

CAYMAN ISLANDS



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**THE MERCHANT SHIPPING LAW
(2004 REVISION)**

**THE MERCHANT SHIPPING (MEANS OF ACCESS) REGULATIONS,
2004**

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ARRANGEMENT OF REGULATIONS

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**THE MERCHANT SHIPPING (MEANS OF ACCESS) REGULATIONS,
2004**

The Governor, in exercise of the powers conferred on him by sections 174 and 459 of the Merchant Shipping Law (2004 Revision) makes the following Regulations:

1. These Regulations may be cited as the Merchant Shipping (Means of Access) Regulations, 2004. Citation

2. In these Regulations unless the context otherwise requires- Interpretation

“access” means embarking on or disembarking from a ship;

“employer” means a person for the time being employing the master of a ship;

“offshore unit” has the meaning ascribed to it in section 162 of the Merchant Shipping (Marine Pollution) Law, 2001; and

“portable ladder” does not include a rope ladder.

3. (1) Subject to paragraph (2)- Application

- (a) these regulations, except regulation 14, apply to Cayman Islands ships; and
- (b) these regulations, other than regulations 5, 6, 7(c) and 13, apply to ships other than Cayman Islands ships when they are in Cayman Islands waters.

(2) These regulations do not apply to-

- (a) fishing vessels;
- (b) pleasure vessel;

- (c) offshore units while on or within 500 metres of their working stations; or
- (d) ships in which there is for the time being no master or crew or watchman.

(3) The Director may grant exemptions from all or any of these regulations, as may be specified in the exemption, for classes of cases or individual cases on such terms, if any, as he may so specify and may, subject to giving reasonable notice, alter or cancel any such exemption.

General duties
concerning access
arrangements

4. (1) The employer and the master shall ensure that there is a safe means of access between the ship and any quay, pontoon or similar structure or another ship alongside which the ship is secured and in particular, and without prejudice to the generality of such duty, the employer and the master shall ensure that-

- (a) any equipment necessary to provide a safe means of access is placed in position promptly after the ship has been so secured and remains in position while the ship is so secured;
- (b) access equipment which is in use-
 - (i) is properly rigged, secured, deployed and is safe to use; and
 - (ii) is so adjusted from time to time as to maintain safety of access;
- (c) access equipment and immediate approaches thereto are adequately illuminated; and
- (d) any equipment used for means of access and any safety net is of good construction, of sound material, of adequate strength for the purposes for which it is used, free from patent defect and properly maintained.

(2) When access is necessary between ship and shore, and the ship is not secured alongside, the employer and master shall ensure that such access is provided in a safe manner.

(3) The employer and the master in carrying out the obligations contained in this regulation shall take full account of any directions that may be published by the Director.

Gangways

5. In every ship of 30 metres or more registered length (or, in the case of an unregistered ship, of 30 metres or more overall length) the employer shall ensure that there is carried on the ship a gangway which is appropriate to the deck layout, size, shape and maximum freeboard of the ship and which complies with any directions that may be published by the Director.

6. In every ship of 120 metres or more in registered length (or, in the case of an unregistered ship, of 120 metres or more overall length) the employer shall ensure that there is carried on the ship an accommodation ladder which is appropriate to the deck layout, size, shape and maximum freeboard of the ship and which complies with any directions that may be published by the Director.

Accommodation ladders

7. The employer and the master shall ensure that-

Portable and rope ladders

- (a) a portable ladder is used for the purpose of access to the ship only where no safer means of access is reasonably practicable;
- (b) a rope ladder is used only for the purpose of access between a ship with high freeboard and a ship with low freeboard or between a ship and a boat if no safer means of access is reasonably practicable; and
- (c) any rope ladder used for the purpose of access to a ship complies with any specifications that may be published by the Director.

8. The employer and the master shall ensure that a life-buoy with a self-activating light and also a separate safety line attached to a quoit or some similar device is provided ready for use at the point of access aboard the ship.

Life-buoys

9. (1) The employer and master shall ensure that an adequate number of safety nets is carried on the ship or is otherwise readily available.

Safety nets

(2) The master shall ensure that when access equipment is in use and there is a risk of a person falling from that access equipment or from the ship or from the quayside immediately adjacent to the access equipment, a safety net is mounted in order to minimise the risk of injury.

10. When access equipment is provided in accordance with these regulations any person boarding or leaving the ship shall use that equipment except in emergencies.

Use of equipment

11. (1) An employer who contravenes regulation 4, 5, 6, 7, 8 or 9 is guilty of an offence and is liable on summary conviction to a fine of four thousand dollars or on conviction on indictment to a fine and to imprisonment for two years.

Penalties

(2) A master who contravenes regulation 4, 7, 8 or 9 is guilty of an offence and liable on summary conviction to a fine of two thousand dollars.

(3) A person who contravenes regulation 10 is guilty of an offence and liable on summary conviction to a fine of eight hundred dollars.

(4) It is a defence for a person charged in respect of a contravention of regulation 4(1) or (2) or 9(2) to show that the requirements of the relevant regulation were complied with so far as was reasonably practicable.

(5) It is a defence for a person charged under these regulations, including a person charged by virtue of regulation 12, to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Offences due to the act or default of another

12. Where an offence under these regulations is committed, or would have been committed except for the operation of regulation 11(5), by a person due to the act or default of some other person, that other person is guilty of the offence, and such a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first-mentioned person.

Inspection and detention of a Cayman Islands ship

13. A person authorised by the Director may inspect any Cayman Islands ship and if he is satisfied that there has been a failure to comply in relation to that ship with the requirements of these regulations he may detain the ship until the health and safety of all employees and other persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

Inspection, detention and other measures in respect of ships registered outside the Islands

14. (1) A person authorised by the Director may inspect a ship other than a Cayman Islands ship when the ship is in Cayman Islands waters and if he is satisfied that the ship does not conform to the standards of health and safety required of Cayman Islands ships by these regulations he may-

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director-General of the International Labour Organisation; and
- (b) where conditions on board are clearly hazardous to safety or health-
 - (i) take such measures as are necessary to rectify those conditions; and
 - (ii) detain the ship.

(2) The measures specified in paragraph (1)(a) and (b) may be taken only when the ship is in Cayman Islands waters in the normal course of business or for operational reasons.

(3) Where an authorised person takes either of the measures specified in paragraph (1)(b) he shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(4) An authorised person shall not in the exercise of his powers under this regulation unreasonably detain or delay a ship.

Made in Cabinet the 30th day of November, 2004.

Carmena H. Watler
Clerk of the Cabinet.