

CAYMAN ISLANDS



Merchant Shipping Law

MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) (SURVEY AND CERTIFICATION) REGULATIONS, 2014

(SL 43 of 2014)

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(SL 43 of 2014)

The Cabinet, in exercise of the powers conferred by section 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) (Survey and Certification) Regulations, 2014.

Definitions

2. In these Regulations —

“**anniversary date**” means the day and the month of each year which will correspond to the date of expiry of the Maritime Labour Certificate;

“**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;

“**Cayman Islands Regulations implementing the Maritime Labour Convention**” means the Regulations specified in the Schedule;

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

“**CISN 04/2014**” means Shipping Notice CISN 04/2014 published by MACI regarding requirements and guidance for on board and on shore complaint procedures on Cayman Islands ships, as amended from time to time;

“**Convention Government**” means a Government, other than the Government of the Cayman Islands, which is a Party to the Maritime Labour Convention;

“**Declaration of Maritime Labour Compliance**” means, in relation to a ship, the valid Part 1 and Part 2 documents drawn up and issued in accordance with the Maritime Labour Convention, in the forms corresponding to the relevant models given in Appendix A5-II of the Convention and having the contents, duration and validity specified in regulation 5.1.3 and standard A5.1.3 of the Convention;

“**gross tonnage**” means the gross tonnage as determined under the International Convention on Tonnage Measurement of Ships, 1969, as amended, or under any regulations relating to tonnage measurement made under the Law, as the case may be and where a ship has alternative gross tonnages, means the larger of those tonnages;

“**International Labour Office**” means the permanent secretariat of the International Labour Organization;

“**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;

“**offshore installation**” means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation;

“**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; and

“**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.



Application

- 3.** (1) Subject to paragraph (3), these Regulations (other than regulations 20 to 22) apply to Cayman Islands ships, wherever they may be.
- (2) Subject to paragraph (3), regulations 20 to 22 of these Regulations apply to non-Cayman Islands ships, while they are within Cayman Islands waters from the date on which the Maritime Labour Convention comes into force.
- (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.

Inspection of Ships: vessels of under 500 gross tonnage

- 4.** (1) A Cayman Islands ship of less than 500 gross tonnage shall not —
- (a) be put into service; or
 - (b) if it is already in service, continue in service,
- unless the requirements set out in paragraph (2) are met.
- (2) The requirements referred to in paragraph (1) are that the Chief Executive Officer has caused to be carried out a survey in respect of the ship and an authorized person confirms that the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention are being complied with.
- (3) A Cayman Islands ship to which this regulation applies shall not continue in service after the day and month of the third year following the survey required by paragraph (2) and this paragraph, unless the Chief Executive Officer has caused to be carried out a further survey in respect of the ship and an authorized person confirms that the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention are being complied with.

Requirement for Maritime Labour Certificate: Initial Survey

- 5.** (1) A Cayman Islands ship of 500 gross tonnage or above shall not —
- (a) be put into service; or
 - (b) if it is already in service, continue in service,
- unless the requirements set out in paragraph (2) are met.
- (2) The requirements referred to in paragraph (1) are that —
- (a) the Chief Executive Officer has caused to be carried out an initial survey in respect of the ship;

- (b) an authorized person confirms that the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention are being complied with; and
 - (c) a Maritime Labour Certificate has been issued in respect of that ship and is still valid.
- (3) A survey carried out under paragraph (2) is referred to in these Regulations as an “initial survey”.

Requirement for Maritime Labour Certificate: Renewal Survey

6. (1) A Cayman Islands ship of 500 gross tonnage and above shall not —
- (a) proceed to sea; or
 - (b) if it is already at sea, remain at sea,
- after the date of expiry of a Maritime Labour Certificate in respect of that ship unless the requirements set out in paragraph (2) are met.
- (2) The requirements referred to in paragraph (1) are that —
- (a) the Chief Executive Officer has caused to be carried out a renewal survey in respect of the ship;
 - (b) an authorized person confirms that the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention are being complied with; and
 - (c) a Maritime Labour Certificate has been issued in respect of that ship and is still valid.
- (3) A survey carried out under paragraph (2) is referred to in these Regulations as a “renewal survey”.

Requirement for Maritime Labour Certificate: Intermediate Survey

7. (1) Subject to paragraph (3), a Cayman Islands ship of 500 gross tonnage or above shall not —
- (a) proceed to sea; or
 - (b) if it is already at sea, remain at sea,
- following the intermediate survey period of the Maritime Labour Certificate being issued unless the requirements set out in paragraph (2) are met.
- (2) The requirements referred to in paragraph (1) are —
- (a) that the Chief Executive Officer has caused to be carried out an intermediate survey of the ship, to ensure that the conditions for the validity of the Maritime Labour Certificate are being met,
- during the period defined by paragraph (4), and at other times if the Chief Executive Officer thinks fit;



- (b) an authorized person confirms that the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention are being complied with; and
 - (c) the authorized person has endorsed the Maritime Labour Certificate to that effect.
- (3) A survey carried out under paragraph (2) is referred to in these Regulations as an “intermediate survey”.
- (4) In this regulation, “intermediate survey period” means the period between the second and third anniversary date.

Nominated Surveyors and Recognised Organizations

8. (1) Subject to paragraph (2), surveys under these Regulations shall be carried out by an authorized person.
- (2) The Chief Executive Officer may entrust the surveys under these Regulations to surveyors nominated for the purpose or to organizations recognized by the Chief Executive Officer.
- (3) Where surveyors or organizations are entrusted by the Chief Executive Officer under paragraph (2), the Chief Executive Officer shall ensure the completeness and efficiency of the surveys and shall undertake to ensure the necessary arrangements to satisfy this obligation.
- (4) Surveyors or organizations to whom surveys are entrusted under paragraph (2) shall as a minimum be empowered by the Chief Executive Officer to require that corrective action is taken immediately to bring a ship into compliance with the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention.
- (5) The Chief Executive Officer shall notify the International Labour Office of the specific responsibilities and conditions of the authority delegated to such nominated surveyors or recognised organizations for circulation to Convention Governments.

Issue of Maritime Labour Certificate

9. (1) Where an authorized person notifies the Chief Executive Officer that —
- (a) the authorized person has carried out an initial survey or a renewal survey in respect of a ship; and
 - (b) the authorized person is satisfied at the date of the survey that the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention are being complied with, the Maritime Labour Certificate shall be issued or endorsed by either the Chief Executive Officer or by any person or organization duly authorised by

the Chief Executive Officer and in every such case the Chief Executive Officer shall assume full responsibility for the Certificate.

- (2) Where a ship is transferred to the Cayman Islands flag, a new Maritime Labour Certificate shall only be issued when the Chief Executive Officer is fully satisfied that the ship is in full compliance with these Regulations.
- (3) Where requested by the shipowner of a Cayman Islands ship of under 500 gross tonnage, the Chief Executive Officer, if satisfied after the completion of a survey carried out in accordance with regulation 5 or 6 that the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention are being complied with, may issue or endorse a Maritime Labour Certificate as respects that ship.
- (4) A Maritime Labour Certificate issued under this regulation shall be in English and in the form set out in Appendix A5-II to the Maritime Labour Convention.

Issue and endorsement of Maritime Labour Certificate upon request by another Convention Government

- 10.** (1) The Chief Executive Officer may, at the request of another Convention Government, cause a ship to be surveyed and, if satisfied that these Regulations have been complied with, shall issue or authorise the issue of a Maritime Labour Certificate to the ship, and where appropriate endorse or authorise the endorsement of that Certificate on the ship in accordance with these Regulations.
- (2) A Maritime Labour Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Convention Government and a copy of it, together with a copy of the survey report, shall be transmitted as early as possible to the Convention Government requesting the survey.
 - (3) A Maritime Labour Certificate issued by another Convention Government in respect of a Cayman Islands ship at the request of the Chief Executive Officer shall have the same force and receive the same recognition in the Islands as a Certificate issued under these Regulations.
 - (4) A Maritime Labour Certificate issued by the Chief Executive Officer in accordance with paragraph (1) shall have effect as if issued or endorsed by the Convention Government which requested the survey to be carried out.
 - (5) No Maritime Labour Certificate shall be issued to a ship which does not fly the flag of a Convention Government.

Interim Maritime Labour Certificate

- 11.** (1) This regulation applies —
- (a) where a ship to which regulations 5, 6 and 7 apply is first registered in the Cayman Islands;



- (b) where a ship to which regulations 5, 6 and 7 apply transfers from the flag of another State; or
 - (c) when a shipowner of a ship to which regulations 5, 6 and 7 apply assumes responsibility for the operation of a ship which is new to that shipowner.
- (2) Where the Chief Executive Officer has verified that —
 - (a) a ship has been inspected for compliance with the matters listed in Appendix A5-1 of the Maritime Labour Convention;
 - (b) the shipowner has demonstrated that the ship has adequate procedures to comply with the requirements of the Cayman Islands Regulations implementing the Maritime Labour Convention;
 - (c) the ship's master is familiar with the requirements of the Maritime Labour Convention and the responsibilities for its implementation; and
 - (d) the Chief Executive Officer has the information which would be necessary for him to produce a Declaration of Maritime Labour Compliance - Part 1, as respects the ship,the Chief Executive Officer may issue an interim Maritime Labour Certificate.
- (3) An interim Maritime Labour Certificate may be issued for a period not exceeding six months.
- (4) An interim Maritime Labour Certificate issued under this regulation shall be in English and in the form set out in Appendix A5-II to the Maritime Labour Convention.

Duration and validity of Maritime Labour Certificate

- 12.** (1) Subject to the following paragraphs, a Maritime Labour Certificate is valid for a period not exceeding five years beginning with the date of completion of the relevant initial or renewal survey.
- (2) Where a renewal survey as required by regulation 6(1)(b) has been completed within a period of three months before the expiry of a Maritime Labour Certificate, the new certificate shall be issued as being valid from the date of expiry of the existing certificate.
 - (3) A Maritime Labour Certificate issued in respect of a ship ceases to be valid —
 - (a) in respect a ship to which regulations 5, 6 and 7 apply, if an intermediate survey has not been completed within the period specified in regulation 7 and the Certificate so endorsed; or
 - (b) where the Chief Executive Officer has issued the Certificate in accordance with regulation 9(3), if that Certificate has not been endorsed.
 - (4) Where a certificate ceases to be valid for a reason specified in paragraph (3)(a) or (b), the Chief Executive Officer may issue a new certificate if satisfied that

the non-compliance has been suitably addressed and remedied, notwithstanding that the ship has not been subject to a survey falling within regulation 9 since the previous certificate was cancelled.

- (5) A Maritime Labour Certificate or interim Maritime Labour Certificate ceases to be valid —
- (a) upon transfer of the ship to the flag of another State;
 - (b) when the person who is named on the certificate as the shipowner ceases to have responsibility for the operation of the ship,
 - (c) if substantial changes are made to the ship's accommodation or recreational facilities for seafarers or its food and catering facilities; or
 - (d) if the ship's accommodation or its recreational facilities for seafarers or the ship's food and catering facilities have sustained damage or otherwise become deficient and that damage or deficiency has not been rectified.
- (6) The Chief Executive Officer may cancel a Maritime Labour Certificate issued to a Cayman Islands ship where the Chief Executive Officer has reason to believe that the Certificate was issued on false or erroneous information, and may require such Certificate to be surrendered as directed.
- (7) Where a Maritime Labour Certificate or interim Maritime Labour Certificate has been issued to a ship and has not expired and —
- (a) an improvement notice under section 424 of the Law has been served on the shipowner or the ship's master and the contravention specified in the improvement notice has not been remedied within the period specified in the notice; or
 - (b) the Chief Executive Officer has determined that there is clear evidence that the ship does not comply with the requirements of the Maritime Labour Convention and that the failure of the ship to comply endangers the safety of the ship or its crew,
- the Chief Executive Officer may suspend the validity of the Maritime Labour Certificate or interim Maritime Labour Certificate.
- (8) Where the Chief Executive Officer suspends the validity of the Maritime Labour Certificate or interim Maritime Labour Certificate, the Chief Executive Officer shall give notice of the suspension to the shipowner and the ship's master, and may require the Certificate which has been so suspended to be surrendered as directed.

Declaration of Maritime Labour Compliance

- 13.** (1) The shipowner of a ship which is subject to a survey in accordance with regulations 5, 6, and 7 or 10 or to an inspection in accordance with regulation 11 shall —



- (a) provide to the Chief Executive Officer the information necessary for the Chief Executive Officer to draw up the Declaration of Maritime Labour Compliance - Part 1; and
 - (b) draw up the Declaration of Maritime Labour Compliance – Part 2.
- (2) Where the Chief Executive Officer has been provided with the necessary information and with the Declaration of Maritime Labour Compliance -Part 2, the Chief Executive Officer shall —
 - (a) draw up the Declaration of Maritime Labour Compliance – Part 1;
 - (b) certify the Declaration of Maritime Labour Compliance - Part 2; and
 - (c) issue the Declaration of Maritime Labour Compliance.
- (3) The Chief Executive Officer —
 - (a) when issuing or endorsing a Maritime Labour Certificate in accordance with regulations 5, 6 and 7 shall attach to that Certificate the Declaration of Maritime Labour Compliance – Part 1 and Part 2; and
 - (b) when carrying out any survey or verification of the compliance of a ship with the Maritime Labour Convention, shall record the results of that survey or verification in the Declaration of Maritime Labour Compliance - Part 1.
- (4) A Declaration of Maritime Labour Compliance - Part 1 issued under this regulation shall be in English and in the form set out by Shipping Notice as may be amended from time to time.
- (5) A Declaration of Maritime Labour Compliance - Part 2 issued under this regulation shall be in English and in the form set out in Appendix A5-II to the Maritime Labour Convention.

Duty on shipowner in respect of recruitment and placements services

- 14.** (1) A shipowner shall not use a recruitment and placement service to recruit seafarers to work on a ship if it does not fall within paragraph (2).
- (2) A recruitment and placement service falls within this paragraph if it —
- (a) is based —
 - (i) in the Cayman Islands;
 - (ii) in a country which has ratified the Maritime Labour Convention; or
 - (iii) in a country to which another country's ratification of the Maritime Labour Convention has been extended; or
 - (b) complies with the requirements relating to recruitment and placement services referred to in Standard A1.4 of the Maritime Labour Convention.

Documents to be carried on board ship and made available

- 15.** (1) The shipowner and the master shall ensure that there is carried on board a ship at all times a copy of the Maritime Labour Convention.
- (2) The shipowner and master of a ship in respect of which a Maritime Labour Certificate or interim Maritime Labour Certificate has been issued and has not expired shall ensure that the following documents are carried on board the ship and posted in a conspicuous place on board where they are available to seafarers —
- (a) the Maritime Labour Certificate or interim Maritime Labour Certificate for the ship; and
 - (b) if the ship has a Maritime Labour Certificate, the Declaration of Maritime Labour Compliance - Parts 1 and 2.
- (3) The shipowner and the master shall make the documents referred to in paragraphs (1) and (2) available, upon request, to seafarers on the ship, flag State inspectors, port State inspectors and shipowners' and seafarers' representatives.

On-board and on-shore complaint procedure

- 16.** (1) The shipowner and the master shall ensure that there is available to a seafarer on that ship a procedure to lodge a complaint alleging a breach of the requirements of the Maritime Labour Convention and for that complaint to be resolved fairly, effectively and expeditiously.
- (2) A procedure to lodge a complaint and have it resolved shall —
- (a) seek to resolve the complaint at the lowest level possible;
 - (b) enable a seafarer to complain directly to the master of the ship and appropriate external authorities;
 - (c) include the right of the seafarer to be accompanied or represented during any hearing which takes place under that procedure; and
 - (d) comply with the requirements of CISN 04/2014.
- (3) The shipowner and master shall ensure that a seafarer is provided with —
- (a) a copy of the complaint procedure which is available to the seafarer in accordance with paragraph (1);
 - (b) contact information for the Shipping Master;
 - (c) contact information for the competent authority for the survey and enforcement of the Maritime Labour Convention in the seafarer's country of residence; and
 - (d) the name of a person or persons on board the ship who can, on a confidential basis, provide the seafarer with impartial advice on the



seafarer's complaint and otherwise assist the seafarer in following the complaint procedure.

- (4) A seafarer may lodge with the Shipping Master a complaint alleging a breach of the requirements of the Maritime Labour Convention, and the Shipping Master shall treat the source of any such complaint as confidential.
- (5) The shipowner and master shall ensure that a seafarer is not subjected to any detriment on the grounds that the seafarer has lodged a complaint, whether through an on-board procedure or to the Shipping Master, alleging a breach of the requirements of the Maritime Labour Convention.
- (6) For the purposes of paragraph (2)(a), seeking to resolve a complaint at the lowest level possible means —
 - (a) having the complaint considered by the lowest level of manager or officer who has the expertise and authority appropriate to consider such a complaint, provided that the person considering the complaint is not directly involved with the particular complaint;
 - (b) if that person is unable to resolve or reject the complaint, escalating the complaint to be considered by the next level of manager or officer who has the expertise and authority appropriate to consider such a complaint, provided that the person considering the complaint is not directly involved with the particular complaint; and
 - (c) continuing to escalate the complaint in such manner until it is resolved or rejected.

Arbitration

17. If a shipowner, or any other person making an application for a survey required by these Regulations is dissatisfied with the outcome of the survey because the issue of a Maritime Labour Certificate has been refused or for any other reason, the shipowner or other person may serve notice, within twenty-one days of the completion of the survey, on the Chief Executive Officer, that the dispute be referred to a single arbitrator appointed by agreement between the parties to be settled by the arbitrator; and section 201 of the Law shall apply in such circumstances.

Inspection of ships

18. (1) For the purpose of checking compliance with these Regulations, other than regulations 20 to 22, 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.
- (5) When an inspection is conducted under this regulation all reasonable efforts shall be made to avoid a ship being unreasonably delayed.

Detention of ships

- 19.** (1) Where an authorized person has clear grounds for believing that —
- (a) a ship to which regulations 5, 6 or 7 apply does not have a valid Maritime Labour Certificate and Declaration of Maritime Labour Compliance - Parts 1 and 2 or a valid interim Maritime Labour Certificate;
 - (b) documents are not on board ship as required by regulation 15; or
 - (c) a complaints procedure is not available as required by regulation 16,
- 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) 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, 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 shipowner, 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.
- (9) When an inspection is conducted under this regulation all reasonable efforts shall be made to avoid a ship being unreasonably delayed or detained.

Documentation and complaint procedure requirements for non-Cayman Islands ships

20. (1) Where —

- (a) a ship is not a Cayman Islands ship; and
- (b) the Maritime Labour Convention is in force for the State whose flag the ship is entitled to fly,

that ship shall comply with the following requirements of the Maritime Labour Convention —

- (i) Standard A5.1.1 paragraph 2 (requirement to have copy of Maritime Labour Convention on board);
- (ii) Regulation 5.1.3 paragraphs 3 and 4 and Standard A5.1.3 paragraph 12 (Maritime Labour Convention Certificate and Declaration of Maritime Labour Compliance to be carried on board ship);
- (iii) Regulation 5.1.5 and Standard A5.1.5 (On-board complaint procedures); and
- (iv) Regulation 5.2.2 and Standard A5.2.2 (On-shore seafarer complaint-handling procedures).

Inspection of non-Cayman Islands ships

21. (1) Where —

- (a) a ship is not a Cayman Islands ship, and
- (b) the Maritime Labour Convention is in force for the State whose flag the ship is entitled to fly,

an authorized person may review the ship's Maritime Labour Certificate and the Declaration of Maritime Labour Compliance - Parts 1 and 2, or the ship's interim Maritime Labour Certificate and, where Standard A5.2.1 applies, may carry out a more detailed inspection, in accordance with that Standard.

- (2) Where a ship is not a Cayman Islands ship and the Maritime Labour Convention is not in force for the State whose flag the ship is entitled to fly, an authorized person may carry out an inspection of that ship as set out in Standard A5.2.1 of the Maritime Labour Convention.

Detention of non-Cayman Islands ships

- 22.** (1) Where an authorized person inspects a ship under regulation 21 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 or repeated breach 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 under paragraph (1) 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 —
- (a) references to the detention of a ship under the Law were references to the detention of the ship in question under this regulation; and
 - (b) subsection (7) were omitted.
- (4) Where a ship is detained under this regulation, the Chief Executive Officer shall immediately inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly, or the appropriate maritime authorities of that State.
- (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

- 23.** 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.

Offences and penalties

- 24.** (1) If a ship to which regulation 4 applies proceeds or attempts to proceed to sea or on a voyage or excursion without having had an inspection required by that regulation, the shipowner and the master commit an offence and are liable —
- (a) on summary conviction, to a fine of twenty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*; and
 - (b) on conviction on indictment, to a fine of one hundred thousand dollars.
- (2) If a ship to which regulations 5, 6 or 7 apply proceeds or attempts to proceed to sea or on a voyage or excursion without —
- (a) a valid Maritime Labour Certificate and the Declaration of Maritime Labour Compliance - Parts 1 and 2; or
 - (b) a valid interim Maritime Labour Certificate,
- the shipowner and the master commit an offence and are liable —
- (i) on summary conviction, to a fine of twenty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*; and
 - (ii) on conviction on indictment, to a fine of one hundred thousand dollars.
- (3) Any person who —
- (a) intentionally alters a Maritime Labour Certificate or interim Maritime Labour Certificate;
 - (b) intentionally makes a false Maritime Labour Certificate or interim Maritime Labour Certificate;
 - (c) in connection with any survey undertaken in accordance with these Regulations knowingly or recklessly furnishes false information;
 - (d) with intent to deceive, uses, lends, or allows to be used by another, a Maritime Labour Certificate or interim Maritime Labour Certificate; or
 - (e) fails to surrender a Maritime Labour Certificate or interim Maritime Labour Certificate as directed in accordance with regulation 12(4),
- commits an offence and is liable —

- (i) on summary conviction, to a fine of twenty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*; and
 - (ii) on conviction on indictment, to a fine of one hundred thousand dollars.
- (4) Any contravention of regulation 14 is an offence by the shipowner and he is liable —
 - (a) on summary conviction, to a fine of twenty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*; and
 - (b) on conviction on indictment, to a fine of one hundred thousand dollars.
- (5) Any contravention of regulation 15 or 16 is an offence by the shipowner and by the master and they are liable —
 - (a) on summary conviction, to a fine of twenty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*; and
 - (b) on conviction on indictment, to a fine of one hundred thousand dollars.
- (6) If a ship to which regulation 20 applies proceeds to sea in Cayman waters or attempts to proceed to sea or on a voyage or excursion in Cayman waters without complying with the requirements of regulation 20, the shipowner and the master commit an offence and are liable —
 - (a) on summary conviction, to a fine of twenty thousand dollars, notwithstanding sections 6(2) and 8 of the *Criminal Procedure Code (2013 Revision)*; and
 - (b) on conviction on indictment, to a fine of one hundred thousand dollars.

Defence

- 25.** 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.



SCHEDULE

(Regulation 2)

REGULATIONS IMPLEMENTING THE MARITIME LABOUR CONVENTION

Merchant Shipping (Maritime Labour Convention) (Certification, Safe Manning, Hours of Work and Watchkeeping) (Amendment) Regulations, 2014

Merchant Shipping (Maritime Labour Convention) (Crew Accommodation) Regulations, 2014

Merchant Shipping (Maritime Labour Convention) (Food and Catering) Regulations, 2014

Merchant Shipping (Maritime Labour Convention) (Health and Safety) Regulations, 2014

Merchant Shipping (Maritime Labour Convention) (Medical Care) Regulations, 2014

Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations, 2014

Merchant Shipping (Maritime Labour Convention) (Repatriation) Regulations

Merchant Shipping (Maritime Labour Convention) (Seafarer Employment

Agreement, Shipowners' Liabilities and Wages) Regulations, 2014

Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations, 2014

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

Meredith Hew

Acting Clerk of the Cabinet.