

CAYMAN ISLANDS



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**THE MERCHANT SHIPPING
(CONTROL OF POLLUTION)
(CAYMAN ISLANDS)
(COMMENCEMENT)
REGULATIONS, 1988**

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MERCHANT SHIPPING (APPLICABLE CONVENTIONS) LAW 1987
MERCHANT SHIPPING (CONTROL OF POLLUTION) (CAYMAN ISLANDS)
(COMMENCEMENT) REGULATIONS 1988

The Governor in Council, after consultation with the Secretary of State for Transport of the United Kingdom, in exercise of the powers conferred on him by sections 59 and 77 of the Merchant Shipping (Applicable Conventions) Law 1987, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Control of Pollution) (Cayman Islands) (Commencement) Regulations 1988 and shall come into operation on the day after they are made.

Interpretation

2. In these Regulations the following expressions shall have the following meanings:

"anniversary date" means the date falling at the expiry of one year from the completion of the load line survey referred to in paragraphs (3) and (4) of regulation 5 of these Regulations;

"Chief Marine Surveyor" means the Chief Marine Surveyor appointed by the Governor under the Merchant Shipping (Applicable Conventions) Law 1987 or any person appointed by the Chief Marine Surveyor to act on his behalf;

"CIOPP Certificate" means a Cayman Islands Oil Pollution Prevention Certificate;

"Governor" means the Governor in Council;

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"IOPP Certificate" means an International Oil Pollution Prevention Certificate;

"load line survey" means any survey undergone by a ship for the purpose of determining, or involving the determination of, whether such ship complies with the conditions of assignment of the load lines applicable to it;

"Scheduled Regulations" means the Regulations listed in the Schedule hereto;

"second anniversary date" means the date falling at the expiry of two years from the completion of the load line survey referred to in paragraphs (3) and (4) of regulation 5 of these Regulations

Commencement of certain Regulations

3. The Merchant Shipping (Reporting of Pollution Incidents) (Cayman Islands) Regulations 1988 shall come into force on 1st May 1988.

4. Subject to the provisions of regulations 5 and 6 of these Regulations, the Scheduled Regulations shall come into operation on 1st May 1988.

5. (1) Without prejudice to any power which is now or may hereafter be vested in the Governor or the Chief Marine Surveyor to remove a ship from the Register of Ships in the Cayman Islands and subject to paragraphs (2), (3) and (4) of this regulation, neither the owner nor the master of any ship registered in the Cayman Islands on or before 30th April 1988 which fails to comply with the requirements of any provision of the Scheduled Regulations before 1st August 1989 shall be guilty of an offence under any provision of the Scheduled Regulations.

(2) Where any ship registered in the Cayman Islands on or before

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such requirements will be an offence after the expiry of 3 months from the anniversary of the completion of such survey,

(c) the ship has undergone a load line survey between 1st April 1987 and 31st July 1987, in which case failure to comply with such requirements will be an offence after the second anniversary of the completion of such survey;

(2) where no offence is committed if a ship in respect of which the interim arrangements apply fails to comply with the requirements of the provisions of the Scheduled Regulations such ship cannot be detained for failing to comply with such requirements unless the Chief Marine Surveyor has reasonable cause for believing that if it proceeds to sea it would present an unreasonable threat of harm to the marine environment.

These Regulations also make provision for the owners of certain ships registered in the Cayman Islands before 30th April 1988 which do not comply with the requirements of the provisions of the Scheduled Regulations before 1st February 1989 to deliver to the Chief Marine Surveyor not later than 7th February 1989 certain particulars relating to the survey or surveys which the ship must undergo in order to comply with the requirements before 1st August 1989.

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EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations provide for the coming into operation of the Merchant Shipping (Reporting of Pollution Incidents) Regulations 1988 and the other Regulations relating to the control of pollution specified in the Schedule to these Regulations (the "Scheduled Regulations").

Under the terms of these Regulations:

- (a) the Merchant Shipping (Reporting of Pollution Incidents) Regulations 1988 will come into operation in respect of all ships on 1st May 1988;
- (b) the Scheduled Regulations will come into operation in respect of all ships on 1st May 1988 subject to the provision of interim arrangements for ships registered in the Cayman Islands on or before 30th April 1988.

The interim arrangements for ships registered in the Cayman Islands on or before 30th April 1988 are that

(1) no offence is committed if such a ship fails to comply with the requirements of the provisions of the Scheduled Regulations before 1st August 1989 unless

- (a) the ship has been issued with IOPP or CIOPP Certificates, in which case failure to comply with such requirements will be an offence after the issue of any such Certificate,
- (b) the ship has undergone a load line survey between 1st August 1987 and 30th April 1988, in which case failure to comply with

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30th April 1988 has been issued with an IOPP Certificate or a CIOPP Certificate under the provisions of the Merchant Shipping (Prevention of Oil Pollution) (Cayman Islands) Regulations 1988, the owner and the master of such ship (as the case may be) shall be guilty of any offence specified in any provision of the Scheduled Regulations in respect of any failure to comply with the requirements of any provision of the Scheduled Regulations after the date of the issue of such IOPP Certificate or such CIOPP Certificate as the case may be.

(3) Without prejudice to paragraph (2) of this regulation, where any ship registered in the Cayman Islands on or before 30th April 1988 has undergone a load line survey in the period 1st August 1987 to 30th April 1988 (inclusive), the owner and the master of such ship (as the case may be) shall be guilty of any offence specified in any provision of the Scheduled Regulations in respect of any failure to comply with the requirements of any provision of the Scheduled Regulations after the expiry of a period of 3 months from the anniversary date.

(4) Without prejudice to paragraph (2) of this regulation, where any ship registered in the Cayman Islands on or before 30th April 1988 has undergone a load line survey in the period 1st May 1987 to 31st July 1987 (inclusive), the owner and the master of such ship (as the case may be) shall be guilty of any offence specified in any provision of the Scheduled Regulations in respect of any failure to comply with the requirements of any provision of the Scheduled Regulations after the second anniversary date.

6. No ship registered in the Cayman Islands in respect of which the owner and the master are not liable to be found guilty of an offence for failing to comply with the requirements of any provision of the Scheduled Regulations shall be liable to be detained under any

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provision of the Scheduled Regulations unless the Chief Marine Surveyor has reasonable cause for believing that if such ship proceeded to sea it would present an unreasonable threat of harm to the marine environment.

Notice of arrangements for surveys of certain ships

7. (1) If on 1st February 1989 the owner and master (as the case may be) of any ship registered in the Cayman Islands on or before 30th April 1988 have not become liable under paragraphs (2), (3) and (4) of regulation 5 of these Regulations to be found guilty of an offence for failing to comply with the requirements of any provision of the Scheduled Regulations the owner of such ship shall cause the following particulars to be delivered to the Chief Marine Surveyor not later than 7th February 1989;

- (a) the date or dates on which it is proposed that the ship will first undergo each survey required by virtue of any provision of the Scheduled Regulations,
- (b) where it is proposed that the ship will first undergo each survey required by virtue of any provision of the Scheduled Regulations, and
- (c) the person or persons who it is proposed will carry out the survey or surveys referred to in sub-paragraphs (a) and (b) of this paragraph.

(2) Any person who fails to comply with the requirements of paragraph (1) of this regulation shall be guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars.

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MERCHANT SHIPPING (CONTROL OF POLLUTION) (CAYMAN ISLANDS)

(COMMENCEMENT) REGULATIONS 1988

SCHEDULE

- 1. The Merchant Shipping (Prevention of Oil Pollution) (Cayman Islands) Regulations 1988
- 2. The Merchant Shipping (Control of Oil Pollution by Noxious Liquid Substances in Bulk) (Cayman Islands) Regulations 1988
- 3. The Merchant Shipping (BCH Code) (Cayman Islands) Regulations 1988
- 4. The Merchant Shipping (IBC Code) (Cayman Islands) Regulations 1988

Made in Council this 28th day of April, 1988.

Hona N. Jacobs
Clerk of the Executive Council.