

CAYMAN ISLANDS



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**THE MERCHANT SHIPPING LAW
(2001 REVISION)**

THE MERCHANT SHIPPING (MARINE POLLUTION) LAW, 2001

**MERCHANT SHIPPING (PORT STATE CONTROL) REGULATIONS,
2003**

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2003**

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The Governor in Council in exercise of the powers conferred on him by section 459(1) of the Merchant Shipping Law (2001 Revision) and section 6(g) of the Merchant Shipping (Marine Pollution) Law, 2001, hereby makes the following Regulations:

PART I-General

1. These Regulations may be cited as the Merchant Shipping (Port State Control) Regulations, 2003. Citation

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

“CCSS Code” means the Code of Safety for Caribbean Cargo Ships adopted by the Committee of the Memorandum of Understanding on Port State Control in the Caribbean Region;

“clear grounds” means evidence which in the professional judgment of an inspector warrants a more detailed inspection of a ship, its equipment or its crew including, in particular, criteria listed in the First Schedule; First Schedule

“Conventions” means-

- (a) the “1966 Convention” as defined in the section 222 of the Law;
- (b) the “Safety Convention” as defined in section 2 of the Law;
- (c) the “Marine Pollution Convention” as defined in section 2 of the Law;
- (d) the “STCW Convention” as defined in section 2 of the Law;
- (e) the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- (f) the “Tonnage Convention” as defined in section 2 of the Law; and
- (g) the Merchant Shipping (Minimum Standards) Convention, 1976 (International Labour Organisation (ILO) No. 147);

together with related Resolutions and Codes of mandatory status in force, and a reference to a Convention is a reference to any of the Conventions;

“Convention enactments” means the Law or the Marine Pollution Law, as may be appropriate, and any subordinate legislation under those Laws which implement the Conventions;

“Convention ship” means a ship which flies or is entitled to fly the flag of a State party to a Convention, and “non-Convention ship” is a ship that is not a Convention ship;

“expanded inspection” means an inspection as specified in regulation 7;

“flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly;

“inspector” means a person duly authorised by the Director to carry out inspections required by these Regulations;

“ISM Code” has the meaning given in s.184(5) of the Law;

“Law” means the Merchant Shipping Law (2001 Revision);

“Marine Pollution Law” means the Merchant Shipping (Marine Pollution Law), 2001;

“member State” means a State or territory, the Maritime Authority of which is a party to the MOU;

“more detailed inspection” means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof, are subjected, in the circumstances specified in regulation 6(3), to an in-depth inspection covering the ship’s construction, equipment, manning, living and working conditions and compliance with on-board operational procedures;

“MOU” means the Memorandum of Understanding on Port State Control in the Caribbean Region, signed in Barbados on 26 January 1982;

“offshore installation” means a fixed or floating platform operating in the continental shelf of the Islands;

“owner” includes, in relation to a ship, any operator, manager, charterer or agent of the ship;

“ship” includes hovercraft; and

“stoppage of an operation” means a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous.

PART II-Procedure for Port State Control

Application

3. (1) Subject to paragraph (2), this Part applies to any sea-going ship-
- (a) in a port in the Islands or at an offshore installation; or

(b) anchored off such a port or such an installation,
and its crew.

(2) This Part does not apply to-

- (a) Cayman Islands ships;
- (b) fishing vessels;
- (c) ships of war;
- (d) naval auxiliary ships;
- (e) wooden ships of primitive build;
- (f) government ships used for non-commercial purposes; or
- (g) pleasure vessels not engaged in trade.

(3) In the case of a ship below 500 gross tonnage to the extent to which a Convention does not apply, an inspector shall, without prejudice to any other powers under the Convention enactments, take such action as may be necessary to ensure that the ship is not hazardous to safety, health or the environment.

(4) In applying paragraph (3) an inspector shall be guided by Annex 1B to the MOU.

(5) When inspecting a ship pursuant to regulations 5 to 8 no more favourable treatment shall be given to a non-Convention ship or to the crew of such a ship than that given to a Convention ship or to the crew of such a ship.

(6) A power of inspection or detention conferred by a Convention enactment is also exercisable in relation to a ship which-

- (a) is at an offshore installation, or
- (b) is anchored off an offshore installation or a port in the Islands where the ship is one to which this Part applies.

(7) Where-

- (a) a ship to which this Part applies is detained under a Convention enactment, or
- (b) the master of such a ship is served with a detention notice under such an enactment,

section 439 of the Law (Enforcing detention of ship) shall apply in relation to the ship as if any reference to proceeding to sea were a reference to proceeding contrary to the detention order and references to sending or taking to sea were construed accordingly.

4. (1) The Director is the competent authority for the Islands for the purposes of these Regulations. Competent Authority

(2) In relation to any other member State the “competent authority” is the national maritime administration of that State responsible for inspections of ships.

(3) In relation to a State other than a member State “competent authority” means any authority designated as such by that State.

Inspection commitments 5. (1) The Director shall cause to be carried out an annual total number of Port State Control Inspections corresponding to at least 15 percent of the number of individual foreign registered ships to which this Part applies entering the ports of the Islands during a calendar year, or corresponding to some other percentage which may from time to time be agreed under the terms of the MOU.

Second Schedule (2) In selecting ships for inspection the Director shall give priority to the ships referred to in the Second Schedule.

(3) The Director shall not cause to be inspected a ship which has been inspected by the competent authority of any member State within the previous six months, provided that-

- (a) the ship is not in a category listed in the Second Schedule;
- (b) no deficiencies have been reported following a previous inspection; and
- (c) no clear grounds exist for carrying out an inspection.

(4) Paragraph (3) shall not apply to any of the operational controls specifically provided for in the Convention enactments.

Inspection procedures 6. (1) In carrying out an inspection referred to in regulation 5, the inspector shall as a minimum-

Third Schedule (a) check the certificates and documents listed in the Third Schedule; and
(b) satisfy himself of the overall condition of the ship, including the engine room and the accommodation, including its hygienic condition.

(2) The inspector may examine all other relevant certificates and documents, in addition to those listed in the Third Schedule, which are required to be carried on board in accordance with the Convention enactments.

(3) Whenever there are clear grounds for believing, after the inspection referred to in paragraphs (1) and (2), that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention enactment, a more detailed inspection shall be carried out, including further checking of compliance with on board operational requirements.

(4) The inspector shall also observe the relevant procedures and guidelines for the control of ships specified in the Fourth Schedule.

Fourth Schedule

7. (1) Where there are clear grounds for the carrying out of a more detailed inspection of a ship belonging to the categories listed in Part A of the Fifth Schedule, an expanded inspection shall be carried out taking into account the guidelines in Part B of that Schedule.

Expanded inspection of
certain ships

Fifth Schedule

(2) A ship referred to in paragraph (1) shall be subject to an expanded inspection by any of the competent authorities of the member States only once during a period of 12 month, but the ship may be subject to the inspection provided for in regulation 6(1) and (2).

(3) Subject to paragraph (2), in the case of a passenger ship operating on a regular schedule to and from a port in the Islands, the Director shall cause an expanded inspection of the ship to be carried out before the ship starts operating on the schedule and every 12 months thereafter, subject to consultation with the competent authority of the member State, to and from whose ports the ship operates.

8. (1) On completion of an inspection, a more detailed inspection, or an expanded inspection, the master of the ship shall be provided by the inspector with a document in the form specified in Annex 3 to the MOU giving the results of the inspection and details of any decisions taken by the inspector, and of corrective action to be taken by the master, owner or operator.

Report of inspection to
the master

(2) In the case of deficiencies warranting the detention of a ship the document to be given to the master in accordance with paragraph (1) shall include information about the future publication of information concerning the detention in accordance with regulation 17.

9. (1) The owner shall satisfy the Director that any deficiencies confirmed or revealed by an inspection referred to in regulation 6 or 7 are, or will be rectified in accordance with the relevant Convention.

Rectification and
detention

(2) (a) In case of deficiencies which are clearly hazardous to safety, health or the environment, the inspector shall detain the ship, or require the stoppage of the operation in the course of which the deficiencies have been revealed, using powers of detention in Convention enactments as appropriate, or issuing a prohibition notice under section 420 of the Law, as the case may be;

(b) a detention order may-

- (i) include a direction that a ship shall remain in a particular place, or shall move to a particular anchorage or berth; and
 - (ii) specify circumstances when the master of the ship may move his ship from a specified place for reasons of safety or prevention of pollution; and
- (c) the detention order or stoppage of an operation shall not be lifted until the Director establishes that the ship can, subject to any necessary conditions, proceed to sea or the operation be resumed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat or harm to the marine environment.

(3) Without prejudice to any other requirement in the Convention enactments, when exercising his professional judgment as to whether or not a ship should be detained, the inspector shall apply the criteria set out in the Sixth Schedule.

Sixth Schedule

(4) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the inspector may, in addition to detaining the ship, suspend the inspection of the ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

(5) Without prejudice to any other requirement in the Convention enactments, in the event that an inspection referred to in regulation 6 or 7 gives rise to detention, the Director shall immediately inform, in writing, the flag administration or the Consul or, in his absence, the nearest diplomatic representative of the State of the flag administration, of all the circumstances in which intervention was deemed necessary, and in addition, nominated surveyors or recognised organisations responsible for the issue of the ship's certificates shall be notified where relevant.

(6) These Regulations shall be without prejudice to the additional requirements of the Conventions concerning notification and reporting procedures related to Port State Control.

(7) When carrying out inspections under these Regulations, the inspector shall make all possible efforts to avoid a ship being unduly detained or delayed.

Procedure applicable in
the absence of ISM
certificates

10. (1) Where an inspection reveals that a copy of the document of compliance or the safety management certificate required by the ISM Code are not on board the vessel to which that Code is applicable at the date of inspection, the inspector shall detain the ship.

(2) Notwithstanding the absence of the documentation referred to in paragraph (1)-

- (a) where the inspection reveals no other deficiencies warranting detention, the Director may cause the detention order to be lifted for the purpose of avoiding port congestion; whenever such a decision is taken, the Director shall immediately alert the competent authorities of the member States; and
- (b) where deficiencies referred to in regulation 9(2) are found and cannot be rectified in the port of detention, the relevant provisions of regulation 14 shall apply.

(3) A ship which proceeds to sea from a port in a member State following release in order to avoid port congestion shall not enter a port in the Islands until the owner has provided evidence to the satisfaction of the competent authority of the member State where the ship was detained that the ship fully complies with the requirements of the ISM Code.

(4) Notwithstanding paragraph (3), access to a specific port may be permitted in situations referred to in regulation 14(8).

11. Section 439 of the Law and regulations 12 and 13 apply in relation to the exercise of the power of detention in any Convention enactment. Detention procedures

12. (1) Any question as to whether a matter specified in a detention order relating to an opinion formed by the inspector constituted a valid basis for that opinion shall, where the master or owner of the ship so requires by a notice given to the inspector within 21 days from the service of the detention order, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him. Arbitration

(2) Where a notice is given by the master or owner of the ship in accordance with paragraph (1), the giving of the notice shall not suspend the operation of the detention order.

(3) The arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention order which appear to him to be relevant as to whether the ship was or was not liable to be detained.

(4) Where on a reference under this regulation, the arbitrator decides in respect of any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion, he shall either cancel the detention order or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the order in its original form.

(5) The arbitrator shall include in his decision a finding as to whether there was a valid basis for the detention of the ship.

(6) A person shall not be qualified for appointment as an arbitrator under this regulation unless he is-

- (a) a person holding a certificate of competency as a master mariner (unrestricted) or as a marine engineer officer Class 1, or a person holding a certificate equivalent to such certificate;
- (b) a naval architect;
- (c) a person with at least 10 years' standing as an attorney-at-law in the Islands and with at least 10 years experience in shipping law;
- (d) a person referred to in section 3(1)(a) of the Legal Practitioners Law (2002 Revision) who has practised in the designated profession for a period of at least 10 years and with at least 10 years experience in shipping law; or
- (e) a person with special experience of shipping matters, or of activities carried on in ports.

(7) In connection with his functions under this regulation, an arbitrator shall have the powers conferred on an inspector by section 417 of the Law.

Compensation

13. (1) Where on a reference under regulation 12 relating to a detention order-

- (a) the arbitrator decides that the owner has proved that any matter did not constitute a valid basis for the inspector's opinion; and
- (b) it appears to him that the owner has proved that there were no reasonable grounds for the inspector to form that opinion,

the arbitrator shall award the owner of the ship such compensation in respect of any loss suffered in consequence of the detention of the ship as the arbitrator thinks fit.

(2) Any compensation awarded under this regulation shall be payable out of the revenue of the Islands.

Follow-up to inspections
and detentions

14. (1) Where deficiencies referred to in regulation 9(2) cannot be rectified in the port of inspection, the Director may allow the ship to proceed to the nearest appropriate repair yard available, as chosen by the master and the responsible parties, provided that the conditions determined by the competent authority of the flag administration and agreed by the Director are complied with. Such conditions shall ensure that the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(2) In the circumstances referred to in paragraph (1), the Director shall notify the competent authority of the State where the repair yard is situated, the parties referred to in regulation 9(5) and any other authority as appropriate, of all the conditions for the voyage.

(3) The notification of the parties referred to in paragraph (2) shall be in accordance with Annex 2 to the MOU.

(4) Where the Director receives notification from the competent authority or another member State in respect of a ship which the authority ("the notifying authority") allowed to proceed to a repair yard in the Islands, the Director shall inform the notifying authority of the action it has taken.

(5) (a) A ship to which this regulation applies which proceeds to sea from any port in any member State-

(i) without complying with the conditions determined by the competent authority of the member State in the port of inspection; or

(ii) which fails to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard,

shall not enter any port within the Islands until the owner has provided evidence to the satisfaction of the competent authority of the member State where the ship was found defective that the ship fully complies with all applicable requirements of the Conventions; and

(b) this subparagraph applies to a ship detained in a port in a member State after inspection has revealed deficiencies that are clearly hazardous to safety, health or the environment, which has been allowed by the competent authority to proceed to the nearest appropriate repair yard.

(6) Where a ship proceeds to sea from a port in the Islands without complying with the conditions determined by the Director in accordance with paragraph (1), the Director shall immediately alert the competent authorities of all the other member States.

(7) Where a ship to which paragraph (5) applies is to proceed to a repair yard in the Islands but fails to call into the indicated repair yard, the Director shall immediately alert the competent authorities of all the other member States.

(8) Notwithstanding the provisions of paragraph (5), access to a specific port may be permitted by the Director in the event of *force majeure* or overriding safety considerations, or to reduce or minimise the risk of pollution or to have

deficiencies rectified, provided adequate measures to the satisfaction of the Director have been implemented by the owner or the master of the ship to ensure safe entry.

Professional profile of
inspectors

Seventh Schedule

15. (1) Inspections under these Regulations shall be carried out only by inspectors who fulfil the criteria specified in the Seventh Schedule.

(2) Where an inspector does not possess the required professional expertise, he shall be assisted by a person with such expertise.

(3) An inspector and any person assisting him shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall an inspector be employed by or undertake work on behalf of non-governmental organisations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

(4) An inspector shall carry a personal document in the form of an identity card issued by the Director which shall include the information specified in the Eighth Schedule.

Eighth Schedule

Reports from persons
engaged in berthing or
unberthing, etc. and Port
Authority

16. (1) A person who is engaged in the berthing or unberthing of a ship to which this Part applies or has the conduct of navigation on such a ship when the ship is bound for a port within a member State from a port in the Islands, shall immediately inform the Port Authority and the Director whenever he learns in the course of his normal duties that there are deficiencies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

(2) If the Port Authority, when exercising its normal duties, learns that such a ship within its port has deficiencies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, the Authority shall immediately inform the Director.

Publication of detentions

17. (1) The Director shall, as a minimum, cause to be published quarterly information concerning ships to which this Part applies, detained during the previous 3-month period and which have been detained more than once during the past 24 months. The information published shall include-

- (a) the name of the ship;
- (b) the name of the shipowner or the operator of the ship;
- (c) the IMO number of the ship;
- (d) the flag state of the ship;
- (e) the classification society, where relevant;

- (f) where applicable, any other Party which has issued certificates to such ship in accordance with the Conventions on behalf of the flag State;
- (g) the reason for detention of the ship; and
- (h) the port and date of detention of the ship.

18. (1) The costs of any inspection which results in the detention of a ship to which this Part applies, and any subsequent inspection relating to the deficiencies which led to the detention and all costs relating to any inspection carried out under the authority of the Director for the purposes of, or in connection with, regulation 14(5) shall be charged to the owner or his agent or representative person in the Islands. Reimbursement of costs

(2) Any detention made pursuant to these Regulations shall not be lifted until any fees payable in respect of any inspection leading to it or arising from it have been paid, or the Director has been provided with sufficient security for the fees.

19. (1) If there is any contravention of a direction made pursuant to regulation 9(2) in respect of a ship, the owner and master of the ship shall each be guilty of an offence, and liable on summary conviction to a fine of \$25,000 or on conviction on indictment to imprisonment for two years, and a fine of \$25,000. Offences

(2) Where a ship-

- (a) fails to proceed to the yard specified in regulation 14(1); or
- (b) enters a port in contravention of regulation 10(3),

the owner and master is each guilty of an offence, and liable on summary conviction to a fine of \$25,000, or on conviction on indictment to imprisonment for two years, and a fine of \$25,000.

(3) A person who obstructs an inspector or any person assisting the inspector he is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) A person who contravenes regulation 16(1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) It shall be a defence for a person charged under this regulation to prove that he took all reasonable steps to avoid committing the offence.

PART III-Inspection of Familiarity of Crew with Operational Procedures

Familiarity of crew with procedures

20. (1) All ships when in a port in the Islands, and Cayman Islands ships when elsewhere, shall be subject to inspection for the purpose of checking that the master and crew are familiar with essential procedures and operations relating to the safety of the ship.

(2) Section 416 of the Law shall apply in relation to a ship in a port in the Islands as if, in subsection (1), after “articles on board” there were inserted “the familiarity of the crew with essential procedures and operations relating to the safety of the ship”.

Regulation 2

FIRST SCHEDULE

EXAMPLES OF “CLEAR GROUNDS” FOR A MORE DETAILED INSPECTION

1. A ship identified in the Second Schedule, with the exception of paragraph 1, is to be considered as falling into the “clear grounds” category.
2. A report or notification by another member State.
3. A report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Director deems the report or complaint to be manifestly unfounded; the identity of the person lodging the report or the complaint must not be revealed to the master or the shipowner of the ship concerned.
4. The ship has been involved in a collision on its way to the port.
5. The Oil Record Book has not been properly kept.
6. The ship has been accused of an alleged violation of the provisions on discharge of harmful substances or effluents.
7. During examination of the certificates and other documentation, (see regulation 6(1)(a) and (2)), inaccuracies have been revealed.
8. Indications that the crew members are unable to comply with the requirements of the Conventions on the minimum level of trained seafarers.

9. Evidence of cargo and other operations not being conducted safely, or in accordance with IMO guidelines, e.g., the content of oxygen in the inert-gas mains supply to the cargo tanks is above the prescribed maximum level.
10. Failure of the master on an oil tanker to produce the record of the oil discharging monitoring and control system for the last ballast voyage.
11. Absence of an up to date muster list, or crew members not being aware of their duties in the event of a fire or an order to abandon ship.

SECOND SCHEDULE

Regulation 5

SHIPS TO BE CONSIDERED FOR PRIORITY INSPECTION

1. Ships visiting a port in the MOU region for the first time or after an absence of 12 months or more from a port in the MOU region.
2. Ships which have been permitted to leave the port of a member State on condition that the deficiencies noted must be rectified within a specified period, upon expiry of such period.
3. Ships which have been reported by pilots or other persons engaged in the berthing or unberthing of a ship, or who have responsibility for the conduct and navigation of a ship, as having deficiencies which may prejudice their safe navigation pursuant to regulation 16.
4. Ships which are in a category for which an expanded inspection is required by regulation 7.
5. Ships which have been suspended from their class for safety reasons in the course of the preceding six months.

THIRD SCHEDULE

Regulation 6

LIST OF CERTIFICATES AND DOCUMENTS TO BE CHECKED ON AN INSPECTION UNDER REGULATION 6

Where applicable, the following Certificates and Documents are, as a minimum, to be checked -

- (i) International Tonnage Certificate (1969);
- (ii) Passenger Ship Safety Certificate;
- (iii) Cargo Ship Safety Construction Certificate;

- (iv) Cargo Ship Safety Equipment Certificate;
- (v) Cargo Ship Safety Radio Certificate;
- (vi) Exemption Certificate;
- (vii) Caribbean Cargo Ship Safety Certificate;
- (viii) Cargo Ship Safety Certificate;
- (ix) Document of Compliance (SOLAS 74, regulation II-2/54);
- (x) Dangerous Goods Special List or Manifest, or Detailed Stowage Plan;
- (xi) International Certificate of Fitness for Carriage of Liquefied Gases in Bulk, or the Certificate of Fitness for the Carriage of Liquefied Gases in Bulk, whichever is appropriate;
- (xii) International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk, or the Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk, whichever is appropriate;
- (xiii) International Oil Pollution Prevention Certificate (IOPP);
- (xiv) International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk;
- (xv) International Load Line Certificate (1966);
- (xvi) International Load Line Exemption Certificate;
- (xvii) Oil Record Book, parts I and II;
- (xviii) Shipboard Oil Pollution Emergency Plan;
- (xix) Cargo Record Book;
- (xx) Minimum Safe Manning Document;
- (xxi) Certificates of Competency;
- (xxii) Medical Certificates (see ILO Convention No. 73);
- (xxiii) Stability information;
- (xxiv) Safety Management Certificate and copy of Document of Compliance (SOLAS chapter IX);
- (xxv) Certificates as to the ship's hull strength and machinery installations issued by the classification society in question (only to be required where the ship maintains its class with a classification society);
- (xxvi) Survey Report Files (in case of bulk carriers or oil tankers in accordance with resolution A.744 (18));
- (xxvii) For ro-ro passenger ships, information on the A/A max ratio;
- (xxviii) Document of authorisation for the carriage of grain;
- (xxix) Special Purpose Ship Safety Certificate;

- (xxx) High-Speed Craft Safety Certificate and Permit to Operate High-Speed Craft;
- (xxxi) Mobile Offshore Drilling Unit Safety Certificate;
- (xxxii) For oil tankers, the record of oil discharge monitoring and control system for the last ballast voyage;
- (xxxiii) The muster list, fire control plan and damage control plan;
- (xxxiv) Ship's log-book with respect to the records of tests and drills and the log for records of inspection and maintenance of life-saving appliances and arrangements;
- (xxxv) Procedures and Arrangements Manual (P&A Manual) (chemical tankers);
- (xxxvi) Cargo Securing Manual;
- (xxxvii) Certificate of Registry or other document of nationality;
- (xxxviii) Garbage Management Plan;
- (xxxix) Garbage Record Book;
- (xxxx) Bulk carrier booklet (SOLAS chapter VI regulation 7); and
- (xxxxi) Reports of previous Port State Control inspections.

FOURTH SCHEDULE

Regulation 6

PROCEDURES FOR THE CONTROL OF SHIPS

Procedures and Guidelines for the control of ships are contained in the following documents –

- (a) IMO Assembly Resolution A.787(19) (Procedures for Port State Control) as amended by IMO Resolution A.882(21);
- (b) IMO Assembly Resolution A.890(21) (Principles of Safe Manning) and Annexes 1 to 3 thereto.
- (c) the relevant provisions of the International Maritime Dangerous Goods (IMDG) Code, as amended.
- (d) The International Labour Organisation (ILO) publication "Inspection of Labour Conditions on Board Ship: Guidelines for Procedures"

- (e) Annex IA and IB to the Caribbean Memorandum of Understanding (CMOU) – “Guidelines for Surveyors to be observed in the Inspection of International Shipping” and “Guidelines for Surveyors to be observed in the Inspection of Caribbean Cargo Ships below 500 tons gross tonnage and ships of traditional build” respectively, as may be amended from time to time.

Regulation 7

FIFTH SCHEDULE

PART A - Categories of Ships subject to More Detailed Inspection

1. Oil tankers, 5 years or less from the date of phasing out in accordance with MARPOL 73/78, Annex 1, Regulation 13G, i.e.-
 - (a) a crude oil tanker of 20,000 tonnes deadweight and above or a product carrier of 30,000 tonnes deadweight and above, not meeting the requirements of a new oil tanker as defined in Regulation 1(26) of Annex I to MARPOL 73/78, will be subject to expanded inspection 20 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, or 25 years after that date, if the ship's wing tanks or double-bottom spaces not used for the carriage of oil meet the requirements of Regulation 13G (4) of the Annex, unless it has been reconstructed to comply with Regulation 13F of the same Annex; and
 - (b) an oil tanker as mentioned above meeting the requirements of a new oil tanker as defined in Regulation 1(26) of Annex I to MARPOL 73/78 will be subject to expanded inspection 25 years after its date of delivery as indicated on the Supplement, Form B, to the IOPP Certificate, unless it complies with or has been reconstructed to comply with Regulation 13F of that Annex.
2. Bulk carriers, older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.
3. Passenger ships.
4. Gas and chemical tankers older than 10 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

PART B - Guidelines for Expanded Inspection of Certain Categories of Ships

To the extent applicable the following items may be considered as part of an expanded inspection. Inspectors must be aware that it may jeopardise the safe execution of certain on-board operations, e.g. cargo operations if tests having a direct effect thereon are required to be carried out during such operations.

1. Ships in General (Categories in Part A)

The following items may form part of an expanded inspection -

- (a) black out and start of emergency generator;
- (b) inspection of emergency lighting;
- (c) operation of emergency fire-pump with two fire hoses connected to the fire main-line;
- (d) operation of bilge pumps;
- (e) closing of watertight doors;
- (f) lowering of one seaside lifeboat to the water;
- (g) test of remote emergency stop for, e.g., boilers, ventilation and fuel pumps;
- (h) test of steering gear including auxiliary steering gear;
- (i) inspection of emergency source of power to radio installations; and
- (j) inspection and, to the extent possible, test of engine-room separator.

2. Oil Tankers

In addition to the items listed under Section 1, the following items may also be considered as part of the expanded inspection for oil tankers -

- (a) fixed-deck foam system;
- (b) fire-fighting equipment in general;
- (c) inspection of fire dampers to engine room, pump room and accommodation;
- (d) control of pressure of inert gas and oxygen content thereof; and
- (e) check of the Survey Report File (see Resolution A.744(18)) to identify possible suspect areas requiring inspection.

3. Bulk Carriers

In addition to the items listed under Section 1, the following items may also be considered as part of the expanded inspection for bulk carriers -

- (a) possible corrosion of deck machinery foundations;

- (b) possible deformation and/or corrosion of hatch covers;
- (c) possible cracks or local corrosion in transverse bulkheads;
- (d) access to cargo holds; and
- (e) check of the Survey Report File, (see IMO Resolution A.744 (18)) to identify possible suspect areas requiring inspection.

4. Gas and Chemical Tankers

In addition to the items listed under section 1, the following items can also be considered as part of the expanded inspection for gas and chemical tankers -

- (a) cargo tank monitoring and safety devices relating to temperature, pressure and ullage;
- (b) oxygen analysing and explosimeter devices, including their calibration.;
- (c) availability of chemical detection equipment (bellows) with an appropriate number of suitable gas detection tubes for the specific cargo being carried;
- (d) cabin escape sets giving suitable respiratory and eye protection, for every person on board (if required by the products listed on the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable);
- (e) check that the product being carried is listed in the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk as applicable; and
- (f) the fixed fire-fighting installations on deck whether they be foam or dry chemical or other as required by the product carried.

5. Passenger Ships

In addition to the items listed under Section 1, the following items may also be considered as part of the expanded inspection for passenger ships -

- (a) testing of fire detection and alarm systems;
- (b) testing of proper closing of fire doors;
- (c) test of public address system;
- (d) fire drill where, as a minimum, all sets of fireman's outfits must be demonstrated and part of the catering crew take part; and
- (e) demonstration that key crew members are acquainted with the damage control plan.

Where deemed appropriate the inspection may be continued while the ship is on passage to or from a port in the Islands, with the consent of the shipmaster or the operator. Inspectors must not obstruct the operation of the ship, nor must they

induce situations that, in the master's judgment could endanger the safety of the passengers, the crew and the ship.

Regulation 9

SIXTH SCHEDULE

CRITERIA FOR DETENTION OF A SHIP

1. Introduction

Before determining whether deficiencies found during an inspection warrant detention of the ship involved, the inspector must apply the criteria mentioned below in sections 2 and 3.

Section 4 includes examples of deficiencies that may of themselves warrant detention of the ship involved (see regulation 9(3)).

2. Main Criteria

When exercising his professional judgment as to whether or not a ship should be detained the inspector must apply the following criteria:

- (a) timing -
ships which are unsafe to proceed to sea must be detained upon the first inspection irrespective of how much time the ship will stay in port; and
- (b) criteria -
 - (i) the ship is detained if its deficiencies are sufficiently serious to merit an inspector returning to satisfy himself that they have been rectified before the ship sails; and
 - (ii) the need for the inspector to return to the ship is a measure of the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the inspector must verify one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

3. Application of main criteria

- (a) When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention the inspector must assess whether -
 - (i) the ship has relevant, valid documentation; and
 - (ii) the ship has the crew required in the Safe Manning Document; and

- (b) during inspection the inspector must further assess whether the ship or crew is able to -
 - (i) navigate safely throughout the forthcoming voyage;
 - (ii) safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage;
 - (iii) operate the engine room safely throughout the forthcoming voyage;
 - (iv) maintain proper propulsion and steering throughout the forthcoming voyage;
 - (v) fight fires effectively in any part of the ship if necessary during the forthcoming voyage;
 - (vi) abandon ship speedily and safely and effect rescue if necessary during the forthcoming voyage;
 - (vii) prevent pollution of the environment throughout the forthcoming voyage;
 - (viii) maintain adequate stability throughout the forthcoming voyage;
 - (ix) maintain adequate watertight integrity throughout the forthcoming voyage;
 - (x) communicate in distress situations if necessary during the forthcoming voyage; and
 - (xi) provide safe and healthy conditions on board throughout the forthcoming voyage; and

where the answer to any of these assessments is negative, taking into account all deficiencies found, the ship must be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

4. List of Deficiencies

To assist the inspector in the use of these guidelines, there follows a list of deficiencies, grouped under relevant conventions and/or Codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not intended to be exhaustive.

- (a) **General -**
the lack of valid certificates as required by the relevant instruments; ships flying the flags of States not party to a Convention (relevant instrument) or not having implemented another relevant instrument, are not entitled to carry the certificates provided for by the Convention or other relevant instrument; therefore, absence of the required certificates should not by itself constitute reason to detain these ships; however, in

applying the “no more favourable treatment” clause, substantial compliance with the provisions is required before the ship sails;

(b) areas under the SOLAS Convention (references to the applicable paragraph in the Annex of SOLAS are given in brackets where appropriate) -

- (i) failure of the proper operation of propulsion and other essential machinery, as well as electrical installations;
- (ii) insufficient cleanliness of engine room, excess amount of oily-water mixtures in bilges, insulation of piping including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements;
- (iii) failure of the proper operation of emergency generator, lighting, batteries and switches;
- (iv) failure of the proper operation of the main and auxiliary steering gear;
- (v) absence, insufficient capacity or serious deterioration of personal life-saving appliances, survival craft and launching arrangements;
- (vi) absence, non-compliance or substantial deterioration of fire detection system, fire alarms, fire-fighting equipment, fixed fire-extinguishing installation, ventilation valves, fire dampers, quick-closing devices to the extent that they cannot comply with their intended use;
- (vii) absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection arrangements on tankers;
- (viii) absence, non-compliance or serious deterioration of lights, shapes or sound signals;
- (ix) absence or failure of the proper operation of the radio equipment for distress and safety communication;
- (x) absence or failure of the proper operation of navigation equipment, taking the provisions of SOLAS Regulation V/12(o) into account;
- (xi) absence of corrected nautical charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that electronic charts may be used as a substitute for nautical charts; and
- (xii) absence of non-sparking exhaust ventilation for cargo pump rooms (SOLAS Regulation II-2/59.3.1);

(c) areas under the IBC Code (references to the applicable paragraph of the Code are given in brackets where appropriate) -

- (i) transport of a substance not mentioned in the Certificate of Fitness or missing cargo information (16.2);

- (ii) missing or damaged high-pressure safety device (8.2.3);
 - (iii) electrical installations not intrinsically safe or not corresponding to code requirements (10.2.3);
 - (iv) sources of ignition in hazardous locations referred to in 10.2 (11.3.15);
 - (v) contraventions of special requirements (15);
 - (vi) exceeding of maximum allowable cargo quantity per tank (16.1); and
 - (vii) insufficient heat protection for sensitive products (16.6);
- (d) areas under the IGC Code (references to the applicable paragraph of the Code are given in brackets where appropriate) -**
- (i) transport of a substance not mentioned in the Certificate of Fitness or missing cargo information (18.1);
 - (ii) missing closing devices for accommodations or service spaces (3.2.6);
 - (iii) bulkhead not gastight (3.3.2);
 - (iv) defective air locks (3.6);
 - (v) missing or defective quick-closing valves (5.6);
 - (vi) missing or defective safety valves (8.2);
 - (vii) electrical installations not intrinsically safe or not corresponding to code requirements (10.2.4);
 - (viii) ventilators in cargo area not operable (12.1);
 - (ix) pressure alarms for cargo tanks not operable (13.4.1);
 - (x) gas detection plant and/or toxic gas detection plant defective (13.6); and
 - (xi) transport of substances to be inhibited without valid inhibitor certificate (17/19);
- (e) areas under the Load Lines Convention -**
- (i) significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull affecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out;
 - (ii) a recognised case of insufficient stability;
 - (iii) the absence of sufficient and reliable information, in an approved form, which by rapid and simple means, enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided;

- (iv) absence, substantial deterioration or defective closing devices, hatch closing arrangements and watertight doors;
 - (v) overloading; and
 - (vi) absence of draft mark or draft mark impossible to read;
- (f) areas under MARPOL 73/78, Annex I (references to the applicable paragraph in Annex I of MARPOL are given in brackets where appropriate) -**
- (i) absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements;
 - (ii) remaining capacity of slop and/or sludge tank insufficient for the intended voyage;
 - (iii) Oil Record Book not available (20 (5)); and
 - (iv) unauthorised discharge bypass fitted;
- (g) areas under MARPOL 73/78, Annex II (references to the applicable paragraph in Annex II of MARPOL are given in brackets where appropriate) -**
- (i) absence of the P & A Manual;
 - (ii) cargo is not categorised (3 (4));
 - (iii) no Cargo Record Book available (9 (6));
 - (iv) transport of oil-like substances without satisfying the requirements or without an appropriately amended certificate (14); and
 - (v) unauthorised discharge bypass fitted;
- (h) areas under the STCW Convention -**
number, composition or certificate of crew not corresponding with the Minimum Safe Manning Document;
- (i) areas under the ILO Conventions (references to the relevant ILO Convention and the applicable Article are given in brackets where appropriate) -**
- (i) insufficient food for voyage to next port (Convention 68 Article 5(2)(a));
 - (ii) insufficient potable water for voyage to next port (Convention 68 Article 5(2)(a));
 - (iii) excessively unsanitary conditions on board;
 - (iv) no heating in accommodation of a ship operating in areas where temperatures may be excessively low (Convention 92 Article 8); and
 - (v) excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways and accommodation (Convention 134 Article 4);

- (j) **areas which may not warrant a detention, but where operations have to be suspended (e.g. cargo work) -**
failure of the proper operation (or maintenance) of inert gas system, cargo-related gear or machinery are considered sufficient grounds for stopping cargo operation;
- (k) **areas under the CCSS Code -**
see items listed in paragraphs (b) and (e).

Regulation 15

SEVENTH SCHEDULE

MINIMUM CRITERIA FOR INSPECTORS

1. The inspector must be authorised to carry out Port State Control by the competent authority of the member State.

2. Either-

- (a) the inspector must have completed a minimum of one year's service as a flag State inspector dealing with surveys and certification in accordance with the Conventions and be in possession of -

- (i) a certificate of competency as a master, enabling that person to take command of a ship of 1,600 GT or more (see STCW, regulation II/2); or

- (ii) a certificate of competency as chief engineer enabling him to take up that task on board a ship whose main power plant has a power equal or superior to 3,000 kW, (see STCW, regulation III/2); or

- (iii) certification as a naval architect, mechanical engineer or an engineer related to the maritime fields and have worked in that capacity for at least five years;

(Note: The inspectors mentioned under (i) or (ii) must have served for a period of not less than five years at sea as an officer in the deck or engine department respectively.)

or:

- (b) the inspector must hold a relevant university degree or equivalent training, and have been trained and qualified at a school for ship safety inspectors, and have served at least two years as a flag State inspector dealing with surveys and certification in accordance with the Conventions;

or:

- (c) where the class or classes of ships is or are specified for each inspector, he must have successfully completed an approved course for ship safety and Port State Control inspectors.

3. He must possess the ability to communicate orally and in writing with seafarers in English.
4. He must have appropriate knowledge of the provisions of the international conventions, the CCSS Code, national legislation and of the relevant procedures on Port State Control.

EIGHTH SCHEDULE

Regulation 15

REQUIREMENTS FOR THE IDENTITY CARD FOR PORT STATE CONTROL INSPECTORS

The identity card shall contain at least the following information:

- (a) the name of the issuing authority;
- (b) the full name of the holder of the identity card;
- (c) an up to date picture of the holder of the identity card;
- (d) the signature of the holder of the identity card; and
- (e) a statement to the effect that the holder of the identity card is authorised to carry out inspections in accordance with the Convention enactments.

Made in Executive Council the 1st day of April, 2003.

Carmena H. Watler.

Clerk of Executive Council.