

- (a) on summary conviction, to a fine not exceeding twenty-five thousand dollars;
- (b) on conviction on indictment, to imprisonment for a term not exceeding three years or a fine, or both.

(4) For the purposes of this section a ship shall be treated as being at sea at any time when it is not securely moored in a safe berth.

9. (1) The master of a Cayman Islands ship, when ice is on or near his course, shall at night either proceed at a moderate speed or change his course so as to keep amply clear of the ice reported and the area of danger.

(2) A master who fails to comply with subsection (1) shall be guilty of an offence and liable on summary conviction for each offence to a fine not exceeding ten thousand dollars.

10. (1) Where a Cayman Islands ship is involved in a collision it shall be the duty of the master, if and so far as he can do so without danger to his own ship, crew and passengers (if any) -

- (a) to render to the other ship her master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until he has ascertained that she has no need of further assistance; and
- (b) to give to the master of the other ship the name of his own ship and the names of the port to which it belongs, the port from which it has come and the port to which it is bound.

(2) A master who fails without reasonable cause to comply with subsection (1) shall be guilty of an offence and -

- (a) in the case of a failure to comply with paragraph (a), liable on conviction on indictment to a fine and imprisonment for a term not exceeding one year and on summary conviction to a fine not exceeding twenty five thousand dollars; and

Duty to
navigate
carefully
near ice.

Duty to assist
other ship in
case of collision.

CAYMAN ISLANDS



Supplement No. 1 Published with Gazette No. 9 of 1993.

THE MERCHANT SHIPPING LAW

(Law 12 of 1992)

(Reprint)

"duty" -

- (a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and
- (b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and

"structure" means any fixed or movable structure (of whatever description) other than a ship.

Seamen's duty
not to combine
for certain
purposes.

8. (1) If a seaman employed in a Cayman Islands ship combines with other seamen employed in that ship -

- (a) to disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
- (b) to neglect any duty which is required to be discharged at such a time; or
- (c) to impede, at such a time, the progress of a voyage or the navigation of the ship,

he shall be guilty of an offence.

(2) This section shall apply to a person who -

- (a) goes to sea in a ship without the consent of the master or of any other person authorised to give it, or
- (b) is conveyed in a ship in pursuance of section 62(5)(b) of the Merchant Shipping Act 1970,

as if he were a seaman employed in the ship.

(3) A person guilty of an offence under this section shall be liable -

as part of that advice or that he had no reason to believe that the drug might have the influence it had; or

- (b) in the case of an offence under subsection (4), that the defendant took all reasonable precautions and exercised all due diligence to avoid committing the offence; or
- (c) in the case of an offence under either of those subsections -
 - (i) that he could have avoided committing the offence only by disobeying a lawful command, or
 - (ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of it being caused, either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him.

(7) In the application of this section to any person falling within subsection (1)(b), subsections (2) and (4) shall have effect as if paragraphs (a)(i) and (b)(i) of subsection (2) were omitted.

(8) This section shall apply to a person who -

- (a) goes to sea in a ship without the consent of the master or of any other person authorised to give it, or
- (b) is conveyed in a ship in pursuance of section 62(5)(b) of the Merchant Shipping Act 1970,

as if he were a seaman employed in the ship.

(9) In this section -

"breach or neglect of duty", except in relation to a master, includes any disobedience to a lawful command;

ARRANGEMENT OF PROVISIONS

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Part II - Safety of Navigation

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- 4. Liability for the unsafe operation of a ship.
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- 37. Powers of surveyors and shipping masters in relation to ships.
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- 49. Application, repeal and amendment of provisions of the Merchant Shipping Acts 1894, 1970 and 1988.
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influence of drink or a drug at the time of the act or omission.

(4) If a person to whom this section applies -

- (a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a), or
- (b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,

he shall (subject to subsections (6) and (7)) be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable -

- (a) on summary conviction, to a fine not exceeding twenty-five thousand dollars;
- (b) on conviction on indictment, to imprisonment for a term not exceeding one year or a fine, or both.

(6) In proceedings for an offence under this section it shall be a defence to prove -

(a) in the case of an offence under subsection (2) -

- (i) where the act or omission alleged against the defendant constituted a breach or neglect of duty, that the defendant took all reasonable steps to discharge that duty, or
- (ii) that at the time of the act or omission alleged against the defendant he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given

seaward limits of the territorial sea of the Cayman Islands while proceeding to or from any such port.

(2) If a person to whom this section applies, while on board his ship or in its immediate vicinity -

- (a) does any act which causes or is likely to cause -
 - (i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or
 - (ii) the loss or destruction or serious damage to any other ship or any structure, or
 - (iii) the death of or serious injury to any person, or
- (b) omits to do anything required -
 - (i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or
 - (ii) to preserve any person on board his ship from death or serious injury, or
 - (iii) to prevent his ship from causing the loss or destruction or of serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,

and either of the conditions specified in subsection (3) is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7)) be guilty of an offence.

(3) Those conditions are -

- (a) that the act or omission was deliberate or amounted to a breach or neglect of duty;
- (b) that the master or seaman in question was under the

51. Repeal and commencement.

Schedule 1.
Schedule 2.
Schedule 3.

otherwise insufficient in any respect material to the issue of that certificate;

- (f) being a Cayman Islands ship, if the ship does not carry copies of the charts, directions or information which it is required to carry by the carriage of nautical publications regulations.

(2) For the purpose of subsection (1)(c) and (d), a certificate shall only be in force in respect of a ship if that certificate -

- (a) has not expired or been cancelled; and
- (b) is endorsed in accordance with such requirements of the Load Line Convention, the Safety Convention, the Prevention of Pollution Convention and the secondary legislation as apply to it; and
- (c) in the case of a certificate issued in the circumstances referred to in subsection 24 (9), has not ceased to have effect pursuant to that subsection.

(3) If a ship proceeds or attempts to proceed to sea in contravention of subsection (1) the owner and master shall each be liable -

- (a) on summary conviction, to a fine not exceeding fifty thousand dollars;
- (b) on conviction or indictment, to imprisonment for a term not exceeding one year or a fine, or both.

7. (1) This section applies -

- (a) to the master of, or any seaman employed in, a Cayman Islands ship; and
- (b) to the master of, or any seaman employed in, a ship which -
 - (i) is not a Cayman Islands ship, and
 - (ii) is in a port in the Cayman Islands or within the

Conduct
endangering
ships,
structures or
individuals.

outside the Cayman Islands,

if in the opinion of a surveyor of ships or shipping master or proper officer the crew of the ship consists of or includes persons who may not understand orders given to them in the course of their duty because of the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge and the surveyor of ships or shipping master or proper officer (as the case may be) has informed the master of that opinion; or

- (c) being a Cayman Islands ship, if there are not in force in respect of the ship such certificates as the ship is required to have to be granted clearance from a port in the Cayman Islands pursuant to section 25(1)(a) (b), (c) and (d) and such other certificates as the ship is required to have pursuant to the secondary legislation;
- (d) being a ship in a port in the Cayman Islands which is not a Cayman Islands ship, if there is not in force in respect of the ship such certificates as the ship is required to have to be granted clearance from that port pursuant to section 25(2)(a), (b), (c) and (d) and such other certificates as the ship is required to have pursuant to the secondary legislation;
- (e) being a Cayman Islands ship or a ship in a port in the Cayman Islands which is not a Cayman Islands ship, if -
 - (i) the condition of the hull, equipment or machinery of the ship does not correspond with the particulars of any certificate which has been issued in respect of the ship, or
 - (ii) since the undertaking of any survey pursuant to which any certificate has been issued in respect of the ship, the hull, equipment or machinery of the ship have been altered or renewed or have sustained any injury or are

CAYMAN ISLANDS

Law 12 of 1992
I Assent

ALAN SCOTT
Governor

30 August, 1992

**A LAW
RELATING TO
MERCHANT SHIPPING**

ENACTED by the Legislature of the Cayman Islands.

PART I - GENERAL

Short title

1. This Law may be cited as the Merchant Shipping Law.

Interpretation.

2. (1) In this Law, except where the context otherwise requires -
- "carriage of nautical publications regulations" means regulations made under section 19;
- "Cayman Islands ship" means a ship registered in the Cayman Islands or an unregistered ship in which 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 Cayman Islands and has its principal place of business in a part of the Cayman Islands;

"Chief Marine Surveyor" means the Chief Marine Surveyor appointed by the Governor under this Law or any person appointed by such Chief Marine Surveyor to act on his behalf;

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

"clearance" includes transire;

"Collector of Customs" has the meaning assigned by the Customs Law, 1990;

"conditions of assignment" means the regulations or any of them, as the context requires, set out in the Load Line Regulations under the title "Regulations as to conditions of assignment.";

"consular officer", when used in relation to another country, means the officer recognized by Her Majesty as a consular officer of that other country, and includes a consul-general, consul, vice-consul, consular agent and any person authorized to discharge the duties of consul-general, consul or vice-consul;

"crew accommodation regulations" means regulations made under section 18;

"dangerous goods" means goods classified as dangerous for carriage by sea in the 1990 consolidated edition of the International Maritime Dangerous Goods Code or in any subsequent edition of that Code or in any other publication of the International Maritime Organisation, and any other substance or goods the properties of which might be dangerous if that substance or those goods were carried by sea, but the expression shall not include goods forming part of the equipment or stores of the ship in which they are carried;

"existing ship" means a ship which is not a new ship, but this definition shall not apply in any secondary legislation unless otherwise stated;

who-

- (a) by reason of drunkenness or otherwise is in such a state or misconducts himself in such a manner as to cause annoyance or injury to passengers on the ship;
- (b) after being warned by the master or other officer of the ship, molests or continues to molest any passenger; or
- (c) refuses to leave the ship when it has arrived at the destination to which he has paid his fare,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

Circumstances
in which a ship
must not proceed
to sea.

6. (1) It shall be an offence for a ship to proceed or to attempt to proceed to sea -

- (a) being -
 - (i) a Cayman Islands ship, or
 - (ii) a ship which is not a Cayman Islands ship and which carries passengers between places in the Cayman Islands or on a voyage which begins and ends at the same place in the Cayman Islands and on which the ship calls at no place outside the Cayman Islands,without carrying such officers and other seamen as it is required to carry pursuant to the secondary legislation; or
- (b) being -
 - (i) a Cayman Islands ship, or
 - (ii) a ship which is not a Cayman Islands ship and which carries passengers between places in the Cayman Islands or on a voyage which begins and ends at the same place in the Cayman Islands and on which the ship calls at no place

specified for the time, occasion and circumstances concerned -

- (a) in the case of a Cayman Islands ship -
 - (i) in any certificate issued in respect of the ship under section 24(1)(a), or
 - (ii) where no certificate has been issued under section 24(1)(a), in any certificate referred to in section 24(1)(b), (c) or (d) issued in respect of the ship; or
- (b) in the case of a ship which is not a Cayman Islands ship, in any certificate issued by or under the authority of the parent country of the ship showing the number of passengers that the ship is fit to carry.

(3) If the owner or master of a passenger ship fails to discharge the duty imposed on him by subsection (1), he shall be guilty of an offence and shall be liable -

- (a) on summary conviction, to a fine not exceeding one hundred thousand dollars;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(4) If any person on board a Cayman Islands passenger ship knowingly does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or equipment of the ship, or to obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship, he shall be guilty of an offence and shall be liable -

- (a) on summary conviction to a fine not exceeding one hundred thousand dollars;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.

(5) Any person on board a Cayman Islands passenger ship

"Governor" means the Governor in Council;

"inspector" means a person appointed as such under section 38;

"Load Line Convention" means the International Convention on Load Lines signed on behalf of the Government of the United Kingdom in London on the 5th day of April, 1966 and the Protocol relating thereto signed in London on the 11th day of November, 1988 (to the extent that the same shall be in force internationally);

"Load Line Convention certificate" means a certificate which either -

- (a) has been issued under section 24(5); or
- (b) having been issued as an International Load Line certificate or an International Load Line Exemption certificate in respect of a Load Line Convention ship by or on behalf of the government of a Load Line Convention country, is produced in circumstances in which it is required by the load line regulations to be recognised;

"Load Line Convention country" means either -

- (a) a country the government of which has been declared by the Government of the United Kingdom to have accepted or acceded to the Load Line Convention and has not been declared by the Government of the United Kingdom to have denounced that Convention, or
- (b) a territory to which it has been so declared that the Load Line Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend;

"Load Line Convention ship" means a ship which -

- (a) is not registered in the Cayman Islands, and

- (b) is registered in a Load Line Convention country or, being an unregistered ship, is entitled to fly the flag of a Load Line Convention country, and
- (c) is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length, and
- (d) is not -
 - (i) a ship of war,
 - (ii) a ship solely engaged in fishing, or
 - (iii) a pleasure yacht;

"load line regulations" means regulations made under section 13 which give effect to the provisions of the Load Line Convention or any international agreement signed on behalf of the Government of the United Kingdom which provides for the modification of the Load Line Convention;

"load lines" means lines marked on a ship in accordance with the provisions of the load line regulations or, in the case of a ship in respect of which a Load Line Convention certificate has been issued, the Load Line Convention, indicating the various maximum depths to which the ship may be loaded;

"log book regulations" means regulations made under section 20 or any regulations made in the United Kingdom relating to log books which are applied to the Cayman Islands as part of the law of the Cayman Islands under section 12;

"master" includes every person having command or charge of any ship;

"Merchant Shipping Act 1894" means that Act as it applies in the Cayman Islands or to Cayman Islands ships;

Liability for the unsafe operation of a ship.

Duties and offences in relation to passenger ships.

4. (1) It shall be the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.

(2) This section applies to -

- (a) any Cayman Islands ship; and
- (b) any ship which is not a Cayman Islands ship if it is within the seaward limits of the territorial sea of the Cayman Islands while proceeding to or from a port in the Cayman Islands unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

(3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1), he shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding one hundred thousand dollars;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine.

5. (1) It shall be the duty of the owner and the master of -

- (a) any Cayman Islands passenger ship, or
- (b) any passenger ship which is not a Cayman Islands ship if it is within the seaward limits of the territorial sea of the Cayman Islands while proceeding to or from a port in the Cayman Islands unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances,

not to receive on board the ship, or on any part of it, any number of passengers which, having regard to the time, occasion, and circumstances of the case, is greater than the number of passengers allowed to be carried on the ship.

(2) For the purpose of subsection (1) the number of passengers that a passenger ship is allowed to carry is the number

is, by reason of any of the matters mentioned in subsection (2), not fit to go to sea without serious danger to human life, then, subject to subsection (4), the master and the owner of the ship shall each be guilty of an offence.

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

(3) A person guilty of an offence under this section shall be liable -

- (a) on summary conviction, to a fine not exceeding one hundred and twenty five thousand dollars;
- (b) on conviction on indictment, to imprisonment for a term not exceeding three years or a fine, or both.

(4) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence -

- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters falling within subsection (2) which are specified in the charge; or
- (b) it was reasonable for such arrangements not to have been made.

"Merchant Shipping Act 1965" means that Act as it applies in the Cayman Islands or to Cayman Islands ships;

"Merchant Shipping Act 1970" means that Act as it applies in the Cayman Islands or to Cayman Islands ships;

"Merchant Shipping Act 1988" means that Act as it applies in the Cayman Islands or to Cayman Islands ships;

"Merchant Shipping Acts" means the Merchant Shipping Act 1894, the Merchant Shipping Act 1965, the Merchant Shipping Act 1970 and the Merchant Shipping Act 1988;

"modifications" includes additions, omissions and alterations;

"new ship" means a ship whose keel is laid, or which is at a similar stage of construction, on or after 21st July, 1968, but this definition shall not apply in any secondary legislation unless otherwise stated;

"officer of customs" means an officer appointed under section 6 of the Customs Law, 1990, and includes a constable;

"parent country", in relation to a ship, means the country or territory in which the ship is registered or, if the ship is registered in more than one country or territory or is an unregistered ship, the country or territory whose flag the ship is entitled to fly;

"passenger" means any person carried in a ship, except -

- (a) a person employed or engaged in any capacity on board the ship on the business of the ship,
- (b) a person on board the ship either pursuant to an obligation upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances that neither the master, owner nor charterer (if any) could have prevented or forestalled, and

(c) a child under one year of age;

"passenger ship" means a ship carrying more than twelve passengers;

"Prevention of Pollution Convention" means the Convention and Protocols referred to in section 16(1)(a), (b) and (c) and any international agreement referred to in section 16(1)(d) which constitutes a modification thereof and which shall be in force internationally;

"Prevention of Pollution Convention certificate" means a certificate in the form prescribed by the Prevention of Pollution Convention issued by or on behalf of a country which is a party to the Prevention of Pollution Convention (or a territory to which the Prevention of Pollution Convention has been extended) in pursuance of its obligations under the Prevention of Pollution Convention and which has been endorsed in accordance with the requirements of the Prevention of Pollution Convention;

"proper officer" means, in relation to a port in a country outside the Cayman Islands that is not a foreign country, any officer exercising in that port functions similar to those of a shipping master, and in relation to any other port outside the Cayman Islands, a consular officer;

"Safety Convention" means the International Convention for the Safety of Life at Sea, signed on behalf of the Government of the United Kingdom on the 1st day of November, 1974, the Protocol relating thereto signed in London on the 17th February, 1978 and the Protocol relating thereto signed in London on the 11th day of November, 1988 (to the extent that the same shall be in force internationally);

"Safety Convention certificate" means a certificate in the form prescribed by the Safety Convention (including any record attached thereto) issued by or on behalf of a country which is a party to the Safety Convention (or a territory to which the Safety Convention has been extended) in pursuance of its obligations under the Safety Convention and which has been endorsed in accordance with the

Liability in
respect of a
dangerously
unsafe ship.

requirements of the Safety Convention;

"secondary legislation" means all or any (as the context requires) of the secondary legislation in force in the Cayman Islands or within the seaward limits of the territorial sea of the Cayman Islands or in respect of any Cayman Islands ship by virtue of any order or regulations made under Part III;

"ship" includes every description of vessel or boat operating in a marine environment including hydrofoil boats, floating craft and fixed floating platforms, other than a vessel propelled by oars, an air-cushion vehicle or a submersible craft;

"shipping master" means a person appointed as such under section 36;

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers signed in London on 7th July, 1978;

"submersible craft" means a submersible craft within the meaning of the Merchant Shipping (Submersible Craft) Law, 1991;

"surveyor of ships" means a person appointed as such under section 36;

"unregistered ship" means a ship which is not registered in the Cayman Islands or elsewhere.

(2) Any reference in this Law to failure to do any act or thing includes a reference to refusal to do that act or thing.

PART II - SAFETY OF NAVIGATION

3. (1) If, having regard to the nature of the service for which it is intended -

(a) a ship in a port in the Cayman Islands, or

(b) a Cayman Islands ship which is in any other port,

- (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) undermanning;
 - (c) overloading or unsafe or improper loading;
 - (d) any other matter relevant to the safety of the ship.
- (3) Where any certificate required to be produced under section 25(1) and (2) is not produced in respect of a ship the ship shall be liable to be detained until that certificate is produced.
- (4) Where a Safety Convention certificate is produced in respect of a ship which is not a Cayman Islands ship and a surveyor of ships is unable to verify any of the matters referred to in section 37(4) the ship shall be liable to be detained: Provided that the Chief Marine Surveyor shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.
- (5) Where a ship is loaded in contravention of section 26(2) the ship shall be liable to be detained until it ceases to be so loaded.
- (6) Where a surveyor of ships has reason to believe that a Cayman Islands ship does not comply with the conditions of assignment to which it is subject the ship shall be liable to be detained.
- (7) Where a Load Line Convention certificate is not produced in respect of a ship which is not a Cayman Islands ship and a surveyor of ships has reason to believe that the ship does not comply with any conditions of assignment to which it is subject, the ship shall be liable to be detained.
- (8) Where a Load Line Convention certificate is produced in respect of a ship which is not a Cayman Islands ship and a surveyor

Duty to assist
persons in
danger and
distress at sea.

- (b) in the case of a failure to comply with paragraph (b), liable on summary conviction to a fine not exceeding five thousand dollars.

11. (1) The master of a Cayman Islands ship shall, so far as he can do so without serious danger to his own ship, its crew and passengers (if any), render assistance to every person who is found at sea in danger of being lost.

(2) Without prejudice to subsection (1) the master of a Cayman Islands ship, on receiving at sea a signal of distress or information from any source that a ship or aircraft is in distress, shall proceed with all speed to the assistance of such ship or aircraft (informing it if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released under subsection (4).

(3) Where the master of any ship in distress has requested that assistance be rendered by a Cayman Islands ship that has answered his call, it shall be the duty of the master of that ship to comply with the request to render assistance by continuing to proceed with all speed to the assistance of the ship in distress.

(4) A master shall be released from the obligation imposed by subsection (2) as soon as he is informed that the assistance of his ship is no longer required and that one or more other ships are complying with a request to render assistance addressed to that ship or those ships (as the case may be).

(5) A master shall be released from the obligation imposed by subsection (3) if he is informed by the ship or aircraft in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(6) A master who fails to comply with subsections (1), (2) or (3) shall, subject to subsections (4) and (5), be guilty of an offence and liable -

- (a) on summary conviction to a fine not exceeding twenty-five thousand dollars;
- (b) on conviction on indictment to imprisonment for a term not exceeding one year or a fine, or both.

(7) Compliance by the master with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

**PART III - POWERS TO MAKE SECONDARY LEGISLATION
RELATING TO SHIPPING**

Application of
United Kingdom
legislation.

12. (1) The Governor may, by order, apply to the Cayman Islands as part of the law of the Cayman Islands, subject to such modifications as may be specified in the order, any legislation of the United Kingdom to which this section applies.

(2) An order under subsection (1) may include provisions repealing or amending any provision of any enactment (other than this section) or other instrument of a legislative character including an enactment or instrument which applies or enables the application of any legislation of the United Kingdom relating to merchant shipping which is inconsistent with, or is unnecessary or requires modification in consequence of, this section, the order or any legislation of the United Kingdom applied to the Cayman Islands by the order.

(3) This section applies to the following legislation of the United Kingdom -

- (a) the Merchant Shipping Acts 1894 to 1988;
- (b) the Hovercraft Act 1968;
- (c) the Merchant Shipping (Liner Conferences) Act 1982;
- (d) any provision of an Act of Parliament, or of any instrument of a legislative character made under an Act of Parliament, amending or varying, directly or indirectly, any of the Acts of Parliament specified in paragraphs (a), (b) or (c);
- (e) any instrument of a legislative character made or having effect as if made under any of the Acts of Parliament specified in paragraphs (a), (b) or (c);
- (f) any provision of an Act of Parliament, or of any instrument of a legislative character made under an Act of Parliament, which relates, directly or indirectly,

marked, except where he does so under the authority of a person empowered under the load line regulations to authorize him in that behalf,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

(2) Where a Cayman Islands ship is marked in accordance with the load line regulations, then, if there is not kept readily available for examination a notice in the form specified in the load line regulations upon which is entered particulars of the depth to which the ship is loaded, the owner and the master shall each be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars.

PART VI - PROVISIONS RELATING TO LOG BOOKS

28. (1) Except as provided by log book regulations an official log book in a form approved by the Governor shall be kept in every Cayman Islands ship.

(2) If a person wilfully destroys or mutilates or renders illegible any entry in an official log book he shall be liable on summary conviction to a fine not exceeding five thousand dollars.

(3) An official log book kept in accordance with paragraph (1) and, without prejudice to section 695(2) of the Merchant Shipping Act 1894, any document purporting to be a copy of an entry in it and to be certified as a true copy by the master of the ship shall be admissible in evidence and, when in the custody of the Registrar of Shipping, shall be open to public inspection.

PART VII - DETENTION OF SHIPS

29. (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) of this section, 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) of this section are-

Duty to keep
log book.

Power to detain
ships.

in respect of which a Load Line Convention certificate is produced -

- (a) "load line" in subsection (2) means a line marked on the ship in the position of a load line specified in that certificate; and
- (b) subject to subsection (10), for the purpose of the application of this section to such a ship in any circumstances for which a particular load line is specified in the certificate, the "appropriate load line" means the load line which, in accordance with the certificate, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(10) Where a passenger ship is marked with subdivision load lines pursuant to either -

- (a) regulations applied to the Cayman Islands by the Merchant Shipping (Safety Provisions) (Application) Order 1988, or
- (b) in the case of a ship which is not a Cayman Islands ship, the Safety Convention or any law of the parent country of the ship made for the purpose of giving effect to the Safety Convention,

and the lowest of those load lines is lower than the line which, apart from this subsection, would be the appropriate load line for the purpose of this section, this section shall have effect as if that subdivision load line were the appropriate load line for the purpose of this section.

27. (1) Where a Cayman Islands ship is marked in accordance with the load line regulations, then, if -

- (a) the owner or master fails without reasonable cause to keep her so marked; or
- (b) any person conceals, removes, alters, defaces or obliterates, or causes or permits any person under his control to conceal, remove, alter, deface or obliterate, any mark with which the ship is so

Miscellaneous
offences in
marks and
particulars
of loading.

Regulations
relating to the
safety of ships.

to merchant shipping.

13. (1) The Governor may make regulations making such provisions as he considers appropriate for all or any of the following purposes -

- (a) for securing the safety of Cayman Islands ships and persons on them and for protecting the health of persons on such ships;
- (b) for giving effect to any provisions of an international agreement ratified by the United Kingdom so far as the agreement relates to the safety of other ships or persons on them or to the protection of the health of persons on other ships;
- (c) for securing the safety of other ships and persons on them while they are within the seaward limits of the territorial waters of the Cayman Islands.

(2) The power conferred by subsection (1) to make provision for giving effect to an agreement includes power to provide for the provision to come into force although the agreement has not come into force.

(3) Without prejudice to the generality of subsection (1), regulations made under that subsection may -

- (a) include provision for the carrying out of surveys and inspections and for the issue, duration and recognition of certificates;
- (b) make contravention of any provision of the regulations an offence punishable upon summary conviction by a fine not exceeding one hundred thousand dollars and by imprisonment for a term not exceeding two years;
- (c) 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 30 to 35, subject to such modifications as may be therein prescribed.

Regulations giving effect to the Load Line Convention, the Safety Convention and the STEW Convention.

14. (1) Without prejudice to the generality of section 13, regulations made under that section may be made for the purpose of giving effect to any provision of -

- (a) the Load Line Convention or of any international agreement signed on behalf of the Government of the United Kingdom which provides for the modification of the Load Line Convention;
- (b) the Safety Convention or of any international agreement signed on behalf of the Government of the United Kingdom which provides for the modification of the Safety Convention; and
- (c) the STEW Convention or of any international agreement signed on behalf of the Government of the United Kingdom which provides for the modification of the STEW Convention.

(2) The power to make provision for giving effect to an agreement which provides for the modification of the Load Line Convention, the Safety Convention and the STEW Convention (as the case may be) includes the power to provide for the provision to come into force although the agreement has not come into force or has not become applicable in or been extended to the Cayman Islands.

Regulations relating to manning of ships.

15. (1) Subject to subsection (2), the Governor may make regulations -

- (a) requiring ships to which this section applies to carry such number of qualified officers of any description, qualified doctors and qualified cooks and such number of other seamen or qualified seamen of any description as may be specified in the regulations; and
- (b) prescribing or enabling the Governor to specify standards of competence to be attained and other conditions to be satisfied (subject to any exceptions allowed by or under the regulations) by officers and other seamen of any description in order to be qualified for the purposes of this section.

sea when it is loaded in contravention of that subsection, then, without prejudice to any fine to which he may be liable in respect of an offence under subsection (3), he shall be guilty of an offence under this subsection and liable on summary conviction or to a fine not exceeding fifty thousand dollars.

(6) Where a person is charged with an offence under subsection (3), it shall be a defence to prove that the contravention was due solely to deviation or delay and that the deviation or delay was caused solely by stress of weather or any other circumstance that neither the master, owner nor charterer (if any) could have prevented or forestalled.

(7) No proceedings shall be brought by virtue of this section in respect of a ship which -

- (a) is registered in a Load Line Convention country or, being an unregistered ship, is entitled to fly the flag of a Load Line Convention country, and
- (b) is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length,

unless that ship has been surveyed by a surveyor of ships for the purpose of verifying the matters referred to in section 37(5).

(8) Subject to subsection (10), for the purpose of the application of this section to a ship -

- (a) which is a Cayman Islands ship, or
- (b) which is not a Cayman Islands ship and in respect of which a Load Line Convention certificate is not produced,

in any circumstances prescribed by load line regulations, "appropriate load line" means the load line which, in accordance with the load line regulations, indicates the maximum depth to which the ship may be loaded in salt water in those circumstances.

(9) In relation to a ship which is not a Cayman Islands ship and

(c) pleasure yachts.

(2) A ship to which this section applies shall not be so loaded that -

- (a) if the ship is in salt water and has no list, the appropriate load line on each side of it is submerged; or
- (b) in any other case, the appropriate load line on each side of the ship would be submerged if it was in salt water and had no list.

(3) If any ship is loaded in contravention of subsection (2) the owner and master shall, subject to subsections (6) and (7), be guilty of an offence and liable on summary conviction to -

- (a) a fine not exceeding twenty-five thousand dollars; and
- (b) such additional fine, not exceeding an amount calculated in accordance with subsection (4), as the court thinks fit to impose having regard to the extent to which the earning capacity of the ship was increased by reason of the contravention.

(4) Any additional fine imposed under paragraph (b) of subsection (3) shall not exceed two thousand five hundred dollars for each complete centimetre by which -

- (a) in a case falling within paragraph (a) of subsection (2), the appropriate load line on each side of the ship was submerged; or
- (b) in a case falling within paragraph (b) of that subsection, the appropriate load line on each side of the ship would have been submerged as therein mentioned.

(5) If the master of a ship takes it to sea when it is loaded in contravention of subsection (2), or if any other person, having reason to believe that a ship is so loaded, sends or is party to sending it to

(2) In making regulations under this section the Governor shall have regard to the STEW Convention.

(3) The Governor shall not exercise his power to make regulations requiring ships to carry seamen other than doctors and cooks except to the extent that it appears to him necessary or expedient in the interests of safety.

(4) Without prejudice to the generality of subsection (1)(b), the conditions prescribed or specified under that subsection may include conditions as to nationality, and regulations made for the purposes of that subsection may make provision, or enable the Governor to make provision, for -

- (a) the manner in which the attainment of any standard or the satisfaction of any other condition is to be evidenced;
- (b) the conduct of any examinations, the conditions for admission to them and the appointment and remuneration of examiners; and
- (c) the issue, form, recording and admissibility in evidence of certificates and other documents;

and different provisions may be so made or enabled to be made for different circumstances.

(5) This section applies to any Cayman Islands ship and also to any other ship which carries passengers -

- (a) between places in the Cayman Islands; or
- (b) on a voyage which begins and ends at the same place in the Cayman Islands and on which the ship calls at no place outside the Cayman Islands.

16. (1) The Governor may make regulations for the purpose of giving effect to any provision of any of the following which have been ratified by the United Kingdom -

- (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes

Regulations
relating to
pollution from
ships.

and appendices) which constitutes attachment 1 to the final act of the International Conference on Marine Pollution signed in London on the 2nd day of November, 1973;

- (b) the Protocol relating to Intervention on the High Seas in cases of marine pollution by substances other than oil which constitutes attachment 2 to such final act;
- (c) the Protocol relating to that Convention which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on the 17th day of February, 1978;
- (d) any international agreement signed on behalf of the Government of the United Kingdom and applicable in or extended to the Cayman Islands which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships,

and for the purpose of this subsection, the reference to an international agreement in paragraph (d) includes an international agreement which provides for the modification of another such agreement including the modification of an agreement mentioned in paragraphs (a), (b) or (c).

(2) Without prejudice to the generality of subsection (1), regulations made under that subsection may -

- (a) include provision for the carrying out of surveys and inspections, for the issue, duration and recognition of certificates;
- (b) make contravention of any provision of the regulations an offence punishable upon summary conviction by a fine not exceeding one hundred thousand dollars and by imprisonment for a term not exceeding two years;
- (c) include provision for detaining any ship in respect of which such a contravention is suspected to have

paragraph (a), where the clearance demanded is in respect of a voyage which is not a voyage to a port outside the Cayman Islands, is either a Load Line Convention certificate or a Cayman Islands Load Line certificate issued in accordance with the load line regulations for the time being in force in respect of the ship; and

- (c) in any other case, is a Cayman Islands Load Line certificate issued in accordance with the load line regulations for the time being in force in respect of the ship.
- (4) Any person serving or engaged to serve in any ship being -
 - (a) a Cayman Islands ship, or
 - (b) a ship which is not a Cayman Islands ship and which carries passengers between places in the Cayman Islands or on a voyage which begins and ends at the same place in the Cayman Islands and on which the ship calls at no place outside the Cayman Islands,

who holds any certificate or other document which is evidence that he is qualified for the purposes of the secondary legislation shall on demand produce it to any shipping master, surveyor of ships or proper officer and (if he is not himself the master) to the master of the ship.

(5) Any person who fails without reasonable cause to comply with subsection (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

PART V - PROVISIONS RELATING TO LOAD LINES

Submersion of load line.

26. (1) This section applies to all ships which are marked with load lines and either are Cayman Islands ships or not being Cayman Islands ships are within a port in the Cayman Islands, except -

- (a) ships of war;
- (b) ships solely engaged in fishing; and

solely engaged in fishing or a pleasure yacht, the appropriate Load Line certificate;

- (b) in the case of a ship engaged on a voyage to a port outside the Cayman Islands, such Safety Convention certificates as are applicable to that ship;
- (c) in the case of a passenger ship, any certificate issued in respect of the ship under section 24(1)(a) or any certificate issued by or under the authority of the parent country of the ship showing the number of passengers that the ship is fit to carry;
- (d) in the case of a ship other than a ship of war, a naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service, such Prevention of Pollution Convention certificates as are applicable to that ship; and
- (e) if so requested, any other certificate which the ship is required to have by the secondary legislation.

(3) For the purpose of subsection (2), the appropriate Load Line certificate -

- (a) in the case of a ship which -
 - (i) is registered in a Load Line Convention country or, being an unregistered ship, is entitled to fly the flag of a Load Line Convention country, and
 - (ii) is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty four metres in length,

where the clearance demanded is in respect of a voyage to a port outside the Cayman Islands, is a Load Line Convention certificate;

- (b) in the case of any such ship as is mentioned in

occurred and, in relation to such a ship, for applying sections 30 to 35, subject to such modifications as may be therein prescribed;

- (d) apply to areas of land or sea or other waters within the seaward limits of the territorial waters of the Cayman Islands, notwithstanding that the agreement in question does not relate to those areas.

(3) The powers conferred by subsection (1) to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force although the agreement has not come into force or has not become applicable in or been extended to the Cayman Islands.

(4) Regulations under this section may be made to apply to air-cushion vehicles and submersible craft.

Regulations
relating to
transfers
between ships.

17. (1) The Governor may make such regulations with respect to the transfer of cargo, stores, bunker fuel or ballast between ships while within the seaward limits of the territorial sea of the Cayman Islands as he considers appropriate for preventing pollution, danger to health or to navigation, or hazards to the environment or to natural resources.

(2) Regulations under this section may, in particular, do any of the following things relating to transfers referred to in subsection (1), namely -

- (a) prohibit transfers of any specified description or prohibit transfers if, or unless, carried out in specified areas, circumstances or ways;
- (b) make provision about -
 - (i) the design of, and standards to be met by, ships and equipment,
 - (ii) the manning of ships, including the qualifications and experience to be possessed by persons of any specified description employed on board, and

(iii) the qualifications and experience to be possessed by persons (whether masters or not) controlling the carrying out of transfers operations ancillary thereto;

(c) provide for proposed transfers to be notified to and approved by persons appointed by the Governor or another person, and for the supervision of transfers, and the inspection of ships and equipment, by persons so appointed;

(d) provide -

(i) for the procedure to be followed in relation to the approval of transfers to be such as may be prescribed by any document specified in the regulations, and

(ii) for references in the regulations to any document so specified to operate as references to that document as revised or re-issued from time to time;

(e) provide for the making and keeping of records about ships and equipment, the issuing of certificates, and the furnishing of information.

(3) Regulations under this section may make contravention of any provision of the regulations an offence punishable upon summary conviction by a fine not exceeding one hundred thousand dollars and by imprisonment for a term not exceeding two years.

18. (1) The Governor may make regulations with respect to the crew accommodation to be provided in Cayman Islands ships.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may, in particular -

(a) prescribe the minimum space per man which must be provided by way of sleeping accommodation for seamen and the maximum number of persons by whom a specified part of such sleeping accommodation may be used;

Regulations
relating to crew
accommodation.

provisions contained in this section and, if appropriate, the provisions of the secondary legislation shall apply to any such certificate as if it had been issued by the Chief Marine Surveyor pursuant to the power conferred upon him by this section.

Production of
certificates.

25. (1) Clearance shall not be granted to a Cayman Islands ship for a voyage from a port in the Cayman Islands unless there are produced to the officer of customs from whom the clearance is demanded -

(a) in the case of a ship other than a ship of war, a ship solely engaged in fishing or a pleasure yacht, an International Load Line certificate or a Cayman Islands Load Line certificate issued in accordance with the load line regulations;

(b) in the case of a ship engaged on a voyage to a port outside the Cayman Islands, such Safety Convention certificates as are applicable to that ship;

(c) in the case of a passenger ship in respect of which no Safety Convention certificate specifying the number of passengers which the ship is fit to carry has been issued, a certificate issued pursuant to section 24(1)(a);

(d) in the case of a ship other than a ship of war, a naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service, such Prevention of Pollution Convention certificates as are applicable to that ship; and

(e) if so requested, any other certificate which the ship is required to have by the secondary legislation.

(2) Clearance shall not be granted to a ship which is not a Cayman Islands ship for a voyage from a port in the Cayman Islands unless there are produced to the officer of customs from whom the clearance is demanded -

(a) in the case of a ship other than a ship of war, a ship

ship in respect of which it has been issued at all times: Provided that until 1st February 1992 or such other later date as the Governor may by order prescribe any certificate required to be issued by the Safety Convention or a certified copy thereof shall be posted up in a prominent and accessible place in the ship in respect of which it has been issued.

(12) If a person ceases to be the master of a ship registered in the Cayman Islands during a voyage of the ship he shall deliver to his successor the documents relating to the ship or its crew which are in his custody.

(13) If the owner or master of a ship fails without reasonable cause to comply with subsections (10) or (11) or if a person fails without reasonable cause to comply with subsection (12) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

(14) The powers conferred upon the Chief Marine Surveyor to issue, extend or cancel any certificate or exemption certificate (except the powers conferred by subsections (3) and (5)) may be delegated by the Chief Marine Surveyor to such persons as he or the Governor may from time to time appoint.

(15) Any person who knowingly and wilfully makes, or assists in making, or procures to be made any certificate which falsely or fraudulently purports to be a certificate capable of being issued under a power contained in this section shall be guilty of an offence and shall be liable -

- (a) on summary conviction, to a fine not exceeding twenty five thousand dollars;
- (b) on conviction on indictment, to imprisonment for a term not exceeding one year or a fine, or both.

(16) Any certificate issued under section 274 of the Merchant Shipping Act, 1894, or sections 9,10,11,12,13,17,37,42,45, or 52 of the Merchant Shipping Law prior to the coming into force of this Part shall be deemed to have been issued by the Chief Marine Surveyor pursuant to the power conferred upon him by this section; and the

- (b) regulate the position in the ship in which the crew accommodation or any part thereof may be located and the standards to be observed in the construction, equipment and furnishing of any such accommodation;
- (c) require the submission to a surveyor of ships of plans and specifications of any works proposed to be carried out for the purpose of the provision or alteration of any such accommodation and authorise the surveyor to inspect any such works; and
- (d) provide for the maintenance and repair of any such accommodation and prohibit or restrict the use of any such accommodation for purposes other than those for which it is designed.

(3) Regulations made under this section may require the master of a ship or any officer authorised by him for the purpose to carry out such inspections of the crew accommodation as may be prescribed by the regulations.

(4) Regulations made under this section may -

- (a) make contravention of any provision of the regulations an offence punishable upon summary conviction by a fine not exceeding twenty-five thousand dollars;
- (b) 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 30 to 35, subject to such modifications as may be therein prescribed.

(5) In this section "crew accommodation" includes sleeping rooms, mess rooms, sanitary accommodation, hospital accommodation, recreation accommodation, storerooms and catering accommodation provided for the use of seamen but does not include any accommodation which is also used by or provided for the use of passengers.

Regulations relating to the carriage of nautical publications.

19. (1) The Governor may make regulations specifying such charts, directions or information as appear to him to be necessary or expedient for the safe operation of ships and those regulations may require ships registered in the Cayman Islands, or such descriptions of ships registered in the Cayman Islands as may be specified in the regulations, to carry, either at all times or on such voyages as may be specified in the regulations, copies of the charts, directions or information so specified.

(2) Regulations made under this section may make contravention of any provision of the regulations an offence punishable upon summary conviction by a fine not exceeding ten thousand dollars.

Regulations relating to official log books.

20. (1) The Governor may make regulations prescribing the particulars to be entered in official log books, the persons by whom such entries are to be made, signed or witnessed, and the procedure to be followed in the making of such entries and in their amendment or cancellation.

(2) Regulations made under this section may -

- (a) require the production or delivery of official log books to such persons, in such circumstances and within such times as may be specified therein;
- (b) exempt ships of any description from any requirements thereof, either generally or in such circumstances as may be specified in the regulations; and
- (c) make contravention of any provision of the regulations an offence punishable upon summary conviction by a fine not exceeding ten thousand dollars.

Fees.

21. The Governor may make regulations prescribing fees to be paid in respect of the issue or recording of any certificate, licence or other document, the undertaking of any survey or the doing of any other thing pursuant to the provisions of this Law or the secondary legislation.

- (c) since the undertaking of any survey pursuant to which the certificate was issued, the hull, equipment or machinery of the ship, including such appliances or equipment as the ship is required to have or carry by the secondary legislation have been altered or renewed or have sustained any injury or are otherwise insufficient.

(9) A certificate issued in respect of a ship pursuant to the power contained in this section or pursuant to any authority conferred by the secondary legislation shall cease to have effect if -

- (a) any survey or inspection in respect of matters the subject of the certificate which the ship is required to undergo pursuant to the secondary legislation has not been carried out; or
- (b) the ship ceases to be a Cayman Islands ship.

(10) Where a certificate issued in respect of a ship by the Chief Marine Surveyor under this section or issued pursuant to any authority conferred by the secondary legislation has expired and has not been extended or where pursuant to subsections (8) or (9) or pursuant to the secondary legislation a certificate issued in respect of a ship has been cancelled, revoked or ceased to have effect -

- (a) the certificate shall be delivered up to the Chief Marine Surveyor or to such person as the Chief Marine Surveyor directs, and
- (b) the certificate shall not be re-issued or any new certificate issued until the ship has been surveyed pursuant to the secondary legislation or otherwise to the satisfaction of the Chief Marine Surveyor.

(11) Any certificate issued by the Chief Marine Surveyor under this section or issued pursuant to any authority conferred by the secondary legislation or a certified copy of any such certificate shall be -

- (a) admissible in evidence; and
- (b) kept readily available for examination on board the

secondary legislation or, where no such period is specified, the maximum period specified in respect of such certificate in the Safety Convention, the Load Line Convention or the Prevention of Pollution Convention as the case may be.

(7) Any certificate issued by the Chief Marine Surveyor pursuant to subsections (1), (3) or (5) may be extended -

- (a) in the case of a certificate issued pursuant to subsection (1)(a), for such period as may be necessary for the ship to complete the voyage upon which it is engaged at the time of the expiry of the certificate and to proceed to the port at which it is to be surveyed subject to a maximum period of three months;
- (b) in the case of any other certificate, for the period specified in respect of such certificate in the secondary legislation or, where no such period is specified, the period specified in respect of such certificate in the Safety Convention, the Load Line Convention or the Prevention of Pollution Convention as the case may be:

Provided that a certificate issued by the Chief Marine Surveyor pursuant to subsections (3) and (5) shall only be extended by the Chief Marine Surveyor at the request of the government of the country at whose request the certificate was issued.

(8) The Chief Marine Surveyor may cancel any certificate which is issued by him pursuant to the power contained in this section or pursuant to any authority conferred by secondary legislation if he has reason to believe that -

- (a) any declaration of survey on which the certificate was founded has been in any material particular made fraudulently or erroneously;
- (b) the certificate has been issued upon false or erroneous information; or

General
provisions
as to
Regulations.

22. Regulations made under this Part may -

- (a) make different provision for different circumstances;
- (b) make provision for an individual case;
- (c) be made so as to apply only in such circumstances as are prescribed by the regulations;
- (d) provide for the granting by the Governor or another person of exemptions from the provisions of the regulations, on such terms (if any) as the Governor or that other person may specify, and for altering or cancelling exemptions;
- (e) limit any provision of the regulations to specified cases or kinds of case;
- (f) be made to extend outside the Cayman Islands;
- (g) contain such incidental and transitional provisions as the Governor considers appropriate;
- (h) make such repeals or other modifications of the provisions of this Law as the Governor considers appropriate in consequence or in anticipation of the making of such regulations;
- (i) make such repeals or other modifications of any enactment passed and any instrument of a legislative character made before the passing of this Law as he considers appropriate in connection with any modification made or to be made in pursuance of paragraph (h);
- (j) provide for anything done under a provision repealed or otherwise modified by virtue of paragraphs (h) or (i) to have effect as if done under such regulations and make such other transitional provision and such incidental and supplemental provision as the Governor considers appropriate in connection with any modification made by virtue of paragraphs (h) or (i).

Consultation
with the
Secretary of
State.

23. Any order or regulations made under sections 12, 13, 15 and 16 shall be made after consultation with the Secretary of State for Transport of the United Kingdom.

**PART IV - PROVISIONS RELATING TO CERTIFICATES TO BE
ISSUED IN RESPECT OF SHIPS**

Authority to
issue
certificates.

24. (1) The Chief Marine Surveyor shall have power to issue any certificate -

- (a) specifying in respect of a passenger ship -
 - (i) the limits (if any) within which it is fit to carry passengers, and
 - (ii) the number of passengers which the ship is fit to carry, distinguishing, where he considers it to be necessary, the number to be carried in each part of the ship, and any conditions and variations to which that number is subject;
- (b) required to be issued in respect of a Cayman Islands ship by the Safety Convention, the Load Line Convention, the Prevention of Pollution Convention or any other international agreement referred to in section 13(1)(b) or section 16(1)(d);
- (c) prescribed by the Protocols of 1988 to the Safety Convention and the Load Line Convention (notwithstanding the fact that they shall not be in force internationally);
- (d) otherwise referred to in the secondary legislation.

(2) Where pursuant to subsection (1) the Chief Marine Surveyor has power to issue any certificate that power shall be deemed to include the power to issue an exemption certificate in any case where-

- (a) upon the grant of any exemption the Safety Convention or the Load Line Convention requires that an exemption certificate be issued; or

- (b) there is power to exempt any person or ship from the requirements of the secondary legislation and the Chief Marine Surveyor considers it expedient to issue such a certificate.

(3) Without prejudice to subsection (1), the Chief Marine Surveyor may, at the request of the government of a country to which the Safety Convention applies, issue in respect of a ship which is registered in that country or, being an unregistered ship, is entitled to fly the flag of that country, any certificate of a type specified in the Safety Convention if he is satisfied that it is proper for him to do so.

(4) A certificate issued pursuant to a request referred to in subsection (3) and containing a statement that it has been so issued shall have effect as if it had been issued by the government making the request and not by the government of the Cayman Islands.

(5) Without prejudice to subsection (1), the Chief Marine Surveyor may, at the request of the government of a Load Line Convention country, issue in respect of a ship which -

- (a) is registered in that country or, being an unregistered ship, is entitled to fly the flag of that country, and
- (b) is either an existing ship of not less than one hundred and fifty tons gross tonnage or a new ship of not less than twenty-four metres in length,

an International Load Line Certificate in such form as may be prescribed by the load line regulations, if he is satisfied that he could properly issue a certificate in respect of that ship under the load line regulations if it was registered in the Cayman Islands.

(6) Any certificate issued by the Chief Marine Surveyor pursuant to subsections (1), (3) or (5) shall not be issued for any period longer than -

- (a) in the case of a certificate issued pursuant to subsection (1)(a), one year;
- (b) in the case of any other certificate, the maximum period specified in respect of such certificate in the

Repeal and
commencement.

51. (1) The Merchant Shipping Law as in force immediately before the commencement of this section (hereinafter called the "old Merchant Shipping Law") is repealed.

(2) This Law shall come into force on such day as the Governor may by order appoint; and any such order may appoint -

- (a) different days for different provisions of this Law; and
- (b) different days for the repeal of different provisions of the old Merchant Shipping Law.

SCHEDULE 1

Section 48(1)

PART 1

AMENDMENTS TO THE MERCHANT SHIPPING (SUBMERSIBLE CRAFT) LAW, 1991

1. In section 1 (1) for "Merchant Shipping (Submersible Craft) Law, 1991, substitute "Merchant Shipping (Submersible Craft) Law".
2. In section 2 -
 - (a) in the definition of "Chief Marine Surveyor", for "section 69" substitute "section 36";
 - (b) delete the definition of "Merchant Shipping Act 1970".
3. In section 12 (g) and 16 (d), for "sections 74 to 76" substitute "sections 30 to 35".
4. In section 17(1)(a), for "section 72" substitute "section 39".
5. In section 17(2) -
 - (a) for "sections 56 to 58 of the Merchant Shipping Act 1970" substitute "sections 42 and 43 of the Merchant Shipping Law";
 - (b) for "section 56(1) to "section 55 of this Act"" substitute "section 42 to "section 41"";

of ships has reason to believe that the ship does not comply with the conditions of assignment to which it is subject or has been so materially altered or has materially deteriorated in respect of the matters referred to in section 37(5)(c) and (d), the ship shall be liable to be detained: Provided that the Chief Marine Surveyor shall order the ship to be released as soon as he is satisfied that the ship is fit to proceed to sea without danger to human life.

(9) Where -

- (a) a Cayman Islands ship, or
- (b) a ship which is not a Cayman Islands ship and which carries passengers between places in the Cayman Islands or on a voyage which begins and ends at the same place in the Cayman Islands and on which the ship calls at no place outside the Cayman Islands,

proceeds or attempts to proceed to sea without carrying such officers and other seamen as it is required to carry under the secondary legislation, the ship shall be liable to be detained.

(10) Where in the opinion of a surveyor of ships, shipping master or proper officer the crew of a ship being -

- (a) a Cayman Islands ship, or
- (b) a ship which is not a Cayman Islands ship and which carries passengers between places in the Cayman Islands or on a voyage which begins and ends at the same place in the Cayman Islands and on which the ship calls at no place outside the Cayman Islands,

consists of or includes persons who may not understand orders given to them in the course of their duty because of the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge, the ship shall be liable to be detained.

30. (1) Where a ship is liable to be detained under this Law or under the Merchant Shipping Acts, the Chief Marine Surveyor may, at any time after he becomes aware of the grounds for detention of the

Procedure on
detention.

ship, cause to be served on the master of the ship notice of detention.

(2) Where the Chief Marine Surveyor causes to be served upon the master of a ship a notice of detention under subsection (1) he shall so soon as reasonably practicable -

- (a) cause to be served upon the master of the ship a written statement of the grounds of the detention; and
- (b) if the ship is at a port in the Cayman Islands, give notice to the Collector of Customs that a notice of detention has been served in respect of the ship.

(3) Upon service of a notice of detention upon a master of a ship under subsection (1) -

- (a) the ship shall not be cleared outward 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
- (b) 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 he 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 give notice that the ship may be released, and a copy of such notice shall be served on the master of the ship and, if the ship is at a port in the Cayman Islands, on the Collector of Customs.

(5) Without prejudice to the provisos contained in section 29(4) and section 29(8), where the Chief Marine Surveyor is satisfied that a ship which has been detained is fit to proceed to sea without danger

Amendment of the Merchant Shipping (Submersible Craft) Law, 1991, and the Registration of Merchant Shipping Law, 1991.

Application, repeal and amendment of provisions of the Merchant Shipping Acts 1894, 1970 and 1988.

Existing secondary legislation.

officer of a Cayman Islands passenger ship, and all persons called by him to his assistance, may, without warrant, detain any person who commits an offence under section 5(4) or section 5(5) for the purpose, so soon as may be practicable, of delivering that person into the custody of a Court having jurisdiction to try him.

48. (1) The amendments to the Merchant Shipping (Submersible Craft) Law, 1991, set out in Part 1 of Schedule 1 shall have effect.

(2) The amendments to the Registration of Merchant Ships Law, 1991, set out in Part 2 of Schedule 1 shall have effect.

(3) Any citation of, or a reference to the Merchant Shipping (Submersible Craft) Law, 1991, or to the Registration of Merchant Shipping Law, 1991, 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 a reference to, that Law as amended by the amendments set out in Part 1 or Part 2 of Schedule 1, as the case may be.

49. (1) The provisions of the Merchant Shipping Act 1894 specified in Part I of Schedule 2 shall apply in relation to the provisions of this Law and of the secondary legislation as they apply to the provisions of the Merchant Shipping Act 1894 and as if any reference therein to a British ship were a reference to a Cayman Islands ship.

(2) The repeals of the Merchant Shipping Act 1894 set out in Part II of Schedule 2 shall have effect in the Cayman Islands and in relation to Cayman Islands ships.

(3) The repeals of and amendments to the Merchant Shipping Act 1970 set out in Parts III and IV of Schedule 2 shall have effect in the Cayman Islands and in relation to Cayman Islands ships.

(4) The repeals of the Merchant Shipping Act 1988 set out in Part V of Schedule 2 shall have effect in the Cayman Islands and in relation to Cayman Islands ships.

50. The orders, rules and regulations set out in column 2 of Schedule 3 shall be deemed to have been made under the provisions of this Law referred to in column 3 of that Schedule.

registered owner.

(3) Those matters are -

- (a) whether prior to the time of the alleged offence the defendant was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the operation and management of the ship;
- (b) the extent to which the defendant is or is not able under the terms of the charter by demise pursuant to which the ship is registered in the Cayman Islands -
 - (i) to terminate it, or
 - (ii) to intervene in the management of the ship, in the event of such deficiency.

(4) In this section "registered owner" shall be construed in accordance with section 5(1)(b)(ii) of the Merchant Shipping (Registration) Law.

Offences by
officers of
bodies corporate.

46. (1) Where a body corporate is guilty of an offence under this Law or under the secondary legislation and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Powers of
arrest.

47. (1) The master of any Cayman Islands ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

(2) Without prejudice to subsection (1), the master or other

to human life and without threat of harm to the marine environment, he may if he thinks fit give notice that the ship may be released, and a copy of such notice shall be served on the master of the ship and, if the ship is at a port in the Cayman Islands, on the Collector of Customs.

(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 subsection (1) or the ship has been detained under subsection (3)(b), the ship shall not proceed to sea until the Chief Marine Surveyor has given 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.

(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 offence, shall be guilty of an offence and liable -

- (a) on summary conviction to a fine not exceeding one hundred thousand dollars; and
- (b) on conviction on indictment to imprisonment for a term not exceeding two years or a fine, or both.

(9) Where a ship proceeds to sea in contravention of the requirements 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 ten thousand dollars, and the expenses ordered to be paid may be recovered in like manner as the fine.

(10) Any ship which is a Cayman Islands ship when detained pursuant to this section shall not be released only by reason of her subsequently ceasing to be a Cayman Islands ship.

Court of Survey.

31. (1) For the purpose of hearing any appeal pursuant to section 30(6) there shall be a Court of Survey consisting of -

- (a) a judge appointed by the Governor; and
- (b) two assessors having nautical, engineering or other special skill and experience, one of whom shall be appointed by the Governor, either generally or in each case, and the other of whom shall be summoned, in accordance with rules made under subsection (2), by the judge out of a list of persons periodically nominated for the purpose by the Port Authority of the Cayman Islands.

(2) The Court of Survey shall hear every case in open court and according to rules made by the Rules Committee constituted by section 21(1) of the Grand Court Law, which shall have effect as if enacted in this Law and which may in particular include rules with respect to the summoning of, and procedure before the court, the requiring of security for costs on an appeal, the amount and application of fees, and the publication of the rules.

(3) The judge of the court, any assessor of the court, and any person appointed by the judge of the court to survey the ship, may --

- (a) go on board the ship and inspect every part of it, including its machinery, equipment and cargo; and
- (b) require the unloading or removal of any cargo, ballast or tackle.

(4) The owner and master, any person appointed by the owner or master, and any person appointed by the Chief Marine Surveyor may attend at any inspection or survey made pursuant to subsection (3).

(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.

(6) The judge of the court shall send to the Governor such

twenty-four hours after the arrival of the ship at the next port, report the casualty to the Chief Marine Surveyor, giving a brief description of it and stating the time and place where it occurred, the name and official number of the ship, its position at the time of the report and the next port of call.

(2) If the owner or master of a ship fails without reasonable cause to comply with subsection (1) he shall be liable on summary conviction to a fine not exceeding ten thousand dollars.

PART IX - MISCELLANEOUS

Liability of
charterers
and defence of the
owner of a ship
registered by
virtue of a
demise charter.

45. (1) Where any responsibilities of the owner with respect to a ship have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either -

- (a) directly, under the terms of a charter-party made with the owner, or
- (b) indirectly, under the terms of a series of charter-parties,

any reference to owner in this Law or in the secondary legislation shall be construed as including a reference to that other person or (as the case may be) to each of those other persons.

(2) It shall be a defence in proceedings for an offence under this Law or under the secondary legislation for the owner of a ship registered in the Cayman Islands pursuant to section 3 of the Merchant Shipping (Registration) Law whose name is noted on the register pursuant to section 5(2)(e)(ii) of that Law to prove -

- (a) that the operation, management and control of the ship had at the time of the alleged offence been wholly assumed by the registered owner; and
- (b) that, having regard to the matters referred to in subsection (3) and all other circumstances of the case, he had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper operation and management of the ship by the

occurred.

(2) An order under subsection (1) may provide for the re-hearing to be by the persons who held the inquiry or investigation, by a wreck commissioner or by the Grand Court.

(3) The Governor may make rules in accordance with which any re-hearing under this section shall be conducted, and such rules may include provision for -

- (a) the appointment and summoning of assessors;
- (b) the manner in which facts may be proved;
- (c) the persons allowed to appear; and
- (d) the notices to be given to persons affected.

(4) Section 39 shall apply in relation to a re-hearing of an investigation by a wreck commissioner as it applies in relation to the holding of an investigation.

(5) Where the persons holding the inquiry or investigation have decided to recommend to the Governor that a licence issued to an officer pursuant to the Merchant Shipping (Manning of Ships) Regulations 1989 be revoked or have found any person at fault, then, if no application for an order under subsection (1) has been made or such an application has been refused, that person or any other person who, having an interest in the inquiry or investigation, has appeared at the hearing and is affected by the decision or finding may appeal to the Grand Court.

(6) Where an appeal to the Grand Court is made by any person pursuant to subsection (5) the Grand Court, upon being satisfied that the person making the appeal has a right of appeal pursuant to that subsection, shall re-hear such part of the case as is necessary to determine the issues raised upon the appeal.

44. (1) Where any such casualty as is mentioned in section 41(1) has occurred in the case of a ship or ship's boat and, at the time it occurred, the ship was a Cayman Islands ship, the owner or master of the ship shall, as soon as practicable, and in any case not later than

Reports of
shipping
casualties.

report as may be directed by rules made under subsection (2), and each assessor shall either sign the report or report to the Governor the reasons for his dissent.

(7) Any person who wilfully impedes the conduct of a survey of the ship made pursuant to subsection (3) or fails to comply with any requisition made by the person conducting the survey shall be guilty of an offence and liable on summary conviction to a fine not exceeding two thousand dollars.

32. (1) Where a ship is detained under 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.

33. (1) Where a ship is detained under this Law and the owner of the ship proves to the satisfaction of the Governor that there was not 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.

(2) In determining whether to pay compensation under subsection (1) and, if so, the amount of such compensation, 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 Cayman Islands.

34. (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 of the secondary legislation, the Governor acting in his discretion may, if he thinks fit, require the complainant to give security to the satisfaction of the Governor for the costs and compensation which may become payable by the government pursuant to section 33: Provided that such security

Liability for
costs.

Power to pay
compensation.

Power to require
from complainant
security for costs.

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 33, the complainant shall be liable to pay to the Government all such compensation as the Government may pay under section 33 in respect of the detention of the ship.

35. (1) Where any ship which is not a Cayman Islands ship is detained under this Law, or where any proceedings are taken under this Law against the master, owner, charterer or manager of such a ship, notice shall forthwith be served by the Chief Marine Surveyor for the purpose on the consular officer for the country to which the ship belongs at or nearest to the port where the ship is for the time being, and such notice shall specify the grounds on which the ship has been detained or proceedings have been taken.

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

PART VI - PROVISIONS RELATING TO THE APPOINTMENT AND POWERS OF SURVEYORS, SHIPPING MASTERS AND INSPECTORS AND THE CONDUCT OF INQUIRIES

36. (1) The Governor may -

- (a) appoint any persons he thinks fit, either generally or for a particular purpose and either within the Cayman Islands or elsewhere, to be surveyors of ships or shipping masters;
- (b) remove any person so appointed and fix and alter his remuneration;
- (c) give instructions to any person so appointed as to

- (a) he is unfit to discharge his duties, whether by reason of incompetence or misconduct or for any other reason; or
- (b) he has been seriously negligent in the discharge of his duties; or
- (c) he has failed to comply with the provisions of section 7,

and, if in the case of a matter falling within paragraphs (a) or (b) the wreck commissioner is further satisfied that it caused or contributed to the casualty or incident, he may recommend to the Governor that any licence issued to the officer pursuant to the Merchant Shipping (Manning of Ships) Regulations 1989 be revoked.

(4) The wreck commissioner may make such awards as he thinks just with regard to the costs of the investigation and of any parties at the investigation, and with regard to the parties by whom those costs are to be paid; and any such award of the wreck commissioner may, on the application of any party named in it, be made an order of the Grand Court.

(5) Any costs directed by an award to be paid shall be taxable in the Grand Court.

(6) The wreck commissioner shall make a report on the investigation to the Governor.

(7) A wreck commissioner or assessor appointed under this section shall be paid such remuneration as the Attorney General with the consent of the Governor may determine.

43. (1) Where an inquiry or formal investigation has been held under sections 41 or 42 the Governor may order the whole or part of the case to be re-heard, and shall do so if -

- (a) new and important evidence which could not be produced at the inquiry or investigation has been discovered; or
- (b) there appears to the Governor to be other grounds for suspecting that a miscarriage of justice may have

Action against ships which are not Cayman Islands ships.

Appointment of surveyors and shipping masters.

Re-hearing of and appeal from inquiries and investigations.

held by a wreck commissioner.

(2) Where an incident has occurred which the Governor considers was or is capable of causing a casualty into which he could require an inquiry pursuant to subsection (1), the powers to hold an inquiry or an investigation or both which are conferred on him by subsection (1)(i) and (ii) shall be exercisable in relation to the incident as if it were such a casualty.

(3) A person appointed under this section to hold a preliminary inquiry shall, for the purpose of the inquiry, have the powers conferred on an inspector by section 39 and shall conduct it in accordance with rules made by the Governor, which may include provision for-

- (a) the appointment and summoning of assessors;
- (b) the manner in which facts may be proved;
- (c) the persons allowed to appear; and
- (d) the notices to be given to persons affected.

42. (1) The Attorney General may appoint such number of persons as he thinks fit to be wreck commissioners and may remove any wreck commissioners appointed by him.

(2) A wreck commissioner holding a formal investigation into a casualty or incident under section 41 shall conduct it in accordance with rules made by the Governor, which shall include a requirement that the wreck commissioner have the assistance of one or more assessors and may include provision for -

- (a) the appointment and summoning of assessors;
- (b) the manner in which facts may be proved;
- (c) the persons allowed to appear; and
- (d) the notices to be given to persons affected.

(3) If as a result of a formal investigation the wreck commissioner is satisfied, with respect to any officer, that -

Formal
investigation
into a shipping
casualty.

the extent and performance of his duties;

(d) stipulate the amount to be paid by third parties in respect of work undertaken by any person so appointed, including the cost of travelling and other expenses incurred by him in the execution of his duties.

(2) If a surveyor of ships or shipping master demands or directly or indirectly receives any fee, remuneration or gratuity in respect of any duties performed by him, otherwise than by the direction of the Governor, he shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding twenty-five thousand dollars;
- (b) on conviction on indictment, to imprisonment for a term not exceeding one year or a fine, or both.

Powers of
surveyors and
shipping masters
in relation to
ships.

37. (1) For the purpose of -

- (a) surveying a ship prior to the issue of any certificate pursuant to section 24, or
- (b) seeing that
 - (i) the provisions of this Law or the secondary legislation;
 - (ii) the provisions of the Merchant Shipping Act 1894, the Merchant Shipping Act 1965, the Merchant Shipping Act 1970, the Merchant Shipping Act 1988 or the Registration of Merchant Ships Law, or of any rules or regulations made thereunder; or
 - (iii) the terms of any approval, licence, consent, direction or exemption given under the provisions of the legislation referred to in paragraphs (i) and (ii) above,

have been complied with, a surveyor of ships or a shipping master or any other person authorised by the Governor to exercise powers under

this section, either generally or in a particular case, may, subject to subsections (4) and (5), at all reasonable times go on board a ship and inspect the ship and its equipment or any part thereof, any articles on board, and any document required to be carried in the ship pursuant to any law in force in the Cayman Islands and shall have all the powers of an inspector specified in section 39 other than any such power which has been specifically excluded in his instrument of appointment.

(2) The powers conferred by subsection (1) may be exercised outside the Cayman Islands in respect of a Cayman Islands ship.

(3) A person exercising powers under subsection (1) shall not unnecessarily detain or delay a ship but, subject to subsections (4) and (5) may, if he considers it necessary in consequence of an accident or for any other reason, require a ship to be taken into dock for a survey of its hull or machinery.

(4) Where a Safety Convention certificate is produced in respect of a ship which is not a Cayman Islands ship a surveyor of ships shall accept such certificate as evidence that the ship complies with the Safety Convention in respect of the matters to which the certificate relates and, in relation to those matters, the power of a surveyor of ships shall, subject to section 29(4), be limited to such inspection as is necessary to verify that -

- (a) there is in force in respect of the ship such Safety Convention certificate or certificates as are applicable to it;
- (b) the condition of the ship, its machinery and equipment and any articles on board correspond substantially with the particulars shown in such certificate or certificates;
- (c) except where such certificate or certificates state that the ship is wholly exempt from the provisions of the Safety Convention relating to radio telegraphy and radiotelephony, the number, grades and qualifications of radio officers or operators on board correspond with those shown in the certificate or certificates;

if for references to such an inspector there were substituted references to that person; and

- (b) that section shall have effect as if for references to the functions of such an inspector there were substituted references to the functions in connection with which those powers are conferred on that person.

(3) Nothing in section 39 shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the Grand Court.

(4) A person who complies with a requirement imposed on him in pursuant of section 39(1)(i), (j) or (k) shall be entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as are prescribed by the Governor.

Inquiries and investigations into shipping casualties.

41. (1) Where any of the following casualties has occurred, that is to say -

- (a) the loss or presumed loss, stranding, grounding, abandonment of or damage to a ship; or
- (b) a loss of life or serious personal injury caused by fire on board or by an accident to a ship or ship's boat, or by any accident occurring on board a ship or ship's boat;
- (c) any damage caused by a ship,

and at the time it occurred, the ship was a Cayman Islands ship or the ship or boat was in the Cayman Islands or within the seaward limits of the territorial waters of the Cayman Islands, the Governor may -

- (i) cause a preliminary inquiry into the casualty to be held by a person appointed for the purpose by the Governor; and
- (ii) (whether or not a preliminary inquiry has been held) cause a formal investigation into the casualty to be

of the appeal;

- (c) section 31 (with the exception of subsection (5)) shall apply;
- (d) the person making the appeal shall be liable to pay to the Financial Secretary the costs of and incidental to the proceedings before the Court of Survey unless the judge of the court, with the concurrence of at least one of the assessors, orders that any such costs shall not be paid.

40. (1) A person who -

- (a) wilfully obstructs an inspector in the exercise of any power conferred on him by section 39;
- (b) without reasonable excuse, does not comply with a requirement imposed or with the provisions of a notice served pursuant to section 39 or prevents another person from complying with such a requirement; or
- (c) without prejudice to the generality of paragraph (b), makes a statement or signs a declaration which he knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made pursuant to section 39(1)(i),

shall be guilty of an offence and liable -

- (i) on summary conviction, to a fine not exceeding twenty-five thousand dollars;
- (ii) on conviction on indictment, to imprisonment for a term not exceeding one year or a fine, or both.

(2) In relation to a person, other than an inspector appointed by the Governor, who has the powers conferred on such an inspector by section 39 -

- (a) that section and subsection (1) shall have effect as

Provisions
supplementary
to section 39.

- (d) any conditions on which an exemption certificate is issued are complied with.

(5) Where a Load Line Convention certificate is produced in respect of a ship which is not a Cayman Islands ship a surveyor of ships shall accept such certificate as evidence that the ship complies with the Load Line Convention and, in relation to matters the subject of the Load Line Convention, the powers of a surveyor of ships shall, subject to section 29(5) and (8), be limited to such inspection as is necessary to verify that -

- (a) the ship is not loaded beyond the limits allowed by the certificate;
- (b) lines are marked on the ship in the positions of the load lines specified in the certificate;
- (c) no material alterations or deteriorations have taken place in the hull or superstructure of the ship which affect the position in which any of those lines ought to be marked; and
- (d) the fittings and appliances for the protection of openings, the guard rails, the freeing ports and the means of access to the crew's quarters have been maintained on the ship in as effective a condition as they were in when the certificate was issued.

(6) Any person who hinders any surveyor of ships or any shipping master, or any other person appointed by the Governor for the purpose, from going on board any ship or otherwise impedes him in the execution of his duties shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten thousand dollars.

38. The Governor may as and when he thinks fit appoint any person as an inspector to report to him -

- (a) upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused;
- (b) whether -

Appointment of
inspectors.

- (i) the provisions of this Law or the secondary legislation;
- (ii) the provisions of the Merchant Shipping Act 1894, the Merchant Shipping Act 1965, the Merchant Shipping Act 1970, the Merchant Shipping Act 1988 or the Merchant Shipping (Registration) Law, or of any rules or regulations made thereunder; or
- (iii) the terms of any approval, licence, consent, direction or exemption given under the provisions of the legislation referred to in paragraphs (i) and (ii) above,

have been complied with;

- (c) whether the hull, machinery and equipment of any ship are sufficient and in good condition.

Powers of
inspectors.

39. (1) An inspector appointed pursuant to section 38 may -

- (a) at any reasonable time or, in a situation which in his opinion is or may be dangerous, at any time -
 - (i) enter any premises in the Cayman Islands;
 - (ii) board any ship which is registered in the Cayman Islands wherever it may be and any other ship which is present in the Cayman Islands or the territorial waters of the Cayman Islands,

if he has reason to believe that it is necessary for him to enter the premises or board the ship for the purpose of performing his functions as such an inspector;

- (b) on entering any premises or boarding any ship by virtue of paragraph (a), take with him any other person authorised in that behalf by the Governor and any equipment or materials required to assist him in performing such functions;

inspector is of the opinion that the risk in question is or (as the case may be) will be imminent, and in any other case shall have effect at the end of the period specified in the notice and the period so specified shall not expire before the end of the period during which the person upon whom the notice is served may appeal to the Court of Survey under subsection (11).

(10) A notice served under subsection 1(l) or (m) -

- (a) may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates;
- (b) shall not direct any measures to be taken to remedy the contravention of any of the provisions referred to in section 38(b)(i) or (ii) that are more onerous than are necessary to secure compliance with that provision;
- (c) where it is not to take immediate effect, may be withdrawn by the inspector before it is to take effect or be amended in any way, including by extension of the period within which any contravention or matter in question is to be remedied or any activity is not to be carried on (as the case may be).

(11) Any person who is aggrieved by the service of a notice under subsection (1)(l) or (m) may within 14 days after service of the notice appeal to the Court of Survey, and for the purpose of hearing any such appeal -

- (a) the judge of the court shall have power to order that the notice be cancelled or affirmed with such modifications as he may think fit, but the judge shall not so order if he and at least one of the assessors are satisfied that there was a valid basis for the opinion of the inspector pursuant to which he served the notice and that the requirements or directions (as the case may be) contained in the notice were reasonable;
- (b) the judge of the court shall have power to suspend the operation of the notice until after the determination

(4) Where an inspector proposes to exercise the power conferred by subsection (1)(g) in the case of an article or substance found in any premises or ship, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of that person.

(5) Before exercising the power conferred by subsection (1)(g), an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers if any, there may be in doing anything which he proposes to do under that power.

(6) Where under the power conferred by subsection (1)(h), an inspector takes possession of any article or substance found in any premises or ship, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of that sample marked in a manner sufficient to identify it.

(7) No answer given by a person pursuant to a requirement imposed under subsection (1)(i) shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings pursuant to section 40(1)(c) in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in subsection (1)(i) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him.

(8) The period specified in a notice served under subsection 1(l) shall not expire before the end of the period during which the person upon whom the notice is served may appeal to the Court of Survey under subsection (11).

(9) A direction given in a notice served under subsection 1(m) shall take immediate effect if the notice contains a statement that the

- (c) make such examination and investigation as he considers necessary for the purpose of performing such functions;
- (d) as regards any premises or ship which he has power to enter or board, give a direction requiring that the premises or ship or any part of the premises or ship or anything in the premises or ship or such a part shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c);
- (e) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c);
- (f) take samples of any articles or substances found in any premises or ship which he has power to enter or board and of the atmosphere in or in the vicinity of any such premises or ship;
- (g) in the case of any article or substance, which he finds in any such premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test, but not so as to damage or destroy it unless that is in the circumstances necessary for the purpose of performing such functions;
- (h) in the case of any such article or substance as is mentioned in paragraph (g), take possession of it and detain it for so long as is necessary for all or any of the following purposes -
 - (i) to examine it and do to it anything which he has power to do under that paragraph;
 - (ii) to ensure that it is not tampered with before his examination of it is completed;

- (iii) to ensure that it is available for use as evidence in any proceedings for an offence under any law in force in the Cayman Islands;
- (i) require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c) -
 - (i) to attend at a place and time specified by the inspector;
 - (ii) to answer (in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector thinks fit to ask; and
 - (iii) to sign a declaration of the truth of his answers;
- (j) require the production of, and inspect and take copies of, or of any entry in -
 - (i) any books or documents which by virtue of any provision of any law in force in the Cayman Islands are required to be kept; and
 - (ii) any other books or documents which he considers it necessary for him to see for the purpose of any examination or investigation under paragraph (c);
- (k) require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this subsection;
- (l) if he is of the opinion that a person -
 - (i) is contravening one or more of the provisions

referred to in section 38(b)(i) and (ii), or

- (ii) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

serve on that person a notice requiring the person on whom the notice is served to remedy the contravention in question or (as the case may be) the matters occasioning it within such period as may be specified in the notice;

(m) if -

- (i) there are any activities which are being or are about to be carried on on board a ship to which any of the provisions referred to in section 38(b)(i) and (ii) apply or will apply, and
- (ii) he is of the opinion that such activities involve or will involve the risk of serious personal injury to any person (whether on board the ship or not) or serious pollution of any navigable waters,

serve on the person by or under whose control the activities are being or will be carried on a notice directing that the activities shall not be carried on by or under the control of the person on whom the notice is served or that the ship shall not proceed to sea (or both those things) unless the matters which give rise to the risks referred to in sub-paragraph (ii) have been remedied.

(2) It is hereby declared that nothing in subsection (1)(a) to (k) authorises any person to prevent a ship from proceeding on a voyage except in so far as it is necessary so to do for the purpose of enabling an inspector to carry out the duties for which he has been appointed.

(3) The Governor may prescribe the procedure to be followed in connection with the taking of samples under subsection (1)(f) and under subsection (6) and the way in which samples that have been so taken are to be dealt with.

(c) for "except that" to the end substitute -

"except that -

(a) in the application of section 42, subsection (3) shall be omitted, and

(b) in the application of section 43, subsection (5) shall be omitted".

6. In section 22(2), for "Sections 74 to 76" substitute "Sections 30 to 35".

7. Delete section 23.

Section 48(2)

**AMENDMENTS TO THE REGISTRATION
OF MERCHANT SHIPS LAW, 1991**

1. In section 1, for "Registration of Merchant Ships Law, 1991" substitute "Merchant Shipping (Registration) Law".

2. In section 2 -

(a) for the definition "Merchant Shipping Law" substitute "'Merchant Shipping Law' means the Merchant Shipping Law, and any order, rules or regulations made (or deemed to be made) under or applied (or deemed to be applied) in the Cayman Islands or to the Cayman Islands ships by that Law;";

(b) in the definition of "Preventing of Pollution Convention" -

(i) for "section 59(1)(a), (b) and (c)" substitute "16(1)(a), (b) and (c)"; and

(ii) for "section 59(1)(d)" substitute "section 16(1)(d)"; and

(c) in the definition of "surveyor of ships" for "section 89" substitute "section 36".

3. In section 11(6), before the full stop, insert the following -

"PROVIDED that the termination of the registration of the ship pursuant to this subsection shall not affect any entry made in the register so far as it relates to any undischarged registered mortgage or any existing certificate of mortgage, of the ship or of any share in it".

4. In section 12(1) for "Operation of Merchant Shipping Law" substitute "Merchant Shipping Law".

SCHEDULE 2 - PART I

**PROVISIONS OF THE MERCHANT SHIPPING ACT 1894 WHICH APPLY TO THE
PROVISIONS OF THIS LAW AND THE SECONDARY LEGISLATION**

Sections 683(2) and (3), 684, 685, 686, 687, 689, 693, 695, 696, 697, 700 and 711.

SCHEDULE 2 - PART II

REPEALS OF THE MERCHANT SHIPPING ACT 1894

Sections 271 to 288, 422, 428, 430 to 433, 436, 447 to 450, 478 and 487 to 489.

SCHEDULE 2 - PART III

REPEALS OF THE MERCHANT SHIPPING ACT 1970

Sections 19 to 22, 24, 27, 30, 43 to 50, 55 to 57, 68, 73 to 74, 76, 79 to 84 and 86.

SCHEDULE 2 - PART IV

AMENDMENTS TO THE MERCHANT SHIPPING ACT 1970

1. Section 33 is amended by omitting "section 27 or".
2. Section 52 is amended -
 - (a) in subsection (1), by substituting "section 10 of the Merchant Shipping Law" and "section 15 of the Merchant Shipping Law" for "section 422 of the Merchant Shipping Act 1894" and section 43 of this Act", respectively;
 - (b) in subsection (3), by substituting "section 39 of the Merchant Shipping Law" for "section 72 of the Merchant Shipping (Applicable Conventions) Law, 1987"; and
 - (c) in subsection (4), by substituting "section 15 of the Merchant Shipping Law" for "section 43 of this Act".
3. Section 54 is amended in subsection (2) by substituting "section 39 of the Merchant Shipping law" for "section 72 of the Merchant Shipping (Applicable Conventions) Law, 1987".

Passed by the Legislative Assembly this 13th day of July, 1992.

SYBIL MCLAUGHLIN
Speaker.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.

19. The Merchant Shipping (Crew
Accommodation) (Cayman Islands)
Regulations 1988

Section 18

20. The Merchant Shipping (Carriage of
Nautical Publications) (Cayman Islands)
Rules 1988

Section 19

4. Section 58 is amended -

- (a) in subsection (1), by omitting all the words after "54 of this Act"; and
- (b) by omitting subsection (3).

5. Section 59 is amended by omitting "or 56".

6. Section 60 is amended by omitting "or under section 478 of the Merchant Shipping Act 1894".

7. Section 61 is amended in subsection (2) by substituting "section 39 of the Merchant Shipping Law" for "section 72 of the Merchant Shipping (Applicable Conventions) Law, 1987".

8. Section 75 is amended -

- (a) in subsection (1), by omitting paragraph (b); and
- (b) by omitting subsection (2).

9. Section 95 is amended in subsection (1) by substituting for paragraph (a) the following:

"Section 6 does not apply and the provisions contained in Part I of Schedule 2 to this Act apply in addition to the other provisions of this Act; and".

10. Section 96 is amended -

- (a) in subsection (1), by substituting "51 to 54 and 58 to 60" for "19, 20, 27, 32 (in its application to section 27), 43 to 60, 76 and 88"; and
- (b) by omitting subsection (2).

11. Section 97 is amended by substituting for the definition of "proper officer" the following:

"proper officer" means, in relation to a port in a country outside the Cayman Islands that is not a foreign country, any officer exercising in that port functions similar to those of a shipping master, and in relation to any other port outside the Cayman Islands, a consular officer appointed by Her Majesty's Government in the United Kingdom;".

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8. The Merchant Shipping (Load Line) (Cayman Islands) Rules 1988
9. The Merchant Shipping (Load Lines) (Particulars of Depth of Loading) (Cayman Islands) Regulations 1988
10. Any Rules amending item 8 made before the commencement of this Law
11. The Merchant Shipping (Load Lines) (Deck Cargo) Regulations 1988
12. The Merchant Shipping (Manning of Ships) Regulations 1989
13. The Merchant Shipping (IBC Code) (Cayman Islands) Regulations 1988
14. The Merchant Shipping (Reporting of Pollution Incidents) (Cayman Islands) Regulations 1988
15. The Merchant Shipping (Prevention of Oil Pollution) (Cayman Islands) Regulations 1988
16. The Merchant Shipping (Control of Noxious Liquid Substances in Bulk) (Cayman Islands) Regulations 1988
17. The Merchant Shipping (BCH Code) (Cayman Islands) Regulations 1988
18. The Merchant Shipping (Prevention of Pollution by Garbage) (Cayman Islands) Regulations 1989