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CAYMAN ISLANDS



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**THE MERCHANT SHIPPING
(APPLICABLE CONVENTIONS)
(AMENDMENT) LAW, 1989
(LAW 9 OF 1989)**

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recognition of certificates;

- (f) include provision for imposing penalties on summary conviction in respect of a contravention of any provision made thereunder not exceeding, in respect of any one contravention, a fine of one hundred thousand dollars and imprisonment for a term of two years; and
- (g) include provision for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship, for applying sections 74, 75 and 76 subject to such modifications as may be therein prescribed."

Passed the Legislative Assembly this 23rd day of May, 1989.

ALAN SCOTT
President.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.

ship, would be required to be summoned by the judge."

Repeal and replacement
of section 76 of the
principal Law.

19. Section 76 of the principal Law is repealed and the following new section substituted therefor -

"Liability for costs.

76. (1) Where a ship is detained under any provision of this Law, the owner shall be liable to pay to the Financial Secretary costs of and incidental to such detention and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

(2) For the purpose of this section, the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of any surveyor of ships who undertakes any survey or other work in respect of the ship in relation to, or in connection with, the detention shall be part of the costs of the detention of the ship and any dispute as to the amount of those costs may be referred to the Clerk of the Grand Court who shall ascertain and certify the proper amount of those costs."

Amendment of section
77 of the principal Law.

20. Section 77 of the principal Law is amended as follows -

(a) in subsection (1), by deleting paragraph (a) and substituting the following new paragraph therefor -

"(a) for securing the safety of Cayman Islands ships and persons on them and for protecting the health of persons on such ships;"

(b) in subsection (3), as follows -

(i) by deleting the word "Regulations made under subsection (1)" and substituting the words "Without prejudice to the generality of subsection (1), regulations made under that subsection";

(ii) by substituting a semi-colon for the full stop at the end thereof; and

(iii) by adding the following new paragraphs thereto -

"(e) include provision for the carrying out of surveys and inspections and for the issue, duration and

CAYMAN ISLANDS

Law 9 of 1989

I Assent

ALAN SCOTT

Governor

29th August, 1989.

THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS) (AMENDMENT) LAW, 1989 (Law 9 of 1989)

ENACTED by the Legislature of the Cayman Islands.

Short title and
commencement.

1. (1) This Law may be cited as the Merchant Shipping (Applicable Conventions) (Amendment) Law, 1989.

(2) The provisions of this Law shall come into force upon such date as the Governor may appoint by notice in the Gazette, and the Governor may appoint different dates for different provisions of this Law.

Interpretation.

2. In this Law, except in so far as the context otherwise requires -

Law No.23 of 1987

"principal Law" means the Merchant Shipping (Applicable Conventions) Law, 1987;

"word" includes punctuation mark.

Amendment of the long
title to the principal
Law.

3. The long title to the principal Law is amended by inserting, immediately following the word "SEA" where it secondly appears therein, the words "THE MANNING OF SHIPS, FOR THE PROTECTION OF THE HEALTH OF PERSONS ON SHIPS, AND THE DETENTION OF SHIPS".

Amendment of short title
to the principal Law.

4. (1) The principal Law may be cited as the Merchant Shipping Law.

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Amendment of section 2 of the principal Law.

(2) Any citation of, or reference to, the principal Law by its short title as it existed prior to the coming into operation of this section shall be read and construed as a citation of, or reference to, the principal Law.

5. Section 2 of the principal Law is amended by inserting in their appropriate alphabetical sequence, the following new definitions-

"'Citizen of the Cayman Islands' means a person who is a British Dependent Territory citizen by virtue of a connection with the Islands;"

"'Cayman Islands ship' means a ship -

- (a) registered in the Islands; or
- (b) not registered under the law of any country and in which ship a majority interest is owned by persons each of whom is a citizen of the Cayman Islands or a body corporate which is established under the law of the Islands and has its principal place of business in the Islands;"

"'Chief Marine Surveyor' means the person appointed as such under section 69; or any person appointed by him to act on his behalf;"

"'Collector of Customs' has the meaning assigned to it by the Customs Law (Second Revision)."

Amendment of section 15 of the principal Law.

6. Section 15 of the principal Law is amended, in subsection (4), by deleting the word "may" and substituting therefor the words "shall be liable to".

Amendment of section 19 of the principal Law.

7. Section 19 of the principal Law is amended, in subsection (1), by deleting the word "may" and substituting therefor the words "shall be liable to".

Amendment of section 40 of the principal Law.

8. Section 40 of the principal Law is amended, in subsection (2), by deleting the word "may" and substituting therefor "shall be liable to".

Amendment of section 46 of the principal Law.

9. Section 46 of the principal Law is amended, in subsection (1), by deleting the word "may" and substituting therefor "shall be liable to".

Amendment of section 47 of the principal Law.

10. Section 47 of the principal Law is amended as follows -

- (a) in subsection (5), by deleting the figures "48" and substituting the figures "49" therefor; and

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be released by the court of survey, whichever shall first occur.

(8) Where a ship proceeds to sea in contravention of the requirements of subsection (7) the master, the owner and any person who sends the ship to sea, if that owner or person is party or privy to the contravention, shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred thousand dollars.

(9) Where a ship proceeds to sea in contravention of subsection (7) and takes to sea when on board the ship in the execution of his duty, any officer authorized to detain the ship, or any surveyor of ships or any officer of Customs, the owner, master and person who sends the ship to sea shall each be liable to pay all expenses of and incidental to such officer or surveyor being so taken to sea, and shall also be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars, and the expenses ordered to be paid may be recovered in like manner as the fine.

(10) Any reference in this section to proceeding to sea includes a reference to going on a voyage or excursion that does not involve going to sea, and references to sending or taking to sea shall be construed accordingly.

(11) Any ship which is a Cayman Islands ship when detained pursuant to any provision of this Law shall not be released by reason of her subsequently ceasing to be a Cayman Islands ship.

Amendment of section 75 of the principal Law.

18. Section 75 of the principal Law is amended by -

- (a) re-numbering the section as subsection (1);
- (b) in subsection (1) as so re-numbered, deleting the words "not registered in the Islands" and substituting the words "which is not a Cayman Islands ship" therefor; and
- (c) adding the following new subsection immediately following subsection (1) -

"(2) Where any ship which is not a Cayman Islands ship is detained under this Law and the owner or master appeals to the court of survey, the consular officer who has been served with notice of detention may, upon his request, appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a Cayman Islands

or granted a transire by any officer of Customs until the Collector of Customs has received from the Chief Marine Surveyor notice that the ship may be released pursuant to subsections (4) or (5) or until the ship is ordered to be released by the court of survey, whichever shall first occur; and

(c) any commissioned officer on full pay in the naval or military service of Her Majesty or any officer of Customs may detain the ship until the Collector of Customs has received from the Chief Marine Surveyor notice that the ship may be released pursuant to subsections (4) or (5) or until the ship is ordered to be released by the court of survey, whichever shall first occur.

(4) Where the Chief Marine Surveyor is satisfied that the grounds for the detention of a ship which has been detained have ceased to exist he shall so soon as is reasonably practicable thereafter notify the Collector of Customs that the ship may be released, and a copy of such notice shall be served on the master of the ship.

(5) Without prejudice to subsection (6) of section 47, where the Chief Marine Surveyor is satisfied that a ship which has been detained is fit to proceed to sea without danger to human life and without threat of harm to the marine environment, he may if he thinks fit notify the Collector of Customs that the ship may be released, and a copy of such notice shall be served on the master of the ship.

(6) Where the owner or the master of a ship is aggrieved by the detention of that ship under this section, he may appeal to the court of survey.

(7) Where a notice of detention has been served on the master of a ship pursuant to paragraph (a) of subsection (3) or the ship has been detained under paragraph (c) of subsection (3), the ship shall not proceed to sea until receipt by the Collector of Customs from the Chief Marine Surveyor of notice that the ship may be released pursuant to subsections (4) or (5) or until the ship is ordered to

(b) in subsection (6), by deleting the figures "48" and substituting the figures "49" therefor.

Repeal and replacement of section 48 of the principal Law.

11. Section 48 of the principal Law is hereby repealed and the following new section substituted therefor -

"Non-compliance with conditions of assignment.

48. Where a surveyor of ships has reason to believe that any ship registered in the Islands does not comply with the conditions of assignment to which it is subject the ship shall be liable to be detained."

Repeal and replacement of section 49 of the principal Law.

12. Section 49 of the principal Law is repealed and the following new section substituted therefor -

"Power to detain non-Islands ship.

49. Where a surveyor of ships has reason to believe that any ship not registered in the Islands, not being a ship in respect of which a valid Load Lines certificate is produced, does not comply with the conditions of assignment to which it is subject the ship shall be liable to be detained."

Addition of new Part IIIA to the principal Law.

13. The principal Law is amended by inserting, immediately following Part III, the following new Part -

"PART IIIA - DETENTION OF UNSAFE VESSEL

Power to detain unsafe ships.

59A. (1) Where the Chief Marine Surveyor has reason to believe that any ship, being in any port in the Cayman Islands, is an unsafe ship, that is to say, is by reason of any of the matters mentioned in subsection (2) unfit to proceed to sea without serious danger to human life having regard to the nature of the service for which she is intended, such ship shall be liable to be detained.

(2) The matters referred to in subsection (1) are -

(a) the condition, or the unsuitability for its purpose, of -

(i) the ship or its machinery or equipment, or

(ii) any part of the ship or its machinery or equipment;

- (b) under manning;
- (c) overloading or unsafe or improper loading;
- (d) any other matter relevant to the safety of the ship;

and the reference in that subsection to proceeding to sea shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

Power to pay compensation.

59B. Where a ship is detained under the provisions of this Law or any regulations made under this Law and the owner of the ship proves to the satisfaction of the Governor that there was no reasonable cause for the detention of the ship, the Government may pay compensation to the owner of the ship for any loss or damage sustained by the owner by reason of such detention:

Provided that in determining whether to pay such compensation and the amount thereof the Government shall have regard to the provisions of any international agreement signed on behalf of the Government of the United Kingdom and applicable in or extended to the Islands.

Power to require from complainant security for compensation.

59C. (1) Where a complaint is made to the Governor or the Chief Marine Surveyor that a Cayman Islands ship is unsafe, or otherwise does not comply with the provisions of this Law or any regulations made under this Law, the Governor acting in his discretion may, if he thinks fit, require the complainant to give security to the satisfaction of the Governor for any compensation which may become payable by the Government pursuant to section 59B:

Provided that such security shall not be required where the complaint is made by one fourth, being not less than three, of the seamen belonging to the ship and is not in the opinion of the Chief Marine Surveyor frivolous or vexatious.

(2) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government determines to pay compensation to the owner of the

ship pursuant to section 59B, the complainant shall be liable to pay to the Government all such compensation as the Government may pay under section 59B in respect of the detention of the ship."

Amendment of headnote to Part IV of the principal Law.

14. The headnote to Part IV of the principal Law is amended by deleting the words "AND III" and substituting the words "III AND IIIA" therefor.

Amendment of section 67 of the principal Law.

15. Section 67 of the principal Law is amended by repealing subsection (5) and substituting the following new subsection therefor -

"(5) The judge of the court shall have power to order the ship to be released and the judge shall so order the ship to be released unless he and at least one of the assessors are satisfied that there are sufficient grounds for continuing to detain the ship."

Amendment of section 70 of the principal Law.

16. Section 70 of the principal Law is amended as follows -

- (a) in subsection (3) by inserting, immediately before the full stop at the end thereof, the words "and the ship shall be liable to be detained"; and
- (b) by repealing subsection (4).

Repeal and replacement of section 74 of the principal Law.

17. Section 74 of the principal Law is hereby repealed and the following new section substituted therefor -

"Detention of ships.

74. (1) Where a ship is liable to be detained under this Law, the Chief Marine Surveyor may, at any time after he becomes aware of the grounds for detention of the ship, request that the Collector of Customs detain the ship.

(2) Where the Chief Marine Surveyor requests the Collector of Customs to detain a ship under subsection (1) he shall so soon as is reasonably practicable serve upon the master of the ship a written statement of the grounds of the detention.

(3) Upon receipt by the Collector of Customs of a request to detain a ship under subsection (1) -

- (a) the Collector of Customs shall so soon as is reasonably practicable serve upon the master of the ship notice of detention;
- (b) the ship shall not be cleared outward