shipping (Maritime Labour Convention) (Repatriation) Regulations 2014 ends;
 - (b) does not first occur during a period of leave which is not shore leave; or
 - (c) first occurs subsequent to that period but is caused by circumstances or events arising during that period.
- (2) Subject to paragraphs (4) to (6), the shipowner shall meet any expenses reasonably incurred in connection with the seafarer's sickness or injury.
- (3) Expenses incurred in connection with a sickness or injury include —
- (a) expenses of surgical, medical, dental or optical treatment, including the repair or replacement of any appliance; and
 - (b) expenses for board and lodging.

- (4) The duty in paragraph (2) does not affect any duty on the shipowner under regulation 7 of the Merchant Shipping (Maritime Labour Convention) (Repatriation) Regulations 2014 and does not apply in respect of any expenses met by the shipowner under that duty.
- (5) Subject to paragraph (6), the duty in paragraph (2) is limited to expenses incurred during whichever of the following periods is the shorter —
 - (a) a period of 16 weeks beginning on the day on which the sickness or injury first occurs; and
 - (b) a period beginning on the day on which the sickness or injury first occurs and ending on the day on which a certifying medical practitioner notifies the seafarer of a decision that —
 - (i) the seafarer is not fit to carry out the duties which that seafarer is required to carry out under the terms of that seafarer's seafarer employment agreement, and
 - (ii) the seafarer is unlikely to be fit to carry out duties of that nature in the future.
- (6) If sub-paragraph (b) of paragraph (5) applies and a certifying medical practitioner subsequently notifies the seafarer that the decision referred to in that sub-paragraph is reversed, the duty in paragraph (2) is limited to expenses incurred during the period set out in paragraph (5)(a).
- (7) If any expenses are incurred by a seafarer to whom the duty in paragraph (2) applies, the seafarer may recover those expenses from the shipowner as a civil debt.

Duty to carry a medical practitioner on ship

- 6. (1) A shipowner shall not allow a ship to which this regulation applies and which falls within the parameters set by paragraph 2 —
 - (a) to put to sea; or
 - (b) if it is already at sea, to remain at sea,unless a medical practitioner is carried on the ship.
- (2) This paragraph applies to a ship which —
 - (a) has 100 or more persons on board; and
 - (b) is engaged on a voyage which is —
 - (i) an international voyage lasting more than 72 hours; or
 - (ii) a voyage during which the ship is more than 36 hours' sailing time from a port with adequate medical equipment.
- (3) A shipowner who contravenes paragraph (1) commits an offence and is liable —



- (a) on summary conviction to a fine of ten thousand dollars; or
- (b) on conviction on indictment to a fine of fifty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*.

Duty to carry medical trained personnel onboard

7. (1) A ship to which regulation 6 does not apply and is not required to carry a medical doctor and which ordinarily is capable of reaching qualified medical care and medical facilities within 8 hours, shall have at least one designated seafarer on-board competent to provide medical first-aid.
- (2) A ship to which the parameters set by paragraph (1) do not apply shall have at least one designated seafarer on-board who is in charge of medical care and administering medicine as part of the designated seafarer's regular duties.
- (3) If the seafarer designated to be in charge of medical care is not a medical doctor, that seafarer shall have satisfactorily completed approved training that meets the requirements of STCW with regard to medical care on board ships.
- (4) A shipowner who contravenes paragraph (1) commits an offence and is liable —
- (a) on summary conviction to a fine of ten thousand dollars; or
 - (b) on conviction on indictment to a fine of fifty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*.

Right to medical attention

8. (1) When a ship to which this regulation applies is in a port, the shipowner and master shall permit a seafarer to seek medical attention, where reasonably practicable.
- (2) A shipowner and master who contravenes paragraph (1) commits an offence and is liable —
- (a) on summary conviction to a fine of ten thousand dollars; or
 - (b) on conviction on indictment to a fine of fifty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*.

Access to medical advice

9. (1) A ship shall carry a complete and up-to-date list of radio stations relevant to the ship's area of operation, through which medical advice can be obtained and if equipped with a system of satellite communication, carry an up-to —

date and complete list of Land Earth Stations through which medical advice can be obtained.

- (2) A seafarer with responsibility for medical care or medical first-aid onboard, shall be instructed in the use of the ship's medical guide and the medical section of the most recent edition of the *International Code of Signals* so as to enable the seafarer to understand the type of information needed by the advising doctor as well as the advice received.
- (3) In this regulation "International Code of Signals" means the International Code of Signals published by the International Maritime Organization.

Medical Report Form

- 10.** (1) The master and relevant onshore and onboard medical personnel shall use either —
- (a) the Cayman Islands Shipping Registry Medical Report Form -Form MRF 3906; or
 - (b) a different medical report form containing at least the information required by Form MRF 3906.
- (2) When completed, the medical report form and its contents shall be kept confidential and shall only be used to facilitate the treatment of a seafarer and the completed form shall be retained onboard for a period of at least 3 years.

Medical Care Facilities

- 11.** (1) A ship shall carry a medicine chest, medical equipment and a medical guide all of which are subject to inspection.
- (2) A medicine chest and medical equipment in accordance with the requirements of CISN 06/2014 meets the requirements of paragraph (1).
- (3) A shipowner and master who contravenes paragraph (1) commits an offence and is liable —
- (a) on summary conviction to a fine of ten thousand dollars; or
 - (b) on conviction on indictment to a fine of fifty thousand dollars,
- notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*.

Inspection of ships

- 12.** (1) For the purpose of ensuring compliance with these Regulations, an authorised 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 ensuring 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) Section 423(3) of the Law applies for the purposes of the provisions of that section as applied by paragraphs (2) and (3) as they apply for the purposes of the Law.
- (5) Sections 424 to 429 of the Law apply for the purposes of these Regulations as if the relevant statutory provisions included these Regulations.

Detention of ships

- 13.** (1) Where an authorised person has clear grounds for believing that, in relation to a ship to which these Regulations apply —
- (a) a ship to is not in compliance with regulation 4, 5 and 6; or
 - (b) the non-compliance of a ship to which paragraph (a) applies 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 regulation 4, 5 and 6,
- that 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 Convention Certificate whilst in a port in the Islands or in 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 authorised 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 is detained under these Regulations which 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 authorised 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 authorised 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.

Inspection of non-Cayman Islands ships with Maritime Labour Certificates

- 14.** (1) An authorised person may —
- (a) review the ship's Maritime Labour Certificate and Declaration of Maritime Labour Compliance or the ship's interim Maritime Labour Certificate; or
 - (b) where Standard A5.2.1 of the Maritime Labour Convention applies, carry out a more detailed inspection, in accordance with that Standard.
- (2) Where an authorised person has power to inspect a ship under this regulation, regulation 9 applies to that ship.

Detention of non-Cayman Islands ships with Maritime Labour Certificates

- 15.** (1) Where an authorised person inspects a ship under regulation 13(1)(b) and has clear grounds for believing that the ship does not comply with the requirements of the Maritime Labour Convention, and the non-compliance represents —
- (a) a significant danger to the safety, health or security of seafarers, or
 - (b) 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 authorised person may permit a ship which is liable to be detained under this regulation to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.



- (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 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.

Right of appeal and compensation

- 16.** 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 the those Regulations to an inspector being taken to include a reference to a surveyor.

Defence

- 17.** 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 that knowledge, that the person took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

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

Meredith Hew
Acting Clerk of the Cabinet.