

**LAW AND ADMINISTRATIVE PROCEDURES (LAP)**

**CAYMAN ISLANDS REGISTERED  
VESSELS**

**LAP MANUAL**

(FIRST EDITION 2011)

**INTRODUCTION:**

1. Under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW 95), Masters and senior officers serving at the management level are required to have an appropriate knowledge of the Laws and Administrative Procedures (LAP) relative to the flag of the ship in which they serve. For Cayman Islands ships these requirements are given effect through Regulation 5(4) of the Cayman Islands Merchant Shipping (Training, Certification, Safe Manning, Hours of Work and Watchkeeping) Regulations (2004 Revision) (TCSM&HW Regulations), made under the Cayman Islands Merchant Shipping Law (2008 Revision), as amended (MSL 2008). There is also a requirement for proficiency in the use of English but this is addressed under separate arrangements.
2. In order to meet its obligations under STCW 95 the Maritime Authority of the Cayman Islands (MACI) has instituted a LAP test for Masters and senior officers intending to serve on Cayman Islands ships and acceptable evidence of having passed this test is a pre-requisite for the issue of a “recognition” endorsement”, under STCW 95, for service on such ships.
3. This Manual is designed therefore to provide all the information that will be required to prepare for and pass the LAP test at the appropriate level. To further assist the process a summary of what a Master or senior officer needs to know is given at the end of each Chapter. The Manual should be read in conjunction with the relevant Cayman Islands maritime legislation (Laws and Regulations) and associated Codes, Circulars and Shipping Notices. This material is available online in CIRIS at [www.cishipping.com](http://www.cishipping.com). MACI has also published a Shipmaster’s Guide and a Yachtmaster’s Guide which will provide additional complementary guidance for Masters and senior officers.
4. In dealing with the Cayman Islands LAP requirements it should be noted that whilst many Cayman Islands Laws and Regulations may be based on equivalent UK legislation, the Cayman Islands provisions do not always mirror those of the UK and hence Cayman Islands legislation, unless otherwise clearly stated, should always be consulted as the authoritative source so far as Cayman Islands ships are concerned.
5. Finally, it should be borne in mind that Cayman Islands shipping legislation applies penalties, which can be quite severe, for non-compliance with many of its provisions. In this context most of the breaches of shipping legislation so far as Master, officers and Owners are concerned, fall under the general category of criminal offences. Nevertheless, Masters in particular and senior officers in general do need to be aware that the Cayman Islands shipping legislation does contain some civil provisions, such as those related to the International Convention on Civil Liability for Oil Pollution Damage, as amended by the 1992 Protocol thereto (CLC) or the International Convention on Limitation of Maritime Claims, 1976, as amended by the 1996 Protocol thereto (LLMC). In addition it is important to realise that failure to follow proper procedures under Cayman Islands shipping legislation could result in significant claims being brought against the ship, the Master and officers or the Owners in a civil action.
6. Masters and senior officers serving, or having served, on Cayman Islands ships are invited and encouraged to participate in the continuous development of the LAP Manual by submitting appropriate comments and suggestions to MACI. As the day to day practitioners we view serving Masters and senior officers as a vital barometer in assessing the effectiveness of the Manual and the associated LAP test. Please forward all such comments and suggestions to [shipping.master@cishipping.com](mailto:shipping.master@cishipping.com) or fax them to +44 1489 799 204.
7. For ease of use the Manual is set out in main Sections numbered consecutively as 1, 2, 3 etc. with subsections numbered 1.1, 1.2 or 2.1, 2.2 etc. Where there are several paragraphs in a section or subsection they are numbered (1), (2), (3) etc, with subparagraphs denoted by (a), (b) (c) etc. Cross references in the Manual are denoted by reference to section or subsection as the case may be, and, where appropriate, to paragraph and subparagraph. For example a reference to 13.2(2) means a reference to subsection 13.2, paragraph (2), and a reference to 14.1(2)(b) means a reference to subsection 14.1, paragraph (2), subparagraph (b).

**MACI**  
**APRIL 2011**

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# 1. REGISTRATION OF SHIPS - PART II OF MERCHANT SHIPPING LAW (2008 REVISION) (MSL 2008)

## 1.1 REGISTRATION REQUIREMENTS AND PROCEDURE - SECTIONS 3 TO 20 (EXCEPT SECTION 14) OF MSL 2008:

(1) The Cayman Islands offer five vessel registration options: **Full; Interim; Provisional; Under Construction;** and **Demise (Bareboat) Charter.**

(2) Flagging into Cayman involves five main sets of activities with respect to registration; the applicability of each set depends upon the vessel registration option pursued. These are-

- (a) Name Availability and Qualification;
- (b) Vessel Qualification-
  - (i) Merchant Ships;
  - (ii) Commercial Yachts; and
  - (iii) Private Yachts;
- (c) Evidence of Qualifying Owner<sup>1</sup> and Proof of Legal Title;
- (d) Vessel Dimensions and Other Details; and
- (e) Complete Relevant Forms.

(3) Mortgages on vessels may also be registered; certain prohibitions regarding the registered mortgage (e.g. the recording of a second mortgage on the same ship) may also be recorded where there exists a duly completed mortgage document. Mortgage Priority Notices can be recorded prior to receipt of an executed mortgage document thereby preserving the priority of the mortgage to be registered. The registration process, including the registration of any mortgage on the vessel, may be viewed as addressing the proprietary aspects of registration, though a ship will need a Certificate of British Registry (COBR) to be able to operate internationally.

(4) For Commercial Vessels (merchant ships and commercial yachts) there is a set of parallel activities (i.e., parallel to the registration process) consisting of safety and operational compliance involving the issue by a Cayman Surveyor/auditor (or by one of the seven Classification Societies<sup>2</sup> authorised to act on behalf of Cayman) of the relevant Convention or statutory Certificates. A list of the Certificates required is provided at Annex A. The absence of such Certificates does not necessarily prevent a ship from being registered (e.g. the ship may legitimately be laid up at the time of changing to the Cayman flag or may not yet be ready to sail for whatever reason) but a Commercial Vessel cannot operate commercially without them.

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<sup>1</sup> Establishing whether the Owner of a vessel making application to register in the Cayman Islands qualifies to own a Cayman-flagged vessel is usually addressed-

- (a) in the case of an individual, by the submission of copies of the applicant's relevant passport(s) pages;
- (b) in the case of a company or other shipping entity registered in a Qualifying Country or in a Dependency or Overseas Country or Territory of a qualifying country by a Certificate of Good Standing or equivalent.

Qualifying countries include the 30 members of the EEA or European Economic Area, comprising the 27 European Union countries plus Iceland, Liechtenstein and Norway. Additionally, countries included in the Third Schedule of the Money Laundering Regulations (2006 revision), as may be amended from time to time.

<sup>2</sup> American Bureau of Shipping (ABS), Bureau Veritas (BV), Det Norske Veritas (DNV), Germanischer Lloyd (GL), Lloyds Register (LR), Nippon Kaiji Kyokai (Class NK), and Registro Italiano Navale (RINA Class).



Under normal circumstances, the surveys and audits for these Convention and statutory Certificates are dealt with during the registration process so the vessel can continue operating as soon as registration is completed. It should be noted that while the requirement for the normal range of Convention or Statutory Certificates applies primarily to Commercial vessels, some Convention requirements apply also to non-Commercial Vessels over a certain size, for example the International Oil Pollution Prevention (IOPP) Certificate must be held by all vessels of 400 gross tonnage and over.

(5) It should also be noted that even though a vessel may meet all Ownership requirements for registration and all supporting documentation is provided, registration of the vessel may be declined for safety and operational reasons.

(6) Where a vessel is transferring from another British Red Ensign Group (REG) Register<sup>3</sup> Cayman will issue new statutory Certificates with the same expiry dates. This may be done without necessarily undertaking the underlying Convention and statutory surveys at ‘flag-in’.

(7) All forms and supporting documentation may be provided either in originals or electronically. If provided electronically, they must be accompanied by an [Undertaking \(see Form REGFMVRC\)](#) to deliver the originals/certified hard copies within 7 days they and can be submitted to any of the Cayman Registry offices. The signatures may be witnessed by a Registrar of British Ships, a Justice of the Peace, a Notary Public, or the equivalent.

## **1.2 CERTIFICATE OF REGISTRY - SECTIONS 21-22 OF MSL 2008:**

### **Certificate of British Registry (COBR):**

(1) A COBR may be issued for an indefinite period or for a specified period at the discretion of the Registrar of Shipping. Where a COBR is issued for a specified period it may be extended or re-issued at the end of such period for a further specified period, or replaced with a COBR valid for an indefinite period, at the Registrar’s discretion.

(2) A COBR issued for a specified period, or extended or renewed for a further specified period shall become invalid at the end of such period unless further extended or renewed and, upon the COBR becoming invalid, the registration of the ship is deemed to be terminated unless otherwise indicated.

### **Custody of Certificate:**

(3) The COBR can only be used for the lawful navigation of the ship. If a person, whether interested in the ship or not, refuses to surrender the COBR to any person entitled under the Law to its custody, then unless it is proved to the satisfaction of any justice or competent court that there was reasonable cause for such refusal, that person is guilty of an offence.

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<sup>3</sup> British Red Ensign Group (REG) Registers include Anguilla, Bermuda, British Virgin Islands, Cayman, Falkland Islands, Gibraltar, Guernsey, Isle of Man, Jersey, Montserrat, St. Helena, the Turks & Caicos Islands and the United Kingdom. Of these, Bermuda, the British Virgin Islands, the Cayman Islands and the Isle of Man are Category 1 Registers and the remainder are Category 2 Registers. Category 1 Registers offer registration services for any type and size of vessel whilst Category 2 Registers apply some limitations.

**Penalty for use of improper Certificate:**

(4) If the Master or Owner of a ship uses or attempts to use a COBR not legally granted in respect of the ship, he is guilty of an offence and the ship is subject to forfeiture under Cayman Islands Law.

**1.3 DEMISE (BAREBOAT) CHARTER REGISTRATION - SECTIONS 28 - 35 OF MSL 2008:**

Demise or bareboat charter is a private agreement between two parties, individual or body corporate, whereby the Shipowner leases an entire ship to the charterer for a particular reason (e.g. conveyance of goods). The Shipowner effectively gives the whole possession, operation and control of the ship over to the charterer. The charterer then becomes, for the agreed period, the virtual Owner of the vessel. If the demise charter then so wishes, he may register the ship under any Flag where that State has provisions for such registrations and providing the “original” register also allows for bareboat chartering out. Cayman has such bareboat, or demise charter registration provisions. Therefore if a ship is registered in, for example, Germany and a demise charter agreement is signed the charterer can choose (provided he meets the conditions of operating under our flag) to have the Cayman Islands as his flag. This means that all laws, procedures, conventions etc, other than those pertaining to the proprietary interests of the ship, that prevail for Cayman Islands ships, crew, Owners etc, are, for the period of the demise charter those that apply to the vessel. Any registered mortgages remain with the original or underlying register. On termination of the demise charter agreement the vessel will revert to the underlying registry and the demise-in registration will be considered at an end.

**1.4 CARVING AND MARKING OF SHIP - SECTION 14 OF MSL 2008:**

(1) Every ship, other than a pleasure vessel which is under 24m in length, shall before registration, be marked permanently and conspicuously as follows-

- (a) its name must be marked on each of its bows, and its name and the name of its port of Registry shall be marked on its stern, in letters of a contrasting colour so as to be clearly visible, such letters should not be less than 10cm in length, and of proportionate breadth;
- (b) her official number and net tonnage shall be permanently marked on a main part of the ship's permanent structure that is readily visible and accessible in such manner as may be specified by a Surveyor of ships;
- (c) for every ship built before 1st May, 1988, a scale of feet denoting its draught of water shall be marked on each side of its stem and of its stern post in Roman capital numerals or in figures, not less than six inches in length but it may instead comply with the provisions of paragraph (d);
- (d) for every such ship built after 1st May, 1988 a scale of decimetres (10cm), or of metres and decimetres denoting a draught of water shall be marked on each side of its stem and its stern post in figures at 20cm intervals and at intervening 20cm intervals.

- (2) A pleasure vessel of twenty-four metres or over is considered to be in compliance with the Cayman Islands requirements if its' name and the name of its port of Registry are marked on its stern.
- (3) A pleasure vessel of less than twenty-four metres in length shall be marked in accordance with the provisions of this section, except the letters shall not be less than 5cm in length.
- (4) If the scale showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the Owner of the ship is guilty of an offence. Any marks must be permanently continued, and no alteration shall be made unless allowed by Cayman Islands law.
- (5) If an Owner or Master neglects to keep his ship marked as required, or if anyone alters or removes the markings, the Owner, Master or person is guilty of an offence and the ship may be detained until the insufficiency or inaccuracy has been remedied.

**1.5 REGISTRATION OF ALTERATIONS AND REGISTRATION ANEW - SECTIONS 42 – 46 OF MSL 2008:**

- (1) When a ship is altered in a way that materially changes its tonnage or description contained in the register, then the Owner is required to notify the Registrar of Shipping. A Cayman Islands Shipping Registry (hereafter called "the CISR") Surveyor or other authorised person would then survey the ship to verify the alterations and advise the Registrar accordingly. The Registrar would then either register the alteration or direct that the ship be registered anew. It is an offence to not report such alterations.
- (2) When a ship is registered anew, the Registrar of Shipping will close the existing register and create a new register. Any undischarged mortgages, or existing mortgages or bills of sale entered into on the previous register, together with the names of all persons having an interest in the ship as Owners or mortgagees will be recorded in the new register. In essence the registration anew shall not in any way affect the rights of any of the persons appearing on the previous register.

**1.6 TONNAGE MEASUREMENT - SECTIONS 49 AND 50 OF MSL 2008:**

- (1) The Merchant Shipping (Tonnage) Regulations, 2002, require that all Cayman Islands ships must carry a Tonnage Certificate stating the gross, net or registered tonnage of the vessel.
- (2) International Tonnage Certificates are issued to vessels 24 metres and over, as required by the International Tonnage Convention (1969) which the UK has extended to the Cayman Islands. This Certificate, which gives the vessel's gross and net tonnages, will be issued by or on behalf of the CISR.
- (3) National Tonnage Certificates are issued to vessels under 24 metres and for these vessels there is only one tonnage given which is the tonnage ascertained is both the gross and net tonnages which is shown on the Tonnage Certificate as the Register Tonnage.
- (4) It is an offence not to carry a valid Certificate.

(5) The Certificate will become invalid and a new International Tonnage Certificate will be issued when alterations result in changes to the net or gross or register tonnage. In some circumstances changes to the assignment of the ships load line will result in the need to issue a new International Tonnage Certificate. Where a Tonnage Certificate becomes invalid it is an offence not to deliver up the Certificate to the CISR immediately.

### **1.7 TRANSFERS OF OWNERSHIP - SECTION 26 OF MSL 2008:**

Whenever a change occurs in the registered Ownership of a ship, the Registrar of Shipping may endorse the change on the COBR or issue a new COBR. The Master shall, for the purpose of such endorsement deliver the COBR to the Registrar immediately after the change. Failure to do so constitutes an offence.

### **1.8 REQUIREMENT FOR INSURANCE COVER - SECTION 54 OF MSL 2008:**

(1) Every ship must carry insurance cover against risks of loss or damage to third parties, and in particular with respect to-

- (a) the Shipowner's liabilities to a crew member;
- (b) claims in respect of loss or damage caused by any cargo carried on board the ship (this is without prejudice to that required by the 1992 Civil Liability or the 2001 Bunkers Conventions); and
- (c) wreck removal expenses in an amount satisfactory to the Receiver of Wreck when within Cayman Islands waters.

(2) The insurance carried should be provided by a financially sound insurance company or organisation, such as the International Group of P&I Clubs or a financial guarantee. The minimum amount of insurance or other financial security required to be held is to be calculated in accordance with the 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims (LLMC).

### **SUMMARY: REGISTRATION OF SHIPS - WHAT DO I NEED TO KNOW?**

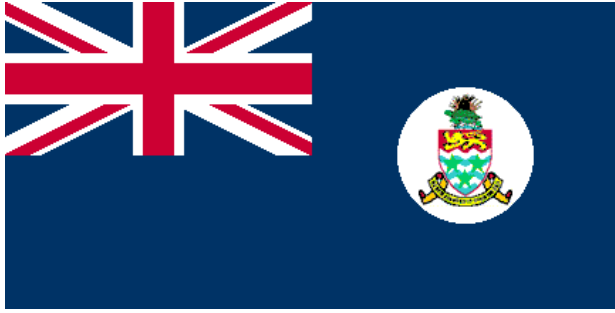
- The Cayman Islands offer five vessel registration options: Full; Interim; Provisional; Under Construction; and Demise (Bareboat) Charter.
- Surveys and audits for safety and operational compliance, Convention and statutory Certificates are dealt with during the registration process so the vessel can operate as soon as registration is completed.
- The COBR must only be used for the lawful navigation of the ship. Using or attempting to use a Certificate not legally granted is an offence and the ship is subject to forfeiture.
- Demise (or bareboat) charter is an arrangement where the Shipowner effectively gives the whole, operation and control of the ship over to the charterer. This will mean a ship demise chartering to Cayman becomes a Cayman Island flagged vessel for operational purposes for the period of the charter.
- Neglecting to keep a ship marked as required or any alteration or removal of marking is an offence and the ship may be detained until the insufficiency or inaccuracy has been remedied.
- National Tonnage Certificates are issued to vessels under 24 metres. International Tonnage Certificates are issued to vessels 24 metres and over. It is an offence not to carry a valid Tonnage Certificate.
- Every ship must carry insurance cover against risks of loss or damage to third parties, including wreck removal if the ship sinks in Cayman waters.

## 2. NATIONAL CHARACTER AND FLAG - PART III OF MSL 2008:

- (1) The un-defaced Red Ensign or the Red Ensign bearing the Cayman Islands coat of arms are the proper national colours for all Cayman Islands ships. The shore-based Cayman Islands Blue Ensign is not permitted to be flown. Other specific Ensigns may be flown under warrant from Her Majesty or the Admiralty, for example the Royal Yacht Club can fly a Blue Ensign under warrant. Section 69 of the Merchant Shipping Law (2008 revision) (MSL 2008) provides for penalties for any person hoisting improper colours on board a Cayman Islands ship.
- (2) A Cayman Islands ship is required to hoist the national colours-
- (a) on a signal being made to it by one of Her Majesty's ships (including any vessel under the command of an officer of Her Majesty's navy on full pay);
  - (b) on entering or leaving any foreign port; and
  - (c) if of fifty gross tonnage or upwards, on entering or leaving a port in the Islands.
- (3) There are various customs and protocols established for proper times to hoist and lower the national colours, however in general the proper time for hoisting the flag is 0800 hours or sunrise if later and for lowering the flag at 2100 hours or sunset if earlier.
- (4) If the Master or Owner does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, the ship is liable to forfeiture and each of the Master, Owner (including demise charterer), is guilty of an offence.
- (5) Shown below are the Red Ensign with the Cayman Islands Coat of Arms and the undefaced Red Ensign which are both acceptable to be used. (Please note however that the latest iteration of the defaced Red Ensign does not have the crest in a white disc, though the older version (with the white disc) may continue to be used until such time as it is replaced.



(6) Below is the Blue Ensign with the Cayman Islands Coat of Arms which is not permitted colours for a Cayman Islands ship.



**SUMMARY: National Character and Flag – What do I need to know?**

- The undefaced red ensign or the red ensign bearing the Cayman Islands coat of arms are the proper national colours for all Cayman ships.
- If the Master or Owner does anything, or permits anything to be done, for the purpose of concealing the nationality of the ship, this is an offence and the ship is liable to forfeiture

### **3. MASTERS AND SEAFARERS, LOG BOOKS AND DOCUMENTS - PART V OF MSL 2008:**

#### **3.1 ENGAGEMENT AND DISCHARGE OF CREW - SECTIONS 88 TO 92 OF MSL 2008:**

(1) The Merchant Shipping (Crew Agreements, List of Crew and Discharge of Seamen) Regulations, 1992, and ILO Convention No.22 require that every Cayman Islands ship and crew member thereof, other than the ships and descriptions of seafarers listed in Regulation 4 must have a crew agreement in writing between each person employed and the person employing him and of a form approved by MACI. These official crew agreements are additional to and separate from any company contract or similar document and any conditions of employment outside the scope of the crew agreement are to be included in a separate company contract or similar. Failure to keep an approved crew agreement constitutes an offence.

(2) Section 88(3) of the Merchant Shipping Law (2008 Revision) (MSL 2008) provides that only approved clauses may be used in a crew agreement and in addition to the standard clauses there are several other standard forms which are approved for use. Owners may submit agreements to MACI for approval. Where approval is requested from MACI a charge will be made, and different provisions and forms may be approved for different circumstances.

(3) A model crew agreement primarily aimed at yachts may be found in the Manning Policy Manual found on the [CISR Website](#). Merchant ships should give due regard to the UK's MGN 148. Crew Agreements are to be used for each ship in conjunction with the Official Log Book (OLB).

(4) The Master must ensure a copy of any crew agreement relating to the ship; or an extract containing the terms of that agreement applicable to all seafarers employed under it, is posted in a conspicuous place on board the ship. The Master must ensure it is kept posted and legible so long as any seafarer is employed in the ship under the crew agreement. Failure of the Master to comply with this is an offence.

(5) If a seafarer requests a copy of the crew agreement or such extracts thereof as are necessary to show the terms on which he is employed or any document referred to in the agreement the Master or Owner must comply within a reasonable time. Failure of the employer or Master to comply is an offence.

(6) The Master shall produce, on demand, any crew agreement or copy thereof to an authorised officer of the CISR. Failure of the Master to comply with this requirement is an offence.

#### **3.2 LISTS OF CREWS - SECTIONS 88 TO 92 OF MSL 2008:**

(1) Crew agreements are supplemented by a List of Crew (Form ALC1). It must be noted a crew agreement must be used whether or not there is in place any other contract or agreement with the ship's crew. Among the information to be included in the Agreement are the ship's particulars as found on the Certificate of British Registry, the date of commencement of the Agreement and date of expiry when this is known.

(2) It is important, that the managers' are able to provide details of crew on board each Cayman Islands vessel; therefore a copy of the list of crew is to be maintained ashore by the ship's managers or the Owner as the case may be. Any changes to the crew list must be recorded on the ship immediately and notified to and recorded in the shore-based copy within 3 days of the change. It is imperative that any changes in the List of Crew are lodged ashore prior to the vessel leaving any port where there have been changes in the crew.

**Terminating a crew agreement:**

(3) At the end of the crew agreement it must be closed and all persons on it who have not already done so must sign off. The entry for 'Date and Place of leaving the ship' should be left blank if the crew member is to sign on another crew agreement immediately and is not therefore leaving the ship and the reason for discharge in this case will be "agreement terminated".

**Record of Service:**

(4) Any seafarer is entitled to receive a record of his service in the ship in accordance with the Crew Agreement Regulations. Such a record would normally be in the form of a discharge book though a "Paper Discharge" in an appropriate format (usually along the same lines as in a Discharge Book) may be issued where the seafarer does not, for valid reasons, have his Discharge Book.

**3.3 PAYMENT OF CREW'S WAGES - SECTIONS 93 TO 100 OF MSL 2008:**

(1) Where a seafarer employed under a crew agreement leaves the ship and is discharged, or his employment is terminated where he is employed under a crew agreement covering more than one ship, then the wages due to the seafarer under the agreement shall either be paid to him-

- (a) in full at the time of discharge; or
- (b) on the next monthly payday in the pay cycle; or
- (c) at latest the next following monthly payday in the pay cycle.

(2) If these conditions are not met then any outstanding amounts will attract 20% interest per annum unless this is due to a mistake, dispute, or act or default of the seafarer.

(3) Masters must deliver an account of the wages due, and of any deductions, to every seafarer employed on the ship. The account must indicate that the amounts may be subject to later adjustment. Accounts must be delivered no later than twenty-four hours before the time of discharge. If the seafarer is discharged without notice or at less than twenty-four hours' notice an account must be provided at the time of discharge. If the amounts require adjustment, the employer must provide a further account stating the adjusted amounts no later than the time at which the balance of his wages is payable to the seafarer. Anyone who fails to comply with these conditions without reasonable excuse is guilty of an offence.

(4) Any dispute relating to the amount payable to a seafarer employed under a crew agreement may be submitted to the Shipping Master (or proper officer) for decision by the parties concerned. In this regard it should be noted that both, or all, parties to the dispute must agree to the matter being put to the Shipping Master. The Shipping Master is not bound to accept the



submission or, if he has accepted it, to decide the dispute, if he believes it ought not to be decided by him. Any decision of the Shipping Master shall be final.

(5) Wages due or accruing to a seafarer shall not be subject to attachment or forfeiture other than for-

- (a) legitimate deductions as per the MSL 2008, These legitimate deductions include-
- (b) expenses incurred by the seafarer for goods or services on board ship;
- (c) the payment of Allotment Notes;
- (d) where the seafarer incurs, through his own fault, any civil liability;
- (e) expenses incurred resulting from smuggling by the seafarer;
- (f) expenses incurred with respect to infringement of immigration laws where the infringement is the fault of the seafarer; and
- (g) expenses incurred through the seafarer being Absent Without Leave (AWL) or failing to join his ship prior to sailing.

(6) Note that limits apply in some cases as to the maximum amount that may be deducted from the seafarer's wages.

(7) The payment of the wages to the seafarer shall be valid notwithstanding any previous assignment or charge and a power of attorney or authority for the receipt of the wages shall not be irrevocable. A seafarer's lien on the ship for his wages is not capable of being renounced by agreement.

(8) A seafarer may allot to any person or persons part of the wages to which he will become entitled in the course of his employment. That person shall have the right to recover the allotment in his own name, and has the same remedies as the seafarer for the recovery of wages. In any proceedings it shall be presumed (unless the contrary is shown) that the seafarer is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

### **3.4 EMPLOYMENT OF YOUNG PERSONS - SECTION 118 OF MSL 2008:**

(1) The Merchant Shipping (Certification, Safe Manning, Hours of Work and Watchkeeping) Regulations, 2004 Revision, (Manning 2004) provide that no person under sixteen years of age can be employed on a Cayman Islands ship. They also provide that no person under 18-

- (a) can be employed as a trimmer or stoker, and
- (b) may work at night which means they must have a period of nine hours off including midnight to 5am,

and failure to abide with any of these conditions is an offence.

(2) Seafarer's under 18 years old must have a valid Medical Fitness Certificate issued during the previous 12 months.

### **3.5 CREW'S ENTITLEMENT TO ON-BOARD ACCOMMODATION, FOOD AND WATER - SECTIONS 106 AND 107 OF MSL 2008:**

#### **Inspections of crew accommodation:**

(1) The Merchant Shipping (Crew Accommodation)(Cayman Islands) Regulations, 1988, (Crew 1988) require that an inspection of the crew accommodation is carried out every seven days to ensure that it is being kept clean and that all the requirements of the crew accommodation regulations are being followed. The inspection must be carried out by the Master and he must be accompanied by one other member of the crew. The inspections must be recorded in the Official Log Book and must be signed by the Master and a member of the crew, who will normally be the same person who accompanies the Master on the inspection. The Master may delegate responsibility for inspections to department heads or other competent persons.

#### **Inspections of food and water:**

(2) It is the duty of the Owner and Master of every ship to ensure that provisions and water are provided which-

- (a) are suitable in respect of quantity, nutritive value, quality and variety having regard to the size of the crew and the character and nature of the voyage;
- (b) do not contain anything which is likely to cause sickness or injury to health or which renders any provision or water unpalatable; and
- (c) are otherwise fit for consumption.

(3) Inspections to ensure that the food and water meet these requirements should be carried out at intervals of not more than 7 days. The inspections must be made by the Master and a member of the crew. The inspections must be recorded in the Official Log Book must be signed by the Master and by the member of the crew making the inspection. Failure to comply with the requirements regarding food and water is an offence and may lead to the detention of the ship.

(4) If three or more seafarers consider that the provisions or water provided for the seafarers employed onboard are not in accordance with the requirements of Cayman Islands Laws and Regulations, whether because of bad quality, unfitness for use or deficiency in quantity, they may complain to the Master, who must investigate the complaint. If the seafarers are dissatisfied with the action taken by the Master as a result of his investigation or by his failure to take any action, they may state their dissatisfaction to him and may complain to the Shipping Master or a proper officer and the Master shall make adequate arrangements to enable the seafarers to make such a complaint as soon as the service of the ship permits. The Shipping Master or proper officer to whom a complaint has been made shall investigate the complaint and may examine the provisions or water or cause them to be examined. A Master who fails without reasonable excuse to comply is guilty of an offence.

### 3.6 MANNING, CERTIFICATION AND KNOWLEDGE OF ENGLISH - SECTIONS 110 TO 114 OF MSL 2008:

#### **Manning on board:**

(1) The International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS 74), requires, in Chapter V, Regulation 14, that Administrations ensure that all ships flying the national flag are sufficiently and efficiently manned. All merchant ships and yachts over 500 gross tonnage operating under a commercial code are provided with a Minimum Safe Manning Document (MSMD) as evidence of the minimum safe manning considered necessary to comply with this regulation. MSMDs are only issued after completion of [MSMD Application \(Ship\) Form SSIFMMSMD](#) ([MSMD Application \(Yacht\) Form SSIFMMSMDY](#) for yachts over 500 gross tonnage) and consultation and agreement between the CISR and the Owner or manager of the vessel. The MSMD will state the minimum numbers, capacities and STCW qualifications of officers and crew members that are required to be onboard. If a ship goes to sea or attempts to go to sea without carrying such officers and other seafarers as it is required to carry by the MSMD, the Owner or Master is guilty of an offence and the ship may be detained, except in the exceptional circumstances permitted by Regulation 25 of the Merchant Shipping (Certification, Safe Manning, Hours of Work and Rest and Watchkeeping) Regulations (2004 Revision) (Manning 2004 Regulations). These exceptional circumstances are summarised in paragraph (2) below.

#### **Sailing Short Handed:**

(2) Regulation 25 of the Manning 2004 Regulations provides for a vessel to operate short-handed for a limited period in exceptional circumstances. For example should a member of the crew specified in the MSMD be incapacitated through accident or sudden illness or is unable to sail due to disciplinary action or in any other unforeseen circumstances, thereby causing the available complement on the ship to be less than that prescribed in the MSMD. The final decision as to whether the ship should proceed to sea shall rest with the Master. Prior to making a decision to proceed to sea, the Master shall ensure that-

- (a) the duration of the voyage is no more than 21 days and limited only to the next port of call however, sometimes if legitimate and reasonable it can be extended to a later port of call if for example the next port is Lagos and following that Rotterdam and the replacement crewmember is in Europe;
- (b) subject to regulation 31, suitable watchkeeping arrangements can be maintained throughout the voyage for the safe operation of the ship and the protection of the environment, having due regard to the requirements of regulations 28, 29 and 30 with respect to hours of work and rest;
- (c) necessary adjustments can be made to the muster list to meet any emergency situation;
- (d) the replacement seafarer would be available to join the ship at the next port of call;
- (e) the Chief Executive Officer of MACI is kept fully informed of the circumstances; and
- (f) appropriate entries are made in the ship's official log book, relating to the circumstances.

(3) It is to be noted that these provisions allow for a vessel to sail with one and only one seafarer less than those shown in the MSMD.

### **Certificates of Competency and Cayman Islands Endorsements:**

(4) Officers on Cayman registered vessels may hold Certificates of Competency issued by any of the STCW 1995 White List<sup>4</sup> countries recognised by the CISR. However, such officers must hold a “Recognition Endorsement” issued by the Cayman Islands in accordance with the provisions of STCW 95.

(5) The Master must ensure that all the officers requiring Cayman Islands Recognition Endorsements hold them and that they also hold their original national Certificate of Competency.

(6) An officer may join his ship and serve for up to three months without holding the appropriate Recognition Endorsement provided that [Endorsement Application \(Form TCOFMENDA\)](#) has been made to MACI for the issue of the Endorsement and a Receipt of Application (CRA) has been issued and is retained on board. Applications for Recognition Endorsements should be made by the Company employing the officer.

(7) These procedures are important and must be followed to show any Port State Control Officer that the vessel is manned with suitably qualified officers.

### **Watch Keeping Ratings:**

(8) The Minimum Safe Manning Document will state the minimum numbers and grades of Deck and Engine Room Ratings required to be carried. All Deck and Engine Room Ratings assigned to watch keeping duties must be in possession of Watch Rating Certificates appropriate to their duties. Watch Rating Certificates issued by countries other than the Cayman Islands are quite acceptable on Cayman Islands ships provided they are issued by countries which are parties to the STCW Convention which are recognised by MACI (see footnote 4).

### **Use of English - section 114 of MSL 2008:**

(9) On all ships, to ensure effective crew performance in safety matters, the company shall establish a working language. Each seafarer shall be required to understand and, where appropriate, give orders and instructions and to report back in that language. If the working language is not English, all plans and lists required to be posted shall include a translation into the working language.

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<sup>4</sup> The following countries are STCW 1995 “White List” countries recognised by Cayman. **EU/EEA Countries (26)** Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovenia, Spain, Sweden, and the UK. **Non EU/EEA Countries (20)** Australia, Canada, China (Hong Kong SAR), India, Iran, Jamaica, Malaysia, Montenegro, Myanmar, New Zealand, Pakistan, Philippines, Republic of Korea, Russian Federation, Serbia, Singapore, South Africa, Ukraine, the USA. This list may be subject to amendment from time to time.

(10) English shall be used on the bridge as the working language for bridge-to-bridge and bridge-to-shore safety communications as well as for communications on board between the pilot and bridge watchkeeping personnel unless those directly involved in the communication speak a common language other than English.

(11) A ship may be detained where the crew consists of or includes persons who do not understand orders given to them in the course of their duty because of their insufficient knowledge of English and because of the absence of adequate arrangements for transmitting the orders in a language of which they have sufficient knowledge.

### **3.7 HOURS OF WORK AND REST:**

(1) In accordance with the requirements of the STCW 95, and the Manning 2004 Regulations, it shall be the duty of every company in respect of a ship, and of every employer, to ensure, so far as is reasonably practicable, that seafarers do not work more hours than is safe in relation to the safety of the ship and the seafarers' performance of their duties.

#### **Rest:**

(2) Every seafarer must be provided with not less than 10 hours rest in total in any 24 hour period provided that-

- (a) the 10 hour period may be divided into not more than two periods one of which shall be not less than 6 hours;
- (b) the interval between consecutive periods of rest shall not exceed 14 hours; and
- (c) the minimum hours of rest shall not be less than 77 hours in any 7 day period.

(3) Situations where a seafarer is on call but is free to sleep may be counted as rest, but if at any time the normal period of rest is disturbed by call-outs to work the Master, or a person authorised by him, has to ensure that the seafarer is provided with an adequate compensatory period of rest.

#### **Hours of Rest Schedule:**

(4) Each ship should have an "Hours of Rest Schedule". This is a document, or a computer display, that has been drawn up by the operator in conjunction with the Master which shows the maximum watch periods and minimum rest periods to be observed by all crew members. The "hours of rest schedule" must be posted up in a prominent place on board accessible to all the crew.

(5) The operator cannot change this document without consulting with the Master. The operator has a duty to ensure that sufficient personnel are provided so that the rest periods can be complied with. In addition, the hours of rest schedule must be made available to Port State Control Officers and Surveyors when requested.

**Records:**

(6) Accurate records of hours of rest should be maintained. One copy should be held by the Master and a copy given to the seafarer. Any deviations from the hours of rest in the schedule must be recorded with an explanation of why the deviation occurred. Should records show repetitive or regular deviations from the required rest periods then such deviations should be notified to the company and responsible action taken as provided within the vessel's Safety Management system (SMS).

**“Properly rested”:**

(7) The Manning 2004 Regulations place a duty on the Master to ensure that all crew involved in watch keeping are properly rested and that arrangements are adequate to maintain a safe watch at all times. The Master is required to ensure that the ship does not sail from any port unless the officers in charge of the watch immediately after sailing have received sufficient rest to allow them to maintain a safe watch. Every seafarer must, so far as is reasonably practicable, ensure that he is properly rested when commencing duty on board ship and that he obtains adequate rest during periods when he is off duty.

**Exceptions:**

(8) There will obviously be times such as-

- (a) emergencies and situations likely to become emergencies unless action is taken;
- (b) musters and drills;
- (c) essential work on board which cannot be delayed for safety or environmental protection reasons; and
- (d) factors beyond the control of the Master or the operator other than commercial needs.

(9) It may therefore not be possible, under these exceptional circumstances, for crew members who are involved to miss be given their minimum rest as stated in the hours of rest schedule. The Master has the authority to permit this but must record the reason for the exceptions. This provision is to be invoked responsibly and should never be taken as a means of evading the hours of work and rest requirements.

(10) In deciding what factors might come within “factors outside the control of the Master or the operator other than commercial needs” the Master must take into account all these circumstances. For example, an exceptional situation could be when a Port Authority requires at short notice that the ship vacates the berth or shifts berth early, and such a demand cannot be postponed because of safety related considerations. On the other hand a request by the charterer to sail earlier so that he The company's SMS should provide guidance on the keeping of appropriate records and the means of reporting of repeated periods where the statutory minimum rest periods are exceeded. Where repeated infringements of the hours of work and rest provisions occur this may well mean that the crew complement will have to be increased to enable better compliance.

### **3.8 SEAFARER'S SAFETY, HEALTH AND WELFARE:**

#### **Safety Officials and Committees:**

(1) Every person on board a ship has a responsibility for safety. The UK publishes the Code of Safe Working Practices (CSWP) which advises on specific responsibilities with respect to Health and Safety and requires the appointment of onboard safety officials having designated duties to ensure the safety of those on the ship. A ship's safety culture is dependent upon the strong support and encouragement from the ship's senior management and therefore MACI strongly recommends that all Cayman Islands ships follow the Code at all times.

#### **Safety Officials to be appointed:**

(2) In every ship in which five or more persons are employed the Owner or the manager should appoint a Safety Official. The Master should record the appointment of a Safety Official in the Official Log Book (OLB). The Safety Official should have suitable training, be familiar with the statutory responsibilities for Health and Safety and with the principles and practice of risk assessment. Included among the duties of the Safety Official is the responsibility to ensure that-

- (a) the provisions of the Code of Safe Working Practices and the company's/operator's occupational Health and Safety policies are complied with;
- (b) occupational Health and Safety inspections of each accessible part of the ship in which the crew may be required to work are carried out at least once every three months or more frequently if there have been changes in the working conditions;
- (c) any work which the Safety Official reasonably believes may cause an accident is stopped and that the Master is fully informed; the Master shall be responsible for deciding when work can safely be resumed; and
- (d) the minutes of each safety committee meeting are accessible to all the crew and Inspectors, Surveyors or other authorised representatives of MACI.

#### **Safety Representative:**

(3) On every ship in which five or more persons are employed the company/operator should make rules and arrangements for the officers and ratings to elect Safety Representatives. A Safety Representative should be someone who has at least 2 years sea service since he was 18. If the ship is a tanker he should also have at least 6 months service in tankers (oil, gas, or chemicals as appropriate).

(4) The Master should record the election of Safety Representatives to a Safety Committee in the narrative section of the Official Log Book. The following recommendations cover the number of Safety Representatives that should be elected depending on the total crew size-

- (a) if the ship carries less than 16 crew, one Safety Representative elected by the officers and ratings together;
- (b) if the ship carries 16 or more crew; one Safety Representative elected by the officers and one elected by the ratings;
- (c) if the ship carries more than 30 ratings one Safety Representative elected by the ratings from each of the deck engine and catering departments.

(5) Those who are elected as Safety Representatives do not have to stay in that role for the whole voyage and others can be elected to take over. Again the Master should record these appointments in the Official Log Book. A Safety Representative may-

- (a) participate in any investigations or inspections carried out by the Safety Official subject to the Safety Official's agreement;
- (b) after notification to the Master, undertake similar investigations or inspections himself, whether or not they have been carried out by the Safety Official;
- (c) consult with the Master and Safety Official on behalf of the crew on matters affecting occupational Health and Safety of crew members;
- (d) request through the Safety Committee an investigation by the Safety Official of any Health and Safety issue which the Safety Representative believes should be investigated; and
- (e) inspect any of the records required to be kept by the Safety Official.

**Safety Committee:**

(6) Once the Safety Official has been appointed and the Safety Representative/s elected, a Safety Committee should be formed to include the Safety Official and each Safety Representative. The Master is also on the Safety Committee as Chairman and the creation of this committee must be recorded in the OLB. The Safety Committee should meet whenever it chooses as long as the intervals between meetings are not greater than 6 weeks. A Safety Committee should-

- (a) ensure that the provisions of the Code of Safe Working Practices, relevant legislation, and Shipping Notices are complied with in order to improve the standard of safety consciousness among the crew;
- (b) make representations and recommendations on behalf of the crew to the company/operator on matters relating to occupational Health and Safety of the crew;
- (c) ensure the Owner's occupational Health and Safety policies are observed and to make recommendations for their improvement as necessary; and
- (d) inspect any of the records required to be kept by the Safety Official and ensure that any conclusions reached on matters of safety are followed up.

(7) The company should strive to assist the Safety Committee to operate effectively, and-

- (a) provide access to any necessary safety information, documents, Shipping Notices and relevant regulations;
- (b) inform the Safety Official, Safety Representatives and Safety Committee of any hazards on board the ship known to them, which may endanger the ship or her crew;
- (c) in response to representations from the Safety Committee order the cessation of any work which the Committee reasonably believes may cause an accident and inform the Master who shall be responsible for deciding when work can be safely resumed; and



- (d) permit occupational Health and Safety inspections of any accessible part of the ship where crew members may be required to work.

### **Master's Responsibility:**

(8) It is very important that the Master takes a close interest in the work of the Safety Officials, checking that the Safety Official is fulfilling his responsibilities effectively, while giving support and encouragement. The Master is the best person to ensure that the Safety Committee works successfully by encouraging all crew members to participate in the ship's safety culture.

### **Risk Assessments:**

(9) The Master should ensure that a risk assessment has been carried out to cover all work activities on board where there is a realistic risk of harm to personnel. Refer to the Code of Safe Working Practices Chapter 1 and to paragraph 1.2.2 of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code).

(10) The aim of risk assessments is to minimise accidents and ill health on board. Masters should ensure that not only are risk assessments prepared, but work activities are carried out in accordance with the findings of the risk assessments.

### **Medical equipment:**

(11) The Merchant Shipping (Safety Provision) (Application) Order 1988 lists the medical equipment to be kept in the ships medical stores. In addition, a full list of medical equipment that should be carried on Cayman Islands ships is contained in the UK's [MSN 1768](#).

### **Person in charge of medical care on board ship:**

(12) Section 116 of the MSL 2008 provides that where a Cayman Islands ship does not carry a doctor, the Master must make arrangements to ensure that any medical attention on board the ship is given either by him or under his supervision by a person appointed by him for the purpose.

(13) Any person designated to take charge of or provide medical care on board ship, must have successfully completed an approved Medical Care training programme meeting the standards laid down in STCW Code A-VI/4-2 within the preceding 5 years.

### **Medical Fitness Certificates:**

(14) The Merchant Shipping (Medical Examination) Regulations, 2002 (Medical 2002 Regulations) apply to sea-going Cayman Islands ships of 1,600 gross tonnage or over other than fishing vessels, pleasure vessels and offshore installations.

(15) Under the above Regulations a seafarer may not be employed unless he is the holder of a valid Medical Fitness Certificate (MFC) which must have been issued within the last five years; where a MFC expires while a seafarer is on board ship in a location where a medical examination in accordance with the Regulations is not practicable he may continue to be

employed in the ship for a period not exceeding three months from the date of expiry of his MFC or until such time as he is able to undergo the medical examination for the renewal of his MFC, whichever is the sooner.

(16) A seafarer may not be employed in a capacity or in a geographical area precluded by a restriction in his MFC.

(17) A seafarer may not be employed on a Chemical Tanker unless that seafarer is the holder of a valid MFC issued within the previous 12 months.

(18) Seafarers under 18 years of age may not be employed on any ship type unless that seafarer is the holder of a valid MFC issued within the previous 12 months.

(19) Seafarers aged forty years or more are required to undergo a medical examination at intervals not exceeding two years.

(20) Failure to hold an appropriate MFC is an offence and the ship may be detained if all seafarer's onboard do not have the appropriate MFCs.

### **Recognised Medical Fitness Certificates:**

(21) MFCs issued to seafarers by countries in accordance with the requirements of ILO Convention No. 147 or No. 73 are acceptable for employment on Cayman Islands vessels. The MFCs for seafarers working on Cayman Islands ships must be provided in English.

### **3.9 CREW'S ENTITLEMENT REGARDING REPATRIATION - SECTION 136 OF MSL 2008:**

#### **Relief and return of seafarers left behind or shipwrecked:**

(1) The Owner of a Cayman Islands ship must, as soon as practicable<sup>5</sup>, after a seafarer is left behind or brought ashore after shipwreck, make such provision as is necessary for his repatriation to his place of return. An Owner who fails to comply with this obligation commits an offence.

(2) From the time when the seafarer is left behind or brought ashore after a shipwreck until he is repatriated, or until the employer's obligation ceases, the Owner must make such provision for food and lodging and such other relief and maintenance as may be necessary having regard to the seafarer's personal circumstances. Any provision for relief and maintenance should include-

- (a) clothing, toilet and other personal necessities;
- (b) surgical or medical treatment and such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency;

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<sup>5</sup> Practicable is: (a) as soon as the seafarer is available for return; or (b) as soon as the seafarer informs his employer, his employer's agent, a Shipping Master or a proper officer of his whereabouts and asks to be returned by his employer; or (c) if the seafarer is unable by reason of illness, incapacity or other cause beyond his control so to inform any of the persons mentioned in sub-paragraph (b), as soon as one of those persons obtains from him confirmation that he wishes to be returned by his employer.

- (c) sufficient money to meet any minor ancillary expenses necessarily incurred or likely to be so incurred by the seafarer for his relief and maintenance;
- (d) the repayment of expenses incurred in bringing a shipwrecked seafarer ashore and maintaining him until he is brought ashore; and
- (e) the payment of the expenses of the burial or cremation of a seafarer who dies before he can be repatriated.

**Seafarer left behind or shipwrecked; other provisions:**

(3) Unless the seafarer has been discharged from his ship, the Owner must, within 48 hours after the seafarer is left behind or it has come to his notice that the seafarer has been brought ashore after being shipwrecked, or as soon as practicable thereafter, make provision to ensure that the Shipping Master or proper officer in the place where the seafarer is left behind or brought ashore is informed of-

- (a) the name and home address of the seafarer;
- (b) in the case of a seafarer left behind-
  - (i) the name of the ship from which he was left behind;
  - (ii) the date and place and reason for which he was left behind;
  - (iii) if known to the Owner, the present whereabouts of the seafarer; and
  - (iv) the name and address of the Owner and agent, if any, at or nearest to the place where the seafarer was left behind;
- (c) in the case of a shipwrecked seafarer-
  - (i) the name of the ship from which he was shipwrecked;
  - (ii) the date on which he was shipwrecked and on which he was brought ashore;
  - (iii) the place where he was brought ashore;
  - (iv) if known, the name and address of the person by whom he was brought ashore and the present whereabouts of the seafarer; and
  - (v) the name and address of the Owner and agent, if any, at or nearest to the place where the seafarer was brought ashore.

(4) The Master shall record in the Official Log Book (OLB) and in the list of crew-

- (a) the date and place where the seafarer was left behind and the reason, if known; and
- (b) any provisions which he has made on the Owner's behalf to ensure that the Shipping Master or proper officer are informed.

(5) It is an offence for the Master or Owner to not comply with these requirements.

**Shipping Master or Proper Officer to be informed:**

(6) The Owner must ensure that the Shipping Master or Proper Officer where the seafarer is located is kept informed of the arrangements he has made (including any changes in those arrangements) under the obligation to make provision for the seafarer's return, relief and maintenance. Failure to comply is an offence.

**Place for return:**

- (7) A seafarer who is left behind or shipwrecked shall be returned-
- (a) to a place in the country in which he is resident
  - (b) to any other place which may be agreed between the seafarer and Owner.

**3.10 MASTER'S POWERS IN RELATION TO CREW MISCONDUCT, INCLUDING ABSENCE WITHOUT LEAVE - SECTION 121 TO 123 AND SECTION 133 TO 135 OF MSL 2008:****Conduct endangering ship, persons etc - section 121 of MSL 2008:**

- (1) A Master or seafarer is guilty of an offence if (without reasonable excuse), while on board his ship or in its immediate vicinity
- (a) he does any act which causes or is likely to cause the loss or destruction of or serious damage to his ship or its equipment; or the loss or destruction of or serious damage to any other ship or any structure; or the death of or serious injury to any person; or
  - (b) he omits to do anything required to preserve his ship or its machinery, from being lost, destroyed or seriously damaged; or to preserve any person on board his ship from death or serious injury; or to prevent the ship from causing the loss or destruction of, or serious damage to, any other ship or any structure, or the death of or serious injury to any person not on board his ship,

**Concerted disobedience and neglect of duty - section 122 of MSL 2008:**

- (2) A seafarer is guilty of an offence if he combines with other seafarers employed in that ship to-
- (a) disobey lawful commands which are required to be obeyed at a time while the ship is at sea;
  - (b) neglect any duty which is required to be discharged at a time while the ship is at sea; or
  - (c) impede, at a time while the ship is at sea, the progress of a voyage or the navigation of the ship,

**Civil liability for absence without leave - section 133 of MSL 2008:**

- (3) A seafarer is liable for damages arising through his being absent from the ship whilst he is required to be on board unless he proves that his absence was due to an accident, mistake or some other cause beyond his control and that he took all reasonable precautions to avoid being absent.

**Civil liability for smuggling - section 134 of MSL 2008:**

- (4) If a seafarer is found in civil proceedings before a court in the Islands to have committed an act of smuggling, he shall be liable for any loss or expense that the act has caused.

**Civil liability for fines under immigration laws - section 135 of MSL 2008:**

(5) If a seafarer employed in the ship is absent without leave and present in a country in contravention of that country's laws, and if a penalty is incurred under those laws by the persons employing the seafarer, the penalty shall be treated as being attributable to his absence without leave and may be recovered from him. Again, note that there are limits regarding the amount of the seafarer's liability.

**3.11 DISQUALIFICATION OF SEAFARERS AND INQUIRY INTO FITNESS OF CONDUCT - SECTION 124 TO 126 OF MSL 2008:**

If it appears that an officer is unfit to discharge his duties, whether by reason of incompetence or misconduct, or has been seriously negligent in the discharge of his duties, or has failed to provide assistance following a collision, an inquiry may be held, which will include one or more assessors with maritime expertise. The inquiry may suspend, pending the outcome of the inquiry, any Certificate issued to the officer and require that the officer deliver up the Certificate. If as a result of the inquiry the officer is deemed to be unfit to hold a Certificate then the Certificate will be cancelled or suspended, and the officer must deliver it to MACI immediately.

**3.12 PAYMENT OF WAGES OF DECEASED SEAFARER OR A SEAFARER LEFT BEHIND - SECTIONS 101 AND 138 OF MSL 2008:**

(1) When a ship is wrecked or lost, a seafarer or Master whose employment in the ship is, as a result, terminated before the date contemplated in the crew agreement is entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date.

(2) When a ship is sold or ceases to be a Cayman Islands ship a seafarer or Master whose employment in the ship is, as a result, terminated before the date contemplated in the crew agreement is entitled to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date.

(3) In the case of a seafarer left behind in any country the wages due under a crew agreement to a seafarer (except when he leaves the ship upon being discharged, see section 3.3) should be paid to him in full by the person employing him (or the Master acting on the employers behalf) within 28 days from the time when he was returned to his place of return. When the Owner's obligation to return a seafarer ceases the wages shall be paid within 28 days from the date the obligation ceased. If the employer does not know the seafarer's current address, an account and notice that the wages may be had on application to the employer shall be sent to the seafarer's last known address.

**3.13 LOG BOOKS AND DOCUMENTATION - SECTION 140 OF MSL 2008:****Official Log Book:**

(1) Section 140 (1) of the MSL 2008 requires that an Official Log Book (OLB) be kept on every Cayman Islands ship.

(2) It is essential that the OLB contains all the entries required by the laws and regulations of the Cayman Islands. Should the OLB be incomplete or not maintained, the absence of proper entries could prejudice the position of the Master (and the Owner) in the event of an accident and any inquiry into that accident. It is an offence to fail to keep the OLB or to make incorrect entries. All entries must be made in English and the correct date format to be used for entries is DD/MM/YYYY.

(3) The OLB can be obtained directly from the CISR and is a record of activities (in addition to those contained in the Deck and Engine Room Log Books or in other Record Books such as the Oil Record Book etc.) carried out on board ship. The OLB or extracts from it may be submitted as evidence in the courts of the Cayman Islands. All entries made must be timely and accurate and the Master is guilty of an offence for any omission in this respect. The Master of a ship may be required to produce the Official Log Book to an Officer of MACI or a customs officer on demand.

(4) If it is necessary to amend or cancel an entry in the OLB this must be done by a further entry, not by altering the original entry. Any person, who intentionally destroys, mutilates or renders illegible any entry in any log book, is guilty of an offence.

(5) The first entries are simply the details of the ship, name, port of Registry, official number, gross tonnage, and net tonnage. The details should be taken from the ship's Certificate of British Registry. All the entries on page 1 must be made by the Master.

(6) The Master is permitted to delegate the making of certain entries to an officer so authorised by him. No delegation of authority may be granted where the schedule shows that the Master in person must sign the entry and only duly Certificated officers may be authorised by the Master to act in his stead. Where an officer is so authorised an entry should be made in the narrative section of OLB.

#### **Other Log/Record Books:**

(7) Section 140 (6) of the MSL 2008 requires that a deck log book and an engine room log book are kept onboard every Cayman Islands Ship. Master's should always ensure that they are aware of the documents they are required to maintain by International conventions and by Cayman Islands laws.

(8) For the sake of completeness mention is also made of the Oil Record Book required to be kept on board tankers under section 99 of the Merchant Shipping (Marine Pollution) Law, 2001 (MPL 2001) and the related Merchant Shipping (Marine Pollution) Regulations, 2004, as well as the Garbage Record Book required under section 157 of the MPL 2001.

#### **GMDSS Log Book:**

(9) All Cayman Islands ships which are subject to Chapter IV of SOLAS 74 (i.e. vessels over 300 gross tonnage) are required to carry a GMDSS Log Book. The purpose of the log book is to keep records of communications relating to distress, urgency and safety radio traffic, regular positions of the ship and results of tests on radio equipment. The following tests are required to be carried out and recorded-

**Radio tests required:**

- (10) The following tests are to be carried out **daily**-
- (a) the proper functioning of the Digital Selective Calling (DSC) facilities shall be tested at least once each day, without radiation of signals, by use of the means provided on the equipment;
  - (b) batteries providing a source of energy for any part of the radio installations shall be tested daily, and where necessary, brought up to the fully charged condition; and
  - (c) printer(s) shall be checked daily to ensure there is an adequate supply of paper.
- (11) The following tests are to be carried out **weekly**-
- (a) the proper operation of the DSC facilities shall be tested at least once a week by means of a test call when within communication range of a coast station fitted with DSC equipment; where a ship has been out of communication range of a coast station fitted with DSC equipment for a period of longer than one week, a test call shall be made on the first opportunity that the ship is within communication range such as a coast station; and
  - (b) where the reserve source of energy is not a battery (for example, a motor generator), the reserve source of energy shall be tested weekly.
- (12) The following tests are to be carried out **monthly**-
- (a) each Emergency position indicating radio beacon (EPIRB) and satellite EPIRB shall be tested at least once a month to determine its capability to operate properly using the means provided on the device and without using the satellite system;
  - (b) each search and rescue (SAR) radar transponder shall be checked at least once a month using the in-built test facility and checked for security and signs of damage;
  - (c) a check shall be made at least once a month on the security and condition of all batteries providing a source of energy for any part of a radio installation and the battery connections and compartment shall also be checked;
  - (d) a check shall be made at least once a month on the conditions of all aerials and insulators; and
  - (e) each survival craft two-way VHF equipment shall be tested at least once a month on a frequency other than 156.8 MHz (VHF Channel 16).

**3.14 HANDING OVER OF DOCUMENTS BY MASTER - SECTION 144 OF MSL 2008:**

If the Master ceases to be Master of the ship during a voyage of the ship he shall deliver to his successor all the documents relating to the ship or its crew which are in his custody. If, without reasonable excuse, the Master fails to comply then he is guilty of an offence.

**SUMMARY: MASTERS AND SEAFARERS – WHAT DO I NEED TO KNOW?**

- Every Cayman Islands ship and crewmember (with some exceptions) must have a crew agreement in writing between each person employed and the person employing him in a form approved by MACI.
- When a seafarer leaves the ship, where possible, he must be paid in full at the time of discharge. Masters must also deliver an account of the wages due, and of any deductions, to every seafarer employed on the ship
- No person under sixteen years of age can be employed on a Cayman Islands ship. Under 18's cannot be trimmers or stokers or work during the night.
- Inspections of crew accommodation and food and water must be carried out by the Master and another member of the crew not less than every seven days.
- All merchant ships and yachts over 500 gross tonnage must have a minimum safe manning document and except in exceptional circumstances the ship must not sail below the minimum safe manning level.
- Crewmembers may be of any nationality provided they are holders of Certificates of Competency from a State approved by MACI.
- English should be the language for bridge to bridge and bridge to shore safety communications. All crew must have sufficient knowledge of English to understand orders otherwise the ship may be detained.
- Seafarers must have a minimum of 10 hours rest every 24 hours, the interval between rest periods should not be more than 14 hours and a seafarer should not work more than 77 hours in a week.
- Every person onboard has a responsibility for safety. The Master should take a close interest in the work of Safety Officials and ensure that the safety committee works successfully by encouraging all crew members to participate.
- If a ship does not carry a doctor, the Master must make arrangements for any medical attention on board the ship to be given either by him or under his supervision by a person appointed by him. Any person supervising or administering medical treatment must be duly qualified,
- All seafarers must have valid Medical Fitness Certificates (MFCs). Under 18's and those on chemical tankers require a MFC issued annually. Those over 40 require a MFC every two years and those between 18 and 40 require MFCs every 5 years.
- If a seafarer is shipwrecked or left behind the Owner must make provision to return him home as soon as possible and provide for his food, lodging and other maintenance until he returns home.
- All entries required to be made in the ship's Official Log Book (OLB) must be recorded. The absence of proper entries could prejudice the position of the Master in the event of an accident and any inquiry into that accident. It is an offence to fail to make entries or to make incorrect entries.
- All ships subject to SOLAS 74 are required to carry a GMDSS Log Book to keep records of communications relating to distress, urgency and safety radio traffic, regular positions of the ship and results of tests on radio equipment.



#### **4. PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION - PART VI OF MSL 2008:**

##### **4.1 ADHERENCE TO COLLISION REGULATIONS AND TRAFFIC SEPARATION SCHEMES - SECTION 146 OF MSL 2008:**

###### **Collision regulations:**

(1) The UK has extended the Convention on International Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 72); to the Cayman Islands therefore all Owners and Masters must follow these International Regulations which are implemented by the Merchant Shipping (Safety of Navigation) Regulations, 2004 and Merchant Shipping (Prevention of Collisions and Use of Distress Signals) Regulations, 2003. Failure to comply with these Regulations is an offence and the penalty may incur two years imprisonment.

###### **Traffic Separation:**

(2) All Cayman Islands vessel using a traffic separation scheme must comply with all relevant requirements relating to such use unless exempted under Rule 10(k)<sup>6</sup> and (l)<sup>7</sup> of COLREG 72.

##### **4.2 COLLISION LIABILITY - SECTION 148 OF MSL 2008:**

(1) In cases where liability arises for collision damage, including damage to vessels, cargo, property of the crew, passengers or other persons on board, or to third parties, the courts will apportion liability according to the degree of fault of each ship involved. Where it is not possible to determine the degree of fault of each vessel, or if it appears that the faults are equal, liability would be apportioned equally. There should be no presumption of fault against a ship for a contravention of the collision regulations without proof of fault or negligence. If the collision is accidental or caused by force majeure the damages would be borne by those who have suffered them even if any of the vessels were at anchor at the time of the collision.

(2) If the collision is caused by the fault of one of the vessels, liability to make good the damage should normally attach to the one which has committed the fault. In respect of death or personal injury, the vessels at fault shall be jointly and severally liable to third parties.

(3) It should also be noted that these provisions regarding liability apply even where the collision is caused by the fault of a pilot on board the vessel, whether in a compulsory pilotage area or otherwise.

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<sup>6</sup> A vessel restricted in her ability to manoeuvre when engaged in an operation for the maintenance of safety of navigation in a traffic separation scheme is exempted from complying with this Rule to the extent necessary to carry out the operation.

<sup>7</sup> A vessel restricted in her ability to manoeuvre when engaged in an operation for the laying, servicing or picking up of a submarine cable, within a traffic separation scheme is exempted from complying with this Rule to the extent necessary to carry out the operation.

**4.3 DUTY TO RENDER ASSISTANCE FOLLOWING A COLLISION - SECTION 150 OF MSL 2008:**

When a collision between ships occurs, the Master of each ship must (provided it does not place his own ship, crew, or passengers in danger)-

- (a) render to the other ship, the Master, crew and any passengers, such assistance as may be practicable and as may be necessary to save them from any danger by the collision, and stand by the other ship, until he has ascertained that such ship has no need for further assistance; and;
- (b) give the Master of the other ship the name and port of Registry of his ship, and the names of the ports from which his ship sailed and to which his ship is bound.

**4.4 DUTY TO ASSIST SHIPS IN DISTRESS AND PERSONS IN DANGER AT SEA - SECTION 154 AND 156 OF MSL 2008:**

(1) The Master of a Cayman Islands ship must, without serious danger to his own ship, render assistance to anyone in danger of being lost at sea.

(2) If the Master receives a signal from any source that a ship (or aircraft or liferaft) is in distress, he must provide assistance to anyone in distress, informing them, if possible, that he is doing so. If he is unable to do so; or he considers it unreasonable or unnecessary to proceed to their assistance, he must enter the reasons in the OLB and inform the appropriate Search and Rescue authorities. SOLAS 74, Chapter V, Regulation 33, provides that if the Master is informed by the Search and Rescue authorities or the Master of the ship in distress that one or more other ships have responded to the distress call then he is released from the requirement to comply. Under Cayman Islands law, these requirements apply to Cayman Islands ships wherever they may be and to all other ships whilst they are within Cayman Islands waters.

**4.5 REPORTING OF ACCIDENTS - SECTION 159 OF MSL 2008:**

(1) [Shipping Notice MACI 002/08](#) contains details regarding the procedure for reporting accidents onboard Cayman Islands ships. The circumstances under which an accident is to be reported to MACI are summarised as follow

- (a) any incident resulting in the loss or abandonment of the vessel must be reported by the Owner immediately upon him becoming aware of the incident;
- (b) when a vessel is involved in any collision the Owner and the Master should report as soon as practicable but in any case not more than 24 hours after the collision;
- (c) when a fire or explosion occurs onboard the Owner and the Master should report as soon as is practicable;
- (d) when a vessel runs aground the Master and Owner should report as soon as is practicable even if the vessel is successfully refloated;
- (e) when an accident results in a death or serious injury to a crew member or passenger onboard, ashore or elsewhere the Owner and Master must report this immediately; and
- (f) any accident that results in a crew member being unfit to discharge their duties for more than 72 hours should be reported within 24 hours, and any accident that

results in a crew member being unfit to discharge their duties for more than 24 but less than 72 hours should be reported within seven days of the incident.

- (2) When in any doubt as to whether or not an accident or incident should be reported then it is always best to make a report.
- (3) For all incidents a report of the accident or damage should initially be submitted by email to [survey@cishipping.com](mailto:survey@cishipping.com).
- (4) Every report of accident or damage shall be signed by the Owner or Master of the ship, and shall state-
  - (a) the name of the ship, the port to which the ship belongs, the official number, if any, of the ship and the place where the ship is located;
  - (b) the nature and extent of the accident or damage incurred
  - (c) the circumstances in which the accident or damage occurred; and
  - (d) the probable cause of the accident or damage.
  - (e) any pollution to the environment and;
  - (f) any injuries or fatalities resulting from the accident.
- (5) Whoever who fails to report an accident and follow the correct procedures is guilty of an offence.
- (6) On receipt of the initial report the Company and Master of the ship will receive instructions from MACI on any priority actions which are required to assist investigators and secure evidence.
- (7) MACI will always carry out a full investigation into “very serious marine casualties”<sup>8</sup> and may investigate other casualties involving Cayman Islands registered ships, depending on the nature of the casualty. However, the scale of an investigation depends on the seriousness of the casualty and whether or not a full investigation will lead to possible changes elsewhere in the fleet to prevent a similar incident from happening again.

#### **4.6 LIFEBOAT AND FIRE DRILLS, ENTRY IN DANGEROUS SPACES AND INSPECTIONS OF SAFETY EQUIPMENT - SECTION 161 OF MSL 2008:**

- (1) Lifeboat and fire drills are to be conducted at least every week on passenger ships and at monthly on cargo ships. The Master must enter a statement in the official log book on every occasion when a drill is practised on board, and when the appliances and equipment required to be carried are examined to see whether they are fit and ready for use, including the result of any such examination. The Master must state the reasons in the Official Log Book when the drills mentioned above are not held. Valid reasons might include "vessel rolling and pitching heavily,

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<sup>8</sup> A very serious marine casualty means a marine casualty involving the total loss of the ship or a death or severe damage to the environment. Severe damage to the environment means damage to the environment which, as evaluated by the State(s) affected, or the flag State, as appropriate, produces a major deleterious effect upon the environment.

unsafe to carry out drills". If a drill is postponed or cancelled then it should take place at the next suitable opportunity.

(2) Attention is drawn to [Shipping Notice 03/2004](#) and [Shipping Notice 02/2007](#). This sets out the current requirements for ensuring operational readiness of Life Saving and Fire Fighting Equipment.

(3) Every entry in the Official Log Book (OLB) must be signed by the Master and by one other crew member. If it is not signed by both, the entry is invalid and will not be accepted as proof that the drills have been carried out.

(4) Regulation 6 of the Merchant Shipping (Entry into Dangerous Spaces) Regulations, 2004, requires that the Master of any tanker or gas carrier of 500 gross tonnage and above, and any other ship of 1000 gross tonnage and above, must ensure that drills simulating the rescue of a crew member from a dangerous space are held at intervals not exceeding two months, and that a record of each such drill is entered in the Official Log Book.

#### **Record of test drills and inspections of steering gear:**

(5) Cayman Islands law requires the steering gear to be tested within 12 hours before sailing (or once per week for ships making one voyage or more per week from the same port) and emergency steering systems to be tested every 3 months. These tests are to be recorded in the OLB and all such entries, in order to be valid, must be signed by the Master and an officer.

(6) Chapter V of SOLAS 74 requires that within 12 hours before departure, the ship's steering gear shall be checked and tested by the ship's crew. The test procedure shall include, where applicable, the operation of the following-

- (a) the main steering gear;
- (b) the auxiliary steering gear;
- (c) the remote steering gear control systems;
- (d) the steering positions located on the navigation bridge;
- (e) the emergency power supply;
- (f) the rudder angle indicators in relation to the actual position of the rudder;
- (g) the remote steering gear control system power failure alarms;
- (h) the steering gear power unit failure alarms; and
- (i) automatic isolating arrangements and other automatic equipment.

#### **4.7 CARRIAGE OF NAUTICAL PUBLICATIONS - SECTION 165 OF MSL 2008:**

(1) [Shipping Notice 13/2004](#) states the current statutory and other requirements for publications, log books and manuals on Cayman Islands vessels to be carried by Cayman Islands ships. The Carriage of Nautical Publications Regulations, 2002, (NP Regulations 2002) requires all ships, except those less than 12m in registered length and pleasure vessels, to carry the Nautical Publications as specified in those Regulations. It is to be noted that some Publications are required to be carried regardless of the vessel's type or scope of voyage, whilst others are to

be carried as appropriate for the intended voyage. In all cases the Publications should be the latest obtainable edition and incorporate the latest relevant supplements and corrections.

(2) Pleasure vessels are not required by law to carry any of the prescribed documents. However, MACI policy is to recommend carriage of all relevant documents, subject to applicable tonnage requirements, in the interests of safe, proper and professional operation of the vessel.

**SUMMARY: PREVENTION OF COLLISIONS AND SAFETY OF NAVIGATION - WHAT DO I NEED TO KNOW?**

- All ships must comply with the Regulations implementing the International Convention on Regulations for Preventing Collisions at Sea, 1972, as amended (COLREG 72).
- Liability for collision damage, including damage to vessels, cargo, property of the crew, passengers or other persons on board, or to third parties, shall be apportioned according to the degree of fault of each ship involved in a collision.
- When a collision between ships occurs, the Master of each ship must provide the other ship such assistance as may be practicable and necessary to save the other ship and persons on board from any danger created by the collision and must stand by until it has been ascertained that there is no need for further assistance. Each ship involved in the collision must give the other ship(s) its name, port of Registry and the names of the ports sailed from and where bound.
- Any incident resulting in the loss or abandonment of the vessel must be reported by the Owner immediately upon him becoming aware of the incident. When an accident results in a death or serious injury to a crew member or passenger onboard, ashore or elsewhere the Owner and Master must report this to MACI immediately.
- When a vessel is involved in any collision the Owner and the Master should inform MACI as soon as practicable but in any case not more than 24 hours after the collision. When a fire of explosion occurs onboard the Owner and the Master should inform the Registry as soon as is practicable.
- When a vessel runs aground the Master and Owner should inform MACI as soon as is practicable even if the vessel is successfully refloated.
- The Master of every Cayman Islands ship shall enter a statement in the Official Log Book of every occasion on which life boat and fire drill is practiced on board.
- All ships, except those less than 12m in length and pleasure vessels, must carry Publications in accordance with the NP Regulations 2002.

## **5. INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE - SECTION 183 OF MSL 2008:**

### **5.1 PURPOSE OF THE ISM CODE:**

The purpose of the International Management Code for the Safe Operation of Ships and for Pollution Prevention ([ISM Code](#)) is to provide an international standard for the safe management and operation of ships and for pollution prevention. All Cayman Islands registered commercial ships over 500 gross tonnage, on international voyages and passenger ships and such other ships whilst in Cayman Islands waters must adhere to the Code.

### **5.2 CERTIFICATES AND PERIOD OF VALIDITY:**

(1) On initial registration a Cayman Islands ship undergoes an “interim” verification to ascertain that a Safety Management System (SMS) is in place. Following this interim assessment, which may exceptionally be delegated to Class, an interim Safety Management Certificate (SMC), valid for up to six months, will be issued. Towards the end of the period of validity of the interim SMC an initial audit will be conducted by MACI to ascertain that the SMS is being operated satisfactorily. Following successful audit, the ship will be issued with a full time International SMC, where it meets all requisite provisions, valid for up to five years. An intermediate shipboard verification is required and it should take place between the second and third anniversary of the SMC.

(2) A Document of Compliance (DOC) will be issued to the Company following satisfactory audit to ensure compliance with the Code by the Company. A DOC is issued with a period of validity of up to five years after which it must be renewed. The DOC is subject to annual verification.

(3) The original SMC issued to the ship must be carried onboard and available for inspection at all times, along with a copy of the DOC. It is an offence to attempt to proceed to sea without these Certificates onboard and the ship is subject to detention.

#### **ISM Shipboard Audits:**

(4) In most cases all shipboard audits for the ISM Code will be carried out by CISR Surveyors. ISM shipboard audits should be arranged in plenty of time through contact with the CISR.

#### **SMC Renewal audit timing:**

(5) A renewal audit is to be completed in the three month window prior to the expiry of the SMC. These should be arranged early to ensure the Certificate does not expire – this would almost certainly result in a major non-conformity with the ship being detained.

### 5.3 RESPONSIBILITIES OF OWNER AND MASTER FOR COMPLIANCE WITH THE ISM CODE - SECTION 183 OF MSL 2008:

- (1) The Owner and Master must ensure that
  - (a) the condition of the ship, including its structure, machinery and equipment, is maintained so as to comply with the relevant provisions of the ISM Code applicable to the ship and that the ship in all respects will remain fit to proceed to sea without danger to the ship or persons on board;
  - (b) after any survey required by the ISM Code has been completed, no material change is made to the structure, machinery and equipment of the ship which was subject to the survey without the approval of a Surveyor, except by direct replacement; and
  - (c) whenever an accident occurs to a ship or a defect is discovered either of which affects the safety of the ship or the efficiency or completeness of the ship, including its structure, machinery and equipment-
    - (i) it is reported at the earliest opportunity to a Surveyor or a proper officer; and
    - (ii) if a Cayman Islands ship is in such a case in a port outside the Islands, it is also reported to the appropriate authorities of the country in which the port is situated.
- (2) Whenever an accident or defect is reported an assessment will be carried out by MACI to determine whether a survey is necessary.

### 5.4 DESIGNATED PERSON ASHORE (DPA) AND FUNCTIONS:

- (1) To ensure that there is an effective link between the Company and those onboard ship every Company must appoint a Designated Person or Persons Ashore (DPA) having direct access to the highest levels of management within the Company.
- (2) The responsibility and role of the DPA includes the monitoring of the operation of each ship with respect to safety and pollution prevention and ensuring that adequate resources and shore based support are readily available to the ship as required.

### 5.5 EFFECT OF WITHDRAWAL OR CANCELLATION OF THE DOC:

Where the DOC is cancelled or withdrawn all vessels operating by that Company would be unable to continue to operate and are subject to detention until such time as the DOC is restored.

### SUMMARY: ISM CODE - WHAT DO I NEED TO KNOW?

- All relevant ships must comply with the ISM Code.
- Ships will undergo an interim assessment for compliance with the Code on registration which leads to the issue of an interim SMC. A further initial audit will take place after 6 months by the CISR which leads to the issue of a full SMC valid for up to 5 years. An intermediate audit is required between the 2<sup>nd</sup> and 3<sup>rd</sup> anniversary.
- All companies must undergo an audit to ensure compliance with the ISM Code by the Company which leads to the issue of a DOC valid for up to 5 years. An annual verification audit is required for the DOC.
- The original SMC must be carried onboard at all times along with a copy of the DOC,

## **6. INTERNATIONAL SHIP AND PORT FACILITY SECURITY (ISPS) CODE - SECTIONS 206 TO 211 OF MSL 2008:**

### **6.1 PURPOSE OF THE ISPS CODE:**

(1) The International Ship and Port Facility Security Code ([ISPS Code](#)) contains a comprehensive set of measures to enhance the security of ships and port facilities, developed in response to the perceived threats to ships and port facilities in the wake of the 9/11 attacks in the United States. The ISPS Code is implemented through chapter XI-2 of [SOLAS 74](#) - Special Measures to Enhance Maritime Security. The Code has two parts, one mandatory and one recommendatory.

(2) In essence, the Code takes the approach that ensuring the security of ships and port facilities is a risk management activity and that, to determine what security measures are appropriate, an assessment of the risks must be made in each particular case. The purpose of the Code is to provide a standardised, consistent framework for evaluating risk, thus enabling Governments to offset changes in threat with changes in vulnerability levels for ships and port facilities through determination of appropriate security levels and corresponding security measures.

(3) The ISPS Code is part of SOLAS 74 and so compliance is mandatory for the Contracting Parties. The UK has extended its ratification of SOLAS 74 to the Cayman Islands and therefore all Cayman Islands registered commercial ships over 500 gross tonnage, and all passenger ships, on international voyages, must adhere to the Code.

### **6.2 INTERNATIONAL SHIP SECURITY CERTIFICATE – PERIOD OF VALIDITY AND INSPECTIONS:**

(1) All Cayman Islands registered commercial ships over 500 gross tonnage, and passenger ships, on international voyages, shall, on initial registration, undergo an “interim” assessment for compliance with the Code. Following this interim assessment, which may be delegated to Class, an interim Ship Security Certificate (SSC), valid for up to six months, will be issued. Towards the end of the period of validity of the interim SSC an initial audit will be conducted by MACI to ascertain that the ship security system is being operated satisfactorily. Following successful initial audit, the ship will be issued with a full time International SSC where it meets all requisite provisions, valid for up to five years. An intermediate shipboard verification is required and it should take place between the second and third anniversary of the SSC.

#### **ISPS Verification Audits:**

(2) In most cases all shipboard audits for the ISPS Code will be carried out by CISR Surveyors, normally at the same time as the ISM audit.

#### **Renewal audit timing:**

(3) A renewal audit is to be completed in the three month window prior to the expiry of the SSC. This should be arranged early to ensure the certificate does not expire – this would almost certainly result in a major non-conformity and the detention of the ship.



**6.3 SECURITY LEVELS - SECTION 210 OF MSL 2008:**

- (1) There are three levels of ship security summarised as follows-
- (a) Security level 1 is the level for which minimum appropriate protective security measures are to be maintained at all times
  - (b) Security level 2 is the level at which appropriate additional protective security measures shall be maintained during a period of heightened security risk
  - (c) Security level 3 is the level for which further specific protective security measures are maintained for a limited time when a security incident is probable or imminent even though it may not be possible to identify the specific target.
- (2) The ship must always match the security level which is currently in force in the port (which are similar to ship security levels) but a ship can be at a higher level, but never at a lower level than the port. For each level of security the relevant tasks and procedures as set out in the Ship Security Plan should be put in place. See also section 6.4.
- (3) The Governor, acting in his discretion, shall set and amend the security levels to be operated on Cayman Islands ships in accordance with the procedures and guidelines specified in SOLAS 74 and the ISPS Code. The Governor shall immediately inform MACI of any changes in security levels who will then inform all Cayman Islands ships.
- (4) Specifically, when a risk of attack has been identified, the Governor, acting in his discretion, shall advise MACI of the current ship security level who will then inform the Owner of the ships concerned of-
- (a) the current security level;
  - (b) any security measures that should be put in place by the ships concerned to protect themselves from attack; and
  - (c) any other security measures that should be put in place.

**6.4 ISPS SHIP SECURITY PLAN - SECTIONS 208 OF MSL 2008:**

The Merchant Shipping (Maritime Security) Regulations 2007 (MarSec 2007 Regulations), made under section 208 of the MSL 2008, require that all relevant Cayman Islands ships must maintain an approved Ship Security Plan (SSP) which should indicate the operational and physical security measures the ship itself should take to ensure it always operates at security level 1. The SSP should also indicate the additional, or intensified, security measures and actions the ship should take to move to or operate at security level 2 or 3 when instructed to do so.

**6.5 SHIP SECURITY OFFICER (SSO) AND FUNCTIONS:**

All relevant ships must have a designated Ship Security Officer (SSO) and his duties and responsibilities shall include-

- (a) Undertaking regular security inspections of the ship to ensure the appropriate security measures are maintained;

- (b) Maintaining and supervising the implementation of the ships security plan and any amendments;
- (c) Ensuring all security aspects of the cargo, stores, personnel, and luggage are coordinated with the security officer in the port;
- (d) Proposing any modifications to the security plans;
- (e) Reporting deficiencies to the Company Security Officer;
- (f) Enhancing security awareness among the crew;
- (g) Ensuring adequate training is given to shipboard personnel;
- (h) Reporting of all security incidents;
- (i) Implementing the security plan at the appropriate level; and
- (j) Ensuring all security equipment is functioning.

#### **6.6 COMPANY SECURITY OFFICER (CSO) AND FUNCTIONS:**

All relevant shipping companies must have a designated Company Security Officer (CSO) and his duties and responsibilities shall include-

- (a) Ensuring that the Ship Security Assessment has been properly carried out;
- (b) Ensuring that Ship Security Plans have been prepared and submitted for approval by MACI; and
- (c) Ensuring that Ship Security Plans are maintained on the ship.

#### **6.7 SHIP SECURITY ALERT SYSTEMS AND TESTING:**

To ensure the effective implementation of the Ship Security Plans on relevant Cayman Islands vessels, drills for the Ship Security Alarm System (SSAS) must be carried out at three month intervals, or more frequently upon changes of crew. Drills should take into account the ship type, personnel changes, facilities and countries to be visited in the future. Records of the drills and any deficiencies found must be kept in an appropriate form (which may include electronic format) to prove to Port State Control that the ship is in compliance with the Code.

#### **6.8 ACCESS AND EGRESS CONTROL:**

Ships using any port facilities may be subject to Port State Control inspections and additional control measures. The authorities may request information regarding the ship, cargo, passengers and personnel prior to entry into port. There may be circumstances in which entry into port could be denied. However, the authorities should not make a request to examine the SSP.

#### **SUMMARY: ISPS CODE - WHAT DO I NEED TO KNOW?**

- All relevant ships must comply with the ISPS Code.
- Ships will undergo an interim assessment for compliance with the Code on registration which leads to the issue of an interim ISSC. A further initial audit will take place after 6 months by MACI which leads to the issue of a full ISSC valid for up to five years. An intermediate audit is required between the 2<sup>nd</sup> and 3<sup>rd</sup> anniversary of the SMC.

- There are three security levels for ships which govern the security measures which are required to be followed on the ship.
- All relevant ships must maintain an approved Ship Security Plan and carry a Ship Security Officer who will usually be one of the ship's Officers.
- All Companies must have a designated Company Security Officer (CSO).

## **7. SAFETY OF LIFE AT SEA AND MARITIME SECURITY - PART VII OFMSL 2008:**

### **7.1 SAFETY OF LIFE AT SEA CONVENTION, 1974 (SOLAS 74):**

(1) SOLAS 74 entered into force in 1980 and it is designed to improve safety of life at sea by ensuring that the stability, equipment, operation of ships and procedures meet minimum international standards and that ships are adequately manned. Flag States are responsible for ensuring ships operating under their flags meet the requirements of the Convention. Port States may inspect ships to ensure that vessels entering their ports meet the requirements of the Convention. The UK has extended its ratification of SOLAS to the Cayman Islands and therefore all Cayman Islands vessels must comply with the relevant provisions of the Convention.

(2) Notwithstanding the responsibility of the Flag State, Owners, Masters and operators of ships also responsible for ensuring that their ships are maintained in accordance with the applicable standards of SOLAS 74 (and any other applicable Conventions and national laws) including the timely endorsement or renewal of the Certificates issued,

### **7.2 MASTER'S OBLIGATIONS AND AUTHORITY WITH RESPECT TO SHIP CERTIFICATES - SECTIONS 195 TO 197 OF MSL 2008:**

#### **Posting-up of Certificates:**

(1) The Owner and Master of every ship issued with a Certificate under the SOLAS regime (including those for the ISM and ISPS Codes) must ensure that it is posted up in a prominent and accessible place in the ship.

#### **Prohibition on proceeding to sea without the appropriate documentation:**

(2) No Cayman Islands ship shall proceed to sea unless it has been surveyed and holds, as appropriate, the following Certificates-

- (a) in the case of a passenger ship engaged on international voyages, a Passenger Ship Safety Certificate, or, if the ship is only engaged on short international voyages, a short international Voyage Passenger Ship Safety Certificate;
- (b) in the case of a cargo ship of three hundred gross tonnage or over engaged on international voyages, a Cargo Ship Safety Radio Certificate;
- (c) in the case of a cargo ship of five hundred gross tonnage or over engaged on international voyages, a Cargo Ship Safety Equipment Certificate; and
- (d) in the case of a cargo ship of five hundred gross tonnage or over engaged on international voyages, a Cargo Ship Safety Construction Certificate.

(3) No Cayman Islands cargo ship of five hundred gross tonnage and over not engaged on international voyages shall proceed to sea unless it has been surveyed and there is in force a Cayman Islands Cargo Ship Safety Construction Certificate.

(4) Where a Certificate is issued subject to conditions, or specifies sea areas in which the ship is certified to operate, an Exemption Certificate would be issued and the Owner and Master shall ensure that all conditions of the Exemption Certificate are complied with and that the ship only operates in the specified sea areas or under the specified conditions.

(5) The Master must produce such Certificates or documentation on demand to port authorities in order for the vessel to clear into or depart from a port. They must also be produced to a Port State Control Inspector if requested. In addition, any person authorised by MACI to inspect Cayman Islands ships may require the production of any of the Certificates issued to the ship or its complement.

**Prohibition on proceeding on a voyage or excursion without the appropriate Certificate:**

(6) A passenger ship of Class 3<sup>9</sup> or 4<sup>10</sup> must not proceed on a voyage or excursion unless it has been surveyed and there is in force a Passenger Certificate appropriate to the ship's class and that voyage or excursion. If the Certificate is issued subject to conditions, the ship shall not proceed on a voyage or excursion unless all those conditions are complied with.

**7.3 EFFECT OF OPERATIONAL CERTIFICATE BECOMING INVALID - SECTION 190 OF MSL 2008:**

If any of the Certificates required by the SOLAS 74 regime expire whilst the ship is not in a port in the Cayman Islands or in a port in which it is not possible to be surveyed, MACI may extend the period of validity of the Certificate, but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to a port in the Islands or a port in which it is to be surveyed, and then only in cases where it appears proper and reasonable to do so. In any case no Certificate shall be extended for a period longer than three months, and a ship to which the extension is granted shall not, on its arrival in a port in the Islands or the port in which it is to be surveyed, be entitled by virtue of the extension to leave that port or the Islands without having obtained a new Certificate.

**SUMMARY: SAFETY OF LIFE AT SEA AND MARITIME SECURITY - WHAT DO I NEED TO KNOW?**

- No Cayman Islands ship shall proceed to sea unless it has been surveyed and holds the Certificates required by SOLAS 74. The Owner and Master of every ship issued with a Certificate under any safety convention, or under the national laws of the Cayman Islands, must post it up in a prominent and accessible place in the ship.
- If any of the Certificates required by SOLAS 74 expire whilst the ship is not in a port in the Islands or the port in which it is to be surveyed, MACI may extend the period of validity of the Certificate, but only to allow the ship to complete its voyage to a port in the Islands or the port in which it is to be surveyed.

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<sup>9</sup> Class 3 means: Passenger ships engaged only on voyages in the course of which they are at no time more than 40 miles by sea from their point of departure and not more than 18 miles from land and which they are at sea only in favourable weather and during restricted periods.

<sup>10</sup> Class 4 means: Passenger ships only on voyages with not more than 250 passengers on board, to sea, in all cases in favourable weather and during restricted periods, in the course of which the ships are at no time more than 15 miles from their point of departure nor more than 3 miles from land.

## **8. LOAD LINES - PART IX OF MSL 2008:**

### **8.1 THE LOAD LINES CONVENTION, 1966:**

(1) The International Convention on Load Lines, 1966, as amended, (LL 66) applies to all commercial vessels including charter and commercially registered yachts over 24 metres in length. The UK has extended its ratification of the Convention to the Cayman Islands and therefore all such vessels must comply with the Convention and carry an International Load Line (ILL) Certificate. The ILL Certificate is issued to indicate compliance with the requirements of LL 66.

(2) LL 66 essentially covers water-tight and weather-tight integrity, protection of personnel on deck, and the marking of freeboards to prevent overloading. The freeboard is broadly defined as the distance between the freeboard deck and waterline, and the freeboard may vary according to seasonal zones and the salinity of the water.

### **8.2 SUBMERSION OF LOAD LINES - SECTION 231 OF MSL 2008:**

- (1) A ship shall not be put to sea or arrive in port and be loaded so that-
- (a) if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged; or
  - (b) in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.

(2) If the appropriate load line is submerged then the Owner and Master are guilty of an offence and the ship may be detained. If the Master of a ship takes the ship to sea when it is illegally loaded then without prejudice to the offence of being illegally loaded he is guilty of an offence.

### **8.3 POSTING UP OF LOAD LINE CERTIFICATE AND OF DRAFT AND FREEBOARD PRIOR TO LEAVING PORT - SECTION 237 OF MSL 2008:**

(1) The Load Line Certificate must be posted up in a conspicuous place onboard ship and kept so posted for the period of its validity.

(2) Section 34 of Merchant Shipping (Load Line) Regulations, 2002, (LL Regulations 2002) requires that with respect to any Cayman Islands ship which has been assigned freeboards<sup>11</sup> in accordance with the requirements of the Regulations that the Master must ensure that a notice (Form FRE 13) is posted in a conspicuous place in the ship signed by the Master and an officer detailing the particulars of loading, including the drafts and freeboard of the ship, before proceeding to sea. The details must be entered in the OLB at the same time and signed by the Master and an officer.

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<sup>11</sup> The freeboard assigned is the distance measured vertically downwards amidships from the upper edge of the deck line to the upper edge of the related load line.

#### **8.4 LOAD LINE MARKS AND OFFENCES IN RELATION TO THESE - SECTION 232 OF MSL 2008:**

The actual positions of deck line and load lines must be marked and maintained in accordance with the information on the Load Line Certificate. If the Owner or Master of the ship fails without reasonable excuse to keep the ship marked as required or alters, or permits a person under his control to alter, any mark with which the ship is so marked, he is guilty of an offence.

#### **8.5 SHIPS NOT TO PROCEED TO SEA WITHOUT A LOAD LINE CERTIFICATE - SECTION 236 OF MSL 2008:**

- (1) No ship shall proceed or attempt to proceed to sea unless a Load Line Certificate is in force for the ship.
- (2) The Load Line Certificate may need to be produced to appropriate officials in order to clear the vessel into or out of port.

#### **8.6 LOAD LINE EXEMPTION CERTIFICATE - SECTION 249 OF MSL 2008:**

- (1) In appropriate cases exemptions from the requirements of LL 66 may be permitted and in such cases a Load Line Exemption Certificate would be issued. The vessel must at all times comply with the provisions of the Exemption Certificate.
- (2) Whilst rarely utilised by MACI, LL 66 (as with other Conventions) also makes provision Convention Certificates to be issued by other governments which are party to the Convention, on behalf of the Cayman Islands; under mutual agreement. Such Certificates are accepted as if they were valid Convention Certificates.

#### **SUMMARY: LOAD LINES - WHAT DO I NEED TO KNOW?**

- The International Load Lines Convention 1966 applies to all commercial vessels including charter and commercially registered yachts over 24 metres in length. No ship shall proceed or attempt to proceed to sea unless a Load Line Certificate is in force for the ship.
- A ship must not be loaded so that if the ship is in salt water and has no list, the appropriate load line on each side of the ship is submerged or in any other case, the appropriate load line on each side of the ship would be submerged if the ship were in salt water and had no list.
- The Load Line Certificate must be posted in a conspicuous place onboard.
- Any ship which has been assigned freeboards must post a notice onboard detailing the particulars of loading before proceeding to sea and such particulars are also to be recorded in the OLB.

## **9. CARRIAGE OF DANGEROUS GOODS AND BULK CARGOES - PART X OF MSL 2008:**

### **9.1 APPLICATION OF CODES - SECTIONS 263 AND 265 OF MSL 2008:**

The carriage of Dangerous Goods is to be in accordance with SOLAS 74 and the related International Maritime Dangerous Goods (IMDG) Code and any Regulations giving effect to these requirements. Contravention of these requirements is an offence which may invoke a fine of up to \$20,000. In addition, the ship shall be deemed to be unsafe by reason of improper loading (see section 10 for information on procedure for unsafe ships).

### **9.2 REJECTION, DISPOSAL OR FORFEITURE OF DANGEROUS GOODS - SECTIONS 266 AND 267 OF MSL 2008:**

(1) The Master or Owner of any ship may refuse to take on board any package or parcel that he suspects might contain any Dangerous Goods and may require the package to be opened to ascertain its nature. When any Dangerous Goods, or any goods that, in the opinion of the Master or Owner of the ship, are Dangerous Goods, have been sent on board any ship without being so marked, the Master or Owner of the ship may have the goods thrown overboard without penalty.

(2) Where any Dangerous Goods have been sent by or carried in any ship in a manner contravening international requirements or any requirements in Cayman Islands law, this constitutes an offence and the Court may order the goods, and any packaging or container thereof, to be forfeited.

### **9.3 CARRIAGE OF GRAIN - SECTION 261 OF MSL 2008:**

Where grain is loaded on board any ship all necessary and reasonable precautions must be taken to prevent the grain from shifting, and if such precautions are not taken the Owner or the Master of the ship is guilty of an offence and the ship will be deemed to be unsafe by reason of improper loading.

### **9.4 CARRIAGE OF OTHER BULK CARGOES - SECTION 260 OF MSL 2008:**

Bulk cargoes are to be loaded and carried in accordance with the Code of Safe Practice for Bulk Cargoes issued by the International Maritime Organization (IMO).

## **SUMMARY: CARRIAGE OF BULK CARGOES AND DANGEROUS GOODS - WHAT DO I NEED TO KNOW?**

- Contravention of the IMDG Code and any Regulations implementing the IMDG Code is an offence
- The Master or Owner may refuse to take on board any package or parcel that he suspects might contain any Dangerous Goods which is improperly marked or packaged and may require the package or parcel to be opened to ascertain its nature. Improperly marked or packaged Dangerous Goods may be rejected or jettisoned without penalty.
- Grain and other Bulk cargoes must be loaded and carried according with the relevant IMO Code.



**10. UNSAFE SHIPS - PART XI OF MSL 2008:****10.1 WHAT IS AN UNSAFE SHIP? - SECTIONS 268 TO 272 OF MSL 2008:**

An unsafe ship is one which is unfit to remain at sea or proceed to sea without serious danger to human life. The following conditions are among those which can give rise to a ship being unsafe-

- (a) Poor condition or unsuitability of the ship, its machinery, or equipment or any part thereof;
- (b) Undermanning;
- (c) Overloading or unsafe or improper loading; and
- (d) Any other matter relevant to the safety of the ship.

**10.2 RESPONSIBILITIES AND LIABILITIES IN RELATION TO UNSAFE SHIPS:****Owner and Master liability in respect of an unsafe ship - section 270 of MSL 2008:**

(1) If a ship is considered to be unsafe under Cayman Islands law, then the Master and the Owner of the ship are guilty of an offence and liable to a fine of up to \$20,000 and imprisonment for up to six months, unless there is reasonable excuse.

**Owner's liability for the unsafe operation of ship - section 272 of MSL 2008:**

(2) It is the duty of the Owners of a ship to take all reasonable steps to ensure that the ship is operated in a safe manner. If the Owner (or demise charterer) fails to do so then he is guilty of an offence and liable to a fine of up to \$20,000 and imprisonment for up to six months.

**SUMMARY: UNSAFE SHIPS - WHAT DO I NEED TO KNOW?**

- If a ship is considered to be unsafe, then the Master and the Owner of the ship are guilty of an offence.
- It is the duty of the Owners of a ship to take all reasonable steps to ensure that the ship is operated in a safe manner. If the Owner fails to do so then he is guilty of an offence.

**11. WRECK AND SALVAGE - PART XII OF MSL 2008:****11.1 WRECK – WHAT IT IS AND WHAT ACTION TO TAKE IN RESPECT TO IT:**

(1) A Wreck is a sunken vessel but it also includes-

- (a) flotsam and jetsam, which are terms used to describe cargo or goods which is floating in the water, *Flotsam* describes goods (including cargo) that are floating on the water without having been thrown in deliberately, often after a shipwreck, while *jetsam* is cargo that has been voluntarily cast into the sea (jettisoned) in an emergency by the crew of a ship, for example in order to lighten the ship in an emergency;
- (b) lagan, which describes goods or cargo that have put off the ship at sea but have been buoyed otherwise marked so that kit may later be recovered;
- (c) derelict, which is property which has been abandoned and deserted at sea, by those who were in charge, without any hope of recovering it.

(2) Any incident which results in the loss or abandonment of a Cayman Islands vessel or its cargo must be reported to MACI by the Owner immediately upon the Owner becoming aware of the incident, by email to [survey@cishipping.com](mailto:survey@cishipping.com). Where goods or cargo are lost overboard or jettisoned in another jurisdiction this should also be reported to the relevant Coastal State authorities.

(3) Any wreck material found in Cayman Islands territorial waters, or outside the Cayman Islands and brought within Cayman Islands territorial waters, must by law be reported to the Receiver of Wreck (ROW) under section 279 of the MSL 2008. Once a report has been received, the ROW will investigate Ownership of the wreck items.

**Duty & Rights of Receiver of Wreck:**

(4) The ROW has a duty to give legal Owners the opportunity of recovering their property, and to ensure that a salvage award is paid to the legal salvor, when due. The ROW can recover any costs incurred and is invested with a wide range of powers to enable him to discharge all of the functions of a ROW under Cayman Islands law.

**Duty to report finding of Wreck to ROW and Penalties for failure to do so:**

(5) Under section 279 of the MSL 2008, upon recovering or finding any wreck, it should be declared promptly to the ROW giving a description of the wreck. The recoverer/finder will usually be asked to hold it to the Receiver's order, or deliver it to the ROW. A salvor acting properly under the law is entitled to a salvage award with respect to wreck. Failure to report a wreck constitutes an offence under MSL 2008 and any person who does not report their recovery of finding of wreck is liable to pay a fine for each offence, will lose any salvage rights, and have to pay the person entitled to the find twice the value of the find.

**Duty & Rights of Owner:**

(6) The Owner of any wreck must prove ownership to the satisfaction of the ROW within one year. On payment of expenses and an appropriate salvage, if salvage is involved, the Owner is entitled to have his or her property returned.

**Port Authorities:**

(7) Where the wreck is, or is likely to, become an obstruction or danger to navigation or to lifeboats engaged in lifeboat service, section 292 of the MSL 2008 provides the Port Authority with powers to take possession of and raise, remove or destroy such a wreck. It also provides powers to mark (light or buoy) wrecks in or near any approach to any harbour or tidal water under the control of a Port Authority. Section 292 also permits the Port Authority to recover its expenses incurred by selling the ship and defraying such expenses from the proceeds of the sale.

**11.2 SALVAGE – WHAT CONSTITUTES SALVAGE:**

(1) Salvage is the process of rescuing a ship, its cargo, or other property from peril, and in particular immediate peril. Salvage encompasses towing, refloating a sunken or grounded vessel, or patching or repairing a ship. It also includes the saving of lives but traditionally a salvage claim in this respect is not usually brought, and even when it is it cannot be brought against the persons whose lives were saved but would be brought against the Owners of the vessel from which the persons were rescued.

(2) "Salvors" are seafarers and engineers who carry out salvage to vessels that are not owned by themselves, and who are not usually members of the vessel's original crew. When salvaging large ships, they may use cranes, floating dry docks and divers to lift and repair ships for short journeys to safety towed by a tugboat. The aim of the salvage may be to repair the vessel at a harbour or dry dock or to clear a channel for navigation. Another reason for salvage may be to prevent pollution or damage to the marine environment. Alternatively the vessel or valuable parts of the vessel or its cargo may be recovered for its resale value, or for scrap.

(3) Salvage law has as a basis that a salvor should be properly rewarded for risking his life and property to rescue the property of another from peril and in this regard a salvage award is based largely upon the value of the property salvaged, as well as on the degree of risk and skill involved in effecting the salvage.

(4) A vessel is considered in peril if it is in danger or could become in danger. Examples of a vessel in peril are when it is aground, or adrift and in danger of going aground. Prior to a salvage attempt the salvor enters into an agreement with Owner or the Master to assist the vessel under the terms agreed. The most widely used agreement remains "Lloyds Open Form" (LOF) which, in essence, operates under a "no cure no pay" basis. These agreements are able to be made verbally between the salvor and the Master of the vessel, which is often necessary in the salvage situations which almost always will arise unexpectedly when time is of the essence and the luxury of sitting across a table to discuss terms is not available.

(5) The Availability of the LOF does not preclude agreement being made for assistance under a straight “towage contract” but it will very much depend upon the circumstances of the case as to whether this is a viable alternative.

(6) Notwithstanding the “no cure no pay” basis of a LOF Agreement, Article 14 of the International Convention on Salvage, 1989, (Salvage 1989), which applies in the Cayman Islands, provides for a salvor to receive some compensation, subject to certain conditions, where it can be shown that his efforts prevented or minimised oil pollution, even where the salvage operation itself was not successful. The Protection and Indemnity Clubs can provide cover for this under their SCOPIC (Special Compensation P&I Club) clause. See section 11.4 for further detail.

(7) A Master needs therefore to be fully aware of the avenues open to him when his ship is in immediate danger and in need of assistance,

(8) If the vessel is abandoned no permission is needed to salvage it.

### **11.3 MASTER’S AUTHORITY TO ENTER INTO A SALVAGE AGREEMENT - SECTION 299 OF MSL 2008:**

The Master has the authority to conclude contracts for salvage operations on behalf of the Owner of the vessel, and the Master and the Owner of a Cayman Islands vessel shall have the authority to conclude contracts on behalf of the Owner of any property on board the vessel.

### **11.4 SCOPIC CLAUSE OF THE SALVAGE CONVENTION – SECTIONS 307 AND 327 OF MSL 2008:**

(1) The SCOPIC (Special Compensation P&I Club) Clause of the Salvage Convention provides an alternative regime for dealing with claims by a salvor for "special compensation" under Article 14 of the 1989 Salvage Convention and is intended to enable such claims to be settled outside the ambit of LOF, principally by reference to agreed tariffs for tugs, personnel and equipment.

(2) Where a salvor has carried out salvage operations in respect of a vessel or cargo which threatened damage to the environment and has failed to earn a reward equivalent at least to the special compensation assessable he shall be entitled to special compensation from the Owner of that vessel equivalent to his expenses<sup>12</sup>. If the salvor has prevented or minimised damage to the environment, the special compensation payable by the Owner to the salvor may be increased up to a maximum of thirty per cent of the expenses incurred by the salvor, and the Court or person determining the award may, where it or he deems it fair and just, increase such special compensation further but in no event shall the total increase be more than one hundred per cent of the expenses incurred by the salvor.

(3) In fixing a salvage reward and assessing special compensation, the Court or arbitrator is under no duty to fix a reward, before assessing the special compensation.

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<sup>12</sup> “salvor’s expenses” mean the out of pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation.

**SUMMARY: WRECK AND SALVAGE - WHAT DO I NEED TO KNOW?**

- A Wreck is a sunken vessel but it also includes flotsam, jetsam, lagan and derelict when found in or on the shores of the sea or any tidal water.
- Salvage is the process of rescuing a ship, its cargo, or other property from peril. Salvage encompasses rescue towing, refloating a sunken or grounded vessel, or patching or repairing a ship.
- The Master has the authority to conclude contracts for salvage operations on behalf of the Owner of the vessel.
- The Master and Owner have the authority to conclude contracts on behalf of the Owner any property. The most common form of Salvage Agreement is Lloyds Open Form (LOF) which is based on “no cure no pay”.
- Where a salvor has carried out operations for a vessel or cargo which threatened damage to the environment he shall be entitled to special compensation from the Owner of that vessel equivalent to his expenses even if the salvage operation was not successful.

**12. CONTROL OF PERSONS ON SHIPS - PART XIII OF MSL 2008:****12.1 PROCEDURES FOR BIRTHS AND DEATHS ON BOARD SHIP - SECTION 336 OF MSL 2008:**

(1) The MSL 2008, sections 434 and 336 and the Merchant Shipping (Returns of Births and Deaths) Regulations, 2004 (B&D 2004 Regulations) set out the requirements for the recording of Births and Deaths on board Cayman Islands registered ships or for any person who dies ashore when employed on a Cayman Islands registered ship.

(2) Section 434 of the MSL 2008 provides that an inquiry into the cause of death may be held by the Shipping Master or proper officer at the next port where the ship calls after the death or at such other place as may be directed by MACI.

(3) In the case of a death on board caused by an accident the Master and Owner should initially notify MACI immediately by email to [survey.uk@cishipping.com](mailto:survey.uk@cishipping.com), and follow up with a detailed report setting out the circumstances.

(4) In the case of any other death or a birth the Master should inform the MACI within seven days using Return of Births Form SMAFMRB1 (for recording births) and Return of Deaths Form SMAFMRD1 (for recording deaths). With respect to a death, the notification is to allow MACI to assist with making arrangements for an inquiry into the circumstances surrounding it.

**12.2 ACTIONS BY MASTER REGARDING DECEASED SEAFARER:**

(1) At the first opportunity the Master should also inform MACI with details of estimated time of arrival and his agents in the next port and send a copy of Return of Deaths Form SMAFMRD1 and statements to MACI.

(2) The cabin and the personal belongings of the deceased should be secured. The Master should obtain signed and dated witness statements from witnesses, duty officers, co-workers and supervising personnel of the deceased regarding the circumstances surrounding the death.

(3) The Master should complete Return of Deaths Form SMAFMRD1 along with the appropriate pages of the Official Log Book. The notes in the official log book provide the instructions as to how and what entries should be made in the Official Log Book. The attending proper officer will check entries.

(4) The Master should ensure that no crewmember leaves the vessel until the formalities of the death inquiry are complete. In the case of a death occurring while the vessel is in port a copy of the doctors or coroner's report should be attached to the Return of Deaths Form SMAFMRD1. In the case of a death occurring on a passenger ship, or where a qualified ship's doctor is otherwise carried, the ship's doctor should attach a medical statement to the Return of Deaths Form SMAFMRD1 stating the circumstances of the death on board.

**12.3 STOWAWAYS – SECTION 333 OF MSL 2008:**

Whoever, without the consent of the Master or of any other person authorised to give it, goes to sea or attempts to go to sea in a Cayman Islands ship is guilty of an offence. Further guidance on policy for stowaways may be found in the Master's Guide of Merchant Ships published by MACI and available at [www.cishipping.com](http://www.cishipping.com). There are also numerous Guidelines published by IMO on the subject which are available through the IMO website.

**12.4 POWERS OF ARREST - SECTION 333 OF MSL 2008:**

The Master may cause any person on board the ship to be put under restraint for so long as it appears to him necessary or expedient if, in the interest of safety or for the preservation of good order or discipline on board the ship, the Master deems this to be necessary.

**12.5 UNAUTHORISED PRESENCE ON BOARD - SECTION 334 OF MSL 2008:**

Where a person goes to sea in a ship without the consent of the Master or of any other person authorised to give such consent, the person going to sea shall be subject to the offences described in section 3.10 of this Manual (section 121 and 122 of the MSL 2008) as if he were a seafarer employed in the ship.

**SUMMARY: BIRTHS AND DEATHS AND CONTROL OF PERSONS ON SHIPS - WHAT DO I NEED TO KNOW?**

- In the case of a death on board caused by an accident the Master and Owner should notify MACI immediately. In the case of any other death or a birth the Master should inform the Registry within seven days using Return of Deaths Form SMAFMRD1 / Return of Births Form SMAFMRB1.
- The Master may put anyone onboard 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.
- Anyone who goes to sea or attempts to go to sea without consent of the Master is guilty of an offence all shall be subject to onboard disciplinary procedures as if a seafarer

## **13 LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE - PART XIV OF MSL 2008:**

### **13.1 OVERVIEW OF THE CLC AND FUND REGIME:**

(1) Compensation for pollution damage caused by spills from oil tankers is governed by an international regime. The framework for the regime was originally the 1969 International Convention on Civil Liability for Oil Pollution Damage (CLC 1969) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (Fund 1971). This 'old' regime was amended in 1992 by two Protocols, and the amended Conventions are known as the 1992 Civil Liability Convention (CLC 1992) and the 1992 Fund Convention (Fund 1992). The 1992 Conventions entered into force on 30 May 1996.

(2) The CLC 1992 governs the liability of Shipowners for oil pollution damage. The Convention lays down the principle of strict liability for Shipowners and creates a system of compulsory liability insurance. The Shipowner is normally entitled to limit his liability to an amount which is linked to the tonnage of his ship.

(3) The Fund 1992, which is supplementary to the CLC 1992, establishes a regime for compensating victims of the pollution when the compensation under the applicable Civil Liability Convention is inadequate. The International Oil Pollution Compensation Fund 1992 generally referred to as the IOPC Fund 1992 or the 1992 Fund was set up under the Fund 1992.

(4) The maximum payable by the IOPC Fund 1992 for any incident occurring on or after 01 November 2003 is 203 million Special Drawing Rights (SDR<sup>13</sup>) (about US\$318 million). These amounts are less the compensation paid by the Shipowner.

(5) In March 2005 a third tier of additional compensation entered into force internationally, the [Supplementary Fund](#). The maximum payable by the Supplementary Fund for one incident will be 750 million SDR (about US\$1.18 billion), less the compensation paid by the Shipowner and the 1992 Fund.

(6) Under the 1992 regime, the maximum to be paid by the Shipowner for a small ship (under 5000 gross tonnage) is 4.5 million SDR (about US\$7.1 million). The maximum for a large ship is 89.8 million SDR (about US\$141 million). For incidents occurring before 1 November 2003 under the 1992 regime, the maximum to be paid by the Shipowner for a small ship is 3 million SDR (about US\$4.7 million) and the maximum for a large ship is 59.7 million SDR (about US\$94 million). The maximum amounts to be paid by the Shipowner under the 1969/71 regime are much lower.

(7) As at 01 March 2011, 124 States had ratified the CLC 1992, and 105 States had ratified the Fund 1992. The UK's ratifications of the CLC 1992 and the Fund 1992 were extended to the Cayman Islands. It is expected that the UK's ratification of the 2003 Supplementary Fund Protocol will also be extended to Cayman in the near future.

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<sup>13</sup> SDR (Special Drawing Right) is a currency unit created by the International Monetary Fund. As at 01/03/11 it is worth CI\$1.27, US\$1.57



### **13.2 CERTIFICATE OF INSURANCE FOR OIL POLLUTION DAMAGE - SECTIONS 348 TO 350 OF MSL 2008:**

(1) All Cayman Islands ships carrying in bulk cargo 2000 tonnes or more of oil (as defined by CLC 1992) require a State issued Certificate of Insurance or other Financial Security in respect of Civil Liability for Oil Pollution Damage (referred to hereinafter as a State Certificate) attesting to the maintenance of insurance to cover the ships liabilities under the Civil Liability Convention, in order to be allowed to operate in a port or terminal in any State Party to the Convention. The State Certificate must be carried on board the vessel at all times. This Certificate must be backed up by third party protection and indemnity insurance (P&I) of the type issued by the members of the International Group of P&I Clubs or a financial guarantee.

(2) This State Certificate will need to be reapplied for annually prior to the insurance expiration (in January/February in most cases where the insurer is a member of the International Group), and is issued by and under the authority of the MACI. To apply for the Certificate or renewal thereof please contact the George Town office at-

Cayman Islands Shipping Registry,  
Head Office – Cayman Islands,  
2<sup>nd</sup> Floor, Strathvale House,  
90 North Church Street,  
P.O. Box 2256,  
Grand Cayman KY1-1107,  
CAYMAN ISLANDS.  
Tel: +1 345-949-8831.  
Fax: +1 345-949-8849.  
Email: [survey@cishipping.com](mailto:survey@cishipping.com)

(3) An original “Blue Card” (a Certificate issued by the insurer indicating that insurance is held in line with the requirements of the Convention) as provided by your P&I Club, a completed application form and the fee appropriate fee for issuing the State Certificate will need to be submitted with the application.

### **13.3 PENALTIES - SECTION 348 OF MSL 2008:**

(1) The penalties for not carrying a State Certificate (issued by MACI for Cayman vessels) are as follows-

- (a) if a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal without a Certificate the Master or Owner is guilty of an offence liable for a fine of up to \$50,000.
- (b) if a ship fails to carry, or the Master of a ship fails to produce, a Certificate as required, the Master is guilty of an offence liable for a fine of up to \$4,000.
- (c) if a ship attempts to leave a port in the Islands in contravention of these rules, the ship may be detained.

(2) It should also be noted that many Port States (Cayman included) will detain vessels for not complying with the obligations to carry a State Certificate.

**SUMMARY: LIABILITY AND COMPENSATION FOR OIL POLLUTION DAMAGE - WHAT DO I NEED TO KNOW?**

- The 1992 Civil Liability Convention (as amended) governs the liability of Shipowners for cargo oil pollution damage. The Convention lays down the principle of strict liability for Shipowners and creates a system of compulsory liability insurance.
- All ships carrying in bulk cargo 2000 tonnes or more of (as defined in CLC 1992) oil require a State issued Certificate (State Certificate) attesting to the maintenance of insurance to cover the ships' liabilities.
- If a ship enters or leaves a port or terminal without a State Certificate the Master or Owner is guilty of an offence. If a ship fails to carry, or the Master of a ship fails to produce, a State Certificate as required, the Master is guilty of an offence. If a ship attempts to leave a port in the Islands in contravention of the convention section, the ship is subject to detention.

## **14. LIABILITY AND COMPENSATION FOR BUNKER OIL POLLUTION DAMAGE - 2010 AMENDMENTS TO MSL 2008 (MSL 2010 AMENDMENTS):**

### **14.1 OVERVIEW OF BUNKERS CONVENTION REGIME:**

(1) On 21 November 2008, the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (Bunkers 2001), entered into force, supplementing the existing international liability regimes with provisions for strict liability for bunker oil pollution damage and compulsory insurance.

(2) The aim of the Bunkers 2001 is to improve the process by which claimants are able to recover costs incurred as a result of pollution from ships' bunker fuel oils<sup>14</sup>, whether in responding to a bunker pollution incident or as a result of damage caused by bunker oil pollution, and the Bunkers 2001 will help to achieve this by-

- (a) establishing a strict liability regime on the Shipowner<sup>15</sup> for pollution damage arising from all types of oil used in the operation or propulsion of ships (i.e. the Shipowner is liable regardless of fault);
- (b) requiring all registered Owners of vessels over 1,000 gross tonnage entering or leaving a Cayman Islands port or terminal to maintain insurance certified by the State to meet their liability;
- (c) introducing a provision that entitles claimants to sue ships' insurers via the right of direct action; and
- (d) allowing claims to be pursued in the State in which the damage occurred; this makes it much easier for victims to pursue a claim for cost recovery.

(3) Whilst all Shipowners are liable for pollution damage under the Bunkers 2001, only those operating vessels of 1,000 gross tonnage and over will be required to maintain insurance to cover their liability.

(4) At 01 March 2011 there were fifty eight States Parties to the Convention representing approximately 88% of the gross tonnage of the world's merchant shipping. The UK has extended its ratification of the Convention to the Cayman Islands since 12 January 2011.

### **14.2 BUNKER OIL POLLUTION INSURANCE CERTIFICATE - SECTION 21 AND 22 OF THE MSL 2010 AMENDMENTS:**

(1) [Shipping Notice No. CISN 02/2011](#) explains that all Cayman Islands ships of 1000 gross tonnage or above require a State issued Certificate (referred to hereinafter as Bunkers CLC) attesting to the maintenance of insurance to cover the ships liabilities under the Bunkers Convention, to be able to operate in a port or terminal in any State Party to the Bunkers 2001. The Certificate must be carried on board the vessel at all times. This Certificate must be backed up by third party protection and indemnity insurance (P&I) of the type issued by the members of the International Group of P&I Clubs or a financial guarantee. The amount of insurance or other

<sup>14</sup> Any hydrocarbon mineral oil used for the operation or propulsion of the ship

<sup>15</sup> Shipowner is defined in the Bunkers Convention and means the Owner, including the registered Owner, demise (bareboat) charterer, manager and operator of the ship.

financial security required is to be calculated in accordance with the 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims, 1996 (LLMC 96).

(2) This Bunkers CLC will need to be reapplied for annually prior to the insurance expiration (in January/February in most cases where the insurer is a member of the International Group), and is issued by MACI. To apply for the Certificate or renewal thereof please contact the George Town Office (see details in section 13.2) or the European Regional office at-

Cayman Islands Shipping Registry,  
1st Floor, Vanbrugh House,  
Grange Drive,  
Hedge End, Southampton,  
SO30 2AF  
United Kingdom.

Or at [bunkers@cishipping.com](mailto:bunkers@cishipping.com)

(3) An original “Blue Card” (see section 13.2 for more information) as provided by a P&I Club, a completed application form and the fee appropriate fee for issuing the Bunkers CLC will need to be submitted with the application.

#### **14.3 PENALTIES - SECTION 20 OF THE MSL 2010 AMENDMENTS:**

(1) The penalties for not carrying a Bunkers CLC (issued by MACI for Cayman vessels) are as follows-

- (a) if a ship enters or leaves, or attempts to enter or leave a port, or arrives at or leaves, or attempts to arrive at or leave, a terminal without a Certificate the Master or Owner is guilty of an offence liable for a fine of up to \$50,000;
- (b) if a ship fails to carry, or the Master of a ship fails to produce, a Certificate as required, the Master is guilty of an offence liable for a fine of up to \$4,000; and
- (c) if a ship attempts to leave a port in the Islands in contravention of these rules, the ship will be subject to detention.

(2) Many Port States (Cayman included) will detain vessels for not complying with the obligations to carry a Bunkers CLC.

(3) It should be noted that for oil tankers which are required to carry a State Certificate under the provisions of the CLC 1992 Convention for cargo oil pollution (see 13.2(1)), a Bunkers CLC with respect to bunker oil pollution is also required where applicable (i.e. if the vessel is 1000 gross tonnage or more).

**SUMMARY: LIABILITY AND COMPENSATION FOR BUNKER POLLUTION DAMAGE - WHAT DO I NEED TO KNOW?**

- The 2001 Bunkers Convention governs the liability of Shipowners for oil pollution damage by the ships bunker fuel. The Convention lays down the principle of strict liability for Shipowners and creates a system of compulsory liability insurance.
- All ships over 1000 gross tonnage require a State issued Certificate of Insurance (Bunkers CLC) attesting to the maintenance of insurance to cover the ships' liabilities for bunker oil pollution.
- If a ship enters or leaves a port or terminal without a Bunkers CLC the Master or Owner is guilty of an offence. If a ship fails to carry, or the Master of a ship fails to produce, a Bunkers CLC, the Master is guilty of an offence. If a ship attempts to leave a port in the Islands in contravention of the convention section, the ship is subject to detention.
- Oil tankers need to comply with the requirements of both the CLC 1992 Convention and the Bunkers 2001 Convention.

## 15. PREVENTION OF OIL SPILLS AND ACTION IN THE EVENT OF A SPILL:

### 15.1 SOPEP MANUAL:

(1) [Shipping Notice 01/1995](#) provides information on shipboard Oil Pollution emergency plans. It is a statutory requirement under MARPOL 73/78 that every Cayman Islands oil tanker of 150 gross tonnage and above and every ship other than an oil tanker (including pleasure vessels) of 400 gross tonnage and above shall carry on board a Shipboard Oil Pollution Emergency Plan (SOPEP) approved by MACI and that the Plan be in accordance with guidelines developed by IMO. The SOPEP must be retained on board and be made available to MACI or Port State Surveyors as requested.

(2) Where a ship, such as a chemical tanker of certain Offshore Supply Vessels are required to carry a Shipboard Marine Pollution Emergency Plan (SMPEP), they are not required to also carry a SOPEP if the SMPEP also meets SOPEP requirements.

### 15.2 IOPP CERTIFICATE REGIME:

(1) It is a statutory requirement under MARPOL 73/78 that every Cayman Islands oil tanker of 150 gross tonnage and above and every ship other than an oil tanker (including pleasure vessels) of 400 gross tonnage and above shall require an International Oil Pollution Prevention (IOPP) Certificate issued by the MACI. This Certificate is issued to indicate compliance with Annex I of the International Convention for Prevention of Pollution from Ships, MARPOL 1973, as amended (MARPOL 73/78). Annex I introduces measures to control the risk of environmental damage specifically caused by oil. The Annex provides for the retention onboard of oil contaminated water or the controlled discharge overboard of such water after suitable filtering and separation to reduce the oil content to a specified minimum (normally 15ppm but less in designated Special Areas). Where contaminated oily water in excess of this minimum is retained onboard it must be discharged to approved reception facilities ashore.

(2) The IOPP Certificate is valid for up to five years, however to ensure that the vessel meets the requirements of the Certificate the onboard oil pollution prevention equipment and arrangements must be surveyed annually.

### 15.3 REPORTING PROCEDURES IN THE EVENT OF A CARGO OIL SPILL:

(1) Immediately upon discovering any discharge of oil whether, intentional or not, the Master and Owner should immediately notify MACI by email to [survey@cishipping.com](mailto:survey@cishipping.com).

(2) The initial point of contact in the event of a pollution incident in the waters of the Cayman Islands is the Cayman Islands Fire Service (which also acts as an out of hours emergency contact for this office). Contact details are as follows-

- **Telephone Numbers: (345) 949 0077 or (345) 949 2499 or (345) 949 2276**
- **Marine VHF Radio: Channel 16, Call Sign "Grand Cayman Fire Control"**
- **Single Side Band Radio: 2182 MHz, Call Sign "Grand Cayman"**

As this contact information is subject to change the CISR website should be accessed for the latest information at [www.cishipping.com](http://www.cishipping.com)

(3) Regulation 37 (formerly regulation 26) of MARPOL 73/78 also requires that the SOPEP manual includes a list of Coastal States and relevant contact points for use in the event of a pollution incident. It is very important that the relevant Coastal State(s) be kept fully informed of the discharge and of measures taken to contain or mitigate it. Failure to keep Coastal States informed could lead to significantly increased penalties on the ship.

#### **15.4 PROCEDURE FOR THE APPROVAL OF A SOPEP:**

Where it is required that a SOPEP is to be approved, in the case of a new vessel, a copy of the proposed SOPEP should be prepared and forwarded to MACI without delay. If and when approved, one copy of the approved Plan will be retained by MACI and appropriate copies of “Approved” cover pages returned to the Owner/operator of the vessel, one of which should be placed in the manual on board the vessel to which it relates and another retained ashore by the Owner/Operator.

#### **SUMMARY: PREVENTION OF OIL SPILLS AND ACTION IN THE EVENT OF A SPILL - WHAT DO I NEED TO KNOW?**

- All oil tankers of 150 gross tonnage and above and all vessels (including pleasure vessels) of 400 gross tonnage and above require a SOPEP and an IOPP Certificate which should be made available to MACI and Port State Control. The IOPP Certificate must be renewed every 5 years.
- Upon discovering any discharge of oil, whether intentional or not, the Master and Owner should notify MACI immediately. In addition, the relevant Coastal State should also be kept fully informed of the discharge and the actions taken to contain or mitigate it.
- New SOPEPs requiring approval should be forwarded to MACI as soon as possible.

**16. PIRACY AND HIJACK - SECTIONS 366 – 369 OF MSL 2008:****16.1 PIRACY - SECTION 366 OF MSL 2008:**

“Piracy” means-

- (a) any illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or private aircraft, and directed-
  - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; or
  - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any voluntary act of participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or
- (c) any act of inciting or intentionally facilitating such acts described in (a) or (b).

**16.2 HIJACKING AND DESTROYING SHIPS - SECTION 367 OF MSL 2008:**

- (1) Any person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it commits the offence of hijacking a ship.
- (2) A person commits an offence if he-
  - (a) unlawfully and intentionally destroys a ship;
  - (b) damages a ship or its cargo so as to endanger, or to be likely to endanger the safe navigation of the ship;
  - (c) commits on board a ship an act of violence which is likely to endanger the safe navigation of the ship; or
  - (d) places or causes to be placed on a ship any device or substance which is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation.
- (3) Any such offences are liable on conviction on indictment to imprisonment for life.

**16.3 OFFENCES ENDANGERING SAFE NAVIGATION, THREATS AND ANCILLARY OFFENCES - SECTION 368 OF MSL 2008:**

- (1) It is an offence to destroy or damage or seriously to interfere with the operation of any property used for the provision of maritime navigation facilities, including any land, building or ship, and including any apparatus or equipment, whether it is on board a ship or elsewhere where the destruction, damage or interference is likely to endanger the safe navigation of any ship.
- (2) It is also an offence for any person to compel any other person to do something, or to not do something, by threatening to do an act that would endanger the ship or property relating to maritime navigational facilities.



**16.4 MASTER'S POWER OF DELIVERY - SECTION 369 OF MSL 2008:**

- (1) If the Master of a ship has reasonable grounds to believe that any person on board the ship has been involved in hijacking or destroying ships or endangering safe navigation, issuing threats and ancillary offences he must deliver that person to an appropriate officer in the Cayman Islands or any other State Party to 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 (SUA 1988).
- (2) The Master must-
- (a) notify an appropriate officer in the country of his intention to deliver the suspect and of his reasons for intending to do so;
  - (b) notify before the ship has entered the territorial sea of the country concerned, or if that is not practicable as soon as practicable after the ship has entered that territorial sea
  - (c) provide such oral or written statements relating to the alleged offence as that officer may reasonably require; and
  - (d) deliver up such other evidence relating to the alleged offence in his possession.
- (3) A Master of a ship who, without reasonable excuse, fails to comply is guilty of an offence.

**SUMMARY: PIRACY AND HIJACK - WHAT DO I NEED TO KNOW?**

- Piracy is any illegal act of violence or detention by the crew or passengers of a private ship on the high seas against a ship, persons or property outside the jurisdiction of any State.
- Any person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it commits the offence of hijacking a ship.
- It is an offence to destroy or damage or seriously to interfere with the operation, any property used for the provision of maritime navigation facilities where it is likely to endanger the safe navigation of any ship. It is also an offence to compel someone else to do such an act.
- If the Master believes anyone on board the ship has been involved in hijacking or destroying ships or endangering safe navigation, issuing threats or ancillary offences he shall deliver that person to an officer in the Islands or any other Party to SUA 1988.

## **17. LIMITATION AND DIVISION OF LIABILITY - SECTIONS 394 – 418 OF MSL 2008:**

### **17.1 INTERNATIONAL CONVENTIONS AND PROTOCOLS ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS (LLMC):**

(1) The International Convention on Limitation of Liability for Maritime Claims Convention, 1976 (LLMC 76), as amended by the LLMC Protocol of 1996 (LLMC PROT 1996) sets out the Shipowner's right to limit his liability in respect of various types of maritime claims, including loss of life or personal injury, loss of damage to property, and loss resulting from delay in the carriage by sea of cargo, passengers or luggage. The UK has extended its ratification of LLMC PROT 96 to the Cayman Islands and therefore all relevant maritime claims are subject to the provisions of this Protocol. The combined LLMC 1976 and the 1996 Protocol are hereafter referred to as LLMC 1996.

(2) Under the LLMC 1996, claims are grouped into two categories-

- (a) claims for loss of life or personal injury; and
- (b) all other claims which, for the purpose of this document are grouped under the heading "property claims"; wreck removal would fall under this category.

(3) Different limits of liability apply to the two categories of claims; the limit of liability for loss of life or personal injury is significantly higher than the limit of liability for property claims. The limits of liability under the LLMC 1996 start at 2 million SDR for loss of life or personal injury and at 1 million SDR for property claims. Claims for property cannot call upon the limits for loss of life even if the claim exceeds the limitation for property claims. Where claims exceed the limit of liability, payment would need to be pro-rated amongst the claimant to ensure equal treatment.

### **17.2 WHAT CONSTITUTES A MARITIME CLAIM? – SECTION 396 OF MSL 2008:**

(1) A Shipowner is entitled to limit his liability under the LLMC 1996 for the following types of claim-

- (a) claims in respect of loss of life or personal injury or loss of or damage to property, including damage to harbour works, basins and waterways and aids to navigation, occurring on board or in direct connection with the operation of the ship or with salvage operations, and any consequential loss;
- (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
- (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;

- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship; and
- (f) claims of a person, other than the person liable, in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability, and any further loss such measures may cause.

(2) When the UK extended its ratification of the LLMC PROT 96 to the Cayman Islands the following reservations were made-

- (a) the Cayman Islands reserves the right to exclude the application of article 2, paragraphs 1(d) and (e) of the LLMC 76 (paragraphs d) and e) in the above list), which govern claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship; and in respect of claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (b) the Cayman Islands reserves the right to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (or its protocol);
- (c) The Cayman Islands intends to regulate by specific provisions of national law the system of limitation of liability to be applied to ships less than 300 tons. This will be different to the minimum limit of liability under the LLMC 96 Protocol; and
- (d) The Cayman Islands intends to regulate by specific provisions of national law the system of limitation of liability to be applied to passengers.

### **17.3 WHAT IS “GENERAL AVERAGE”?:**

(1) General average is a legal principle under which all parties with an interest in a sea venture proportionally share, in proportion to their interest in the venture, any losses resulting from a voluntary sacrifice of part of the ship or cargo, or the incurring of extraordinary expenses, to save the whole venture in an emergency.

(2) The right to limit liability under LLMC 1996 does not apply to claims for salvage or contribution in general average (see Article 3(a) of the LLMC 1976). In marine insurance, in the case of a partial loss, or emergency repairs to the vessel, average may be declared. This covers situations, where, for example, a ship in a storm might have to jettison certain cargo to protect the ship and the remaining cargo.

(3) In order for a general average act to be invoked the Master must, at the end of the venture, declare general average by advising all parties concerned that there has been such an act and they will be required to contribute. Without such a declaration general average cannot be brought and the Owner will suffer financial loss as a result. Also the Master should note protest at the time he declares general average. If in doubt it is best to declare a general average act, since if it is subsequently proven that a general average act has not occurred, there is no penalty as a result.

#### **17.4 WHAT CLAIMS ARE EXCEPTED FROM LIMITATION OF LIABILITY? - SECTION 398 OF MSL 2008:**

- (1) The following types of claim would be excepted from Limitation under the LLMC regime-
  - (a) Claims for salvage and corresponding claims under a contract;
  - (b) for contribution in general average (see section 17.3);
  - (c) for oil pollution damage in respect of any liability incurred under section 338 (such liability is however limited under the CLC regime for cargo oil pollution);
  - (d) for nuclear damage, subject to any law applicable in the Cayman Islands governing or prohibiting limitation of liability for this damage; or
  - (e) against the Shipowner of a nuclear ship for nuclear damage.
  
- (2) Where the Shipowner or salvor is not permitted to limit his liability under LLMC then any servants of the Shipowner or salvor are similarly not entitled to do so.

#### **17.5 CLAIMS AGAINST A PORT AUTHORITY FOR DAMAGES - SECTION 405 OF MSL 2008:**

- (1) The liability of the Port Authority or a person to which section 404 of the MSL 2008 applies for any loss or damage caused to any ship, or anything on board shall be limited by reference to the tonnage of the largest Cayman Islands ship which, at the time of the loss or damage is, or within the preceding five years has been, within the area over which the Authority or person discharges any functions. This does not exclude the liability of the Port Authority or a person to which it applies for any loss or damage resulting from any such personal act or omission of the Port Authority or person, committed with the intent to cause such loss, or recklessly and with knowledge such loss would probably result.
  
- (2) A ship shall not be treated as having been within the area over which the Port Authority discharges any functions by reason only that it has been built or fitted out within the area, or that it has taken shelter within or passed through the area on a voyage between two places both situated outside that area, or that it has loaded or unloaded mail or passengers within the area.

#### **SUMMARY: LIMITATION AND DIVISION OF LIABILITY - WHAT DO I NEED TO KNOW?**

- The International Convention on Limitation of Liability for Maritime Claims Regime (LLMC), sets out the Shipowner's right to limit his liability in respect of various types of maritime claims, including loss of life or personal injury, loss of damage to property, and loss resulting from delay in the carriage by sea of cargo, passengers or luggage.
- Under 'General Average' all parties proportionally share, in proportion to their interest in the venture, any losses resulting from a voluntary sacrifice of part of the ship or cargo, or any extraordinary expenses incurred, to save the whole venture in an emergency
- Claims for salvage, general average, oil pollution and nuclear damage fall outside the LLMC regime.

## **18. CASUALTY INVESTIGATIONS - PARTS XVII & XVIII OF MSL 2008:**

### **18.1 GENERAL FRAMEWORK FOR CASUALTY INVESTIGATIONS - SECTIONS 6 AND 11 OF THE MARITIME AUTHORITY LAW (2008 REVISION) (MAL 2008) AND SECTIONS 420 TO 423 OF MSL 2008 AND SECTION 36 OF MPL 2001:**

(1) In general terms MACI has the authority, through powers vested in the Chief Executive Officer (CEO), to require an investigation and a Report on any accident or Marine Casualty occurring on board a Cayman Islands ship wherever it may be, and on board any other ship whilst it is Cayman Islands waters. These powers are contained in section 419 of the MSL 2008 and were transferred to MACI under section 6 of the Maritime Authority Law (2008 Revision) (MAL 2008). Executive powers to discharge the functions of MACI are contained in section 11 of the MAL 2008.

(2) Additionally, the CEO is vested with powers to appoint Surveyors and Inspectors who will in turn be given extensive powers under the MSL 2008 (sections 420 to 422) to enable them to carry out Casualty Investigations. There are severe penalties (section 423 of the MSL 2008) for obstructing an Inspector appointed under the MSL 2008 or for failing to comply with the requirements of an Inspector in accordance with his powers. There are however also provisions (section 422 of the MSL 2008) to treat information given to an Inspector in the course of an investigation as confidential and any information given or statement made cannot be used in any criminal proceedings which may be brought against the person giving the information. Also, any witness may nominate a person to be present with him during questioning by an Inspector. (See also 18.4(1)).

(3) Some form of investigation will be undertaken by MACI except perhaps in the case of a very minor incident, though all accidents should be reported to MACI in a timely manner (see section 159 of the MSL 2008).

(4) It should be noted that whilst the MSL 2008 is the main source of provisions under which Casualty Investigations are conducted, section 9 of the Merchant Shipping (Marine Pollution) Law 2001 (MPL 2001) also contains powers to board, inspect and survey ships, enter port facilities in the Cayman Islands, demand the production of documents, records and other evidence and to take testimony of witnesses under oath for the purposes of conducting inspections and surveys and for undertaking other activities authorised under the MPL 2001.

### **18.2 PROCEDURES FOR MOUNTING AN INVESTIGATION - SECTION 431 OF MSL 2008:**

(1) As indicated in the preceding subsection, MACI will hold an investigation into a shipping Casualty or accident in accordance with section 419 of the MSL 2008.

(2) MACI will decide, based on the type and seriousness of the casualty, the level of Investigation that should be undertaken. Under the IMO's "Code of International Standards and Recommended Practices for a Safety Investigation into Marine Casualty or Marine Incident" (the Casualty Investigation Code) a Flag State which is Party to SOLAS 74 is obliged to always hold

an investigation (referred to in the Casualty Investigation Code as a Safety Investigation) where a "very serious marine casualty"<sup>16</sup> has occurred (see also 18.6).

(3) Having decided to hold a Casualty Investigation MACI will appoint one or more Inspectors to carry out an investigation and prepare the associated Casualty Investigation Report. It is well known that in order to obtain the most reliable information from witnesses to a Casualty, those witnesses need to be interviewed as soon as possible after the incident has occurred. To this end MACI will always endeavour to have its Inspectors at the scene as soon as possible once a decision has been taken to hold an Investigation. Related to this, it is therefore essential that Masters, Operators and Owners advise MACI of a marine accident without delay.

### **18.3 POWERS OF AN INSPECTOR HOLDING AN INVESTIGATION - SECTIONS 420 – 422 OF MSL 2008:**

(1) The powers available to an Inspector are very wide-ranging and are in essence contained in sections 420 to 422 of the MSL 2008. These powers are broadly grouped into those dealing with ship's documents (section 420), ships and their equipment (section 421) and the entering of premises and boarding ships (section 422).

(2) In summary, the powers of an Inspector include-

- (a) In relation to ship's documents and records (which includes access to the Voyage Data Recorders (VDRs)), an Inspector having reason to believe that the MSL 2008 or any other law for the time being in force relating to ships and their crews, or in during the course of an Investigation into a Marine Accident or other Casualty, can require-
  - (i) the Owner, Master, or any of the crew to produce any Official Log Books or other documents relating to the crew or any member of the crew in their possession or control;
  - (ii) the Master to produce a list of all persons on board his ship, and take copies of or extracts from the Official Log Books or other such documents;
  - (iii) a muster of the crew; and
  - (iv) the Master to appear and give any explanation concerning the ship or its crew or the Official Log Books or documents produced or required to be produced.
- (b) In relation to ships and their equipment, for the purpose of seeing that the MSL 2008 and any Regulations made thereunder, or that the terms of any approval, licence, consent, direction or exemption given by virtue of such Law and Regulations are duly complied with, a surveyor of ships, may, 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 carried in the ship under the MSL 2008 or related Regulations.

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<sup>16</sup> A "very serious marine casualty" means, in accordance with the IMO Casualty Investigation Code, a marine casualty involving the total loss of the ship or a death or severe damage to the environment.

- (c) Finally, in relation to premises and ships, an Inspector may-
- (i) at any reasonable time, or, in a situation which in his opinion is or may be dangerous, at any time, enter any premises or board any ship, if he has reason to believe that it is necessary for him to do so;
  - (ii) on entering any premises by virtue of subparagraph (i), or, on boarding a ship by virtue of that paragraph, take with him any other person authorised for the purpose by the CEO, and any equipment or materials he requires;
  - (iii) make such examination and investigation as he considers necessary;
  - (iv) 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 subparagraph (iii);
  - (v) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under subparagraph (iii);
  - (vi) take samples of any articles or substances found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;
  - (vii) in the case of any article or substance which he finds in the 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;
  - (viii) in the case of any such article or substance as is mentioned in subparagraph (vii), take possession of it and detain it for so long as is necessary to-
    - examine it and do to it anything which he has power to do under that paragraph;
    - ensure that it is not tampered with before his examination of it is completed; and
    - ensure that it is available for use as evidence in any proceedings for an offence under the MSL 2008 or related Regulations or any instrument made under it;
  - (ix) require a person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under subparagraph (iii)-
    - to attend at a place and time specified by the inspector;
    - 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
    - to sign a declaration of the truth of his answers;
  - (x) require the production of, and inspect and take copies of, or of any entry in-
    - any books or documents which, under the MSL 2008 or related Regulations, are required to be kept; and

- any other books or documents which he considers it necessary for him to see for the purposes of any examination or investigation under paragraph (c); and
- (xi) 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.
- (3) In exercising his powers an Inspector has a duty of care, including-
- (a) not unnecessarily preventing a ship from proceeding on its voyage;
  - (b) in the case of exercising his powers in relation an article or substance found in any premises or ship, the Inspector shall-
    - (i) if so requested exercise those powers in the presence of the person having responsibility for the article or substance unless this would pose a danger to such person;
    - (ii) ascertain from appropriate persons what dangers, if any, may be involved in dismantling or testing the article or substance; and
    - (iii) leave notification, either with the person responsible for any article or substance or in a conspicuous place in the premises or on the ship, a notice identifying the article or substance and that the Inspector had taken possession of it; and
    - (iv) where applicable, the Inspector shall also leave with the person responsible for it a sample of any substance that the Inspector takes possession of.

#### **18.4 PROTECTION FOR WITNESSES - SECTION 422 OF MSL 2008:**

- (1) A witness may elect to have a representative present whilst giving evidence to an Inspector.
- (2) No answer given by a person under the requirement to provide any information relevant to any examination or investigation shall be admissible in evidence against that person or witness, or the spouse of that person in any proceedings except where a statement or declaration to the Inspector is known to be false.

#### **18.5 WHAT DOCUMENTS OR INFORMATION ARE THE MASTER AND CREW REQUIRED TO GIVE THE INVESTIGATOR REGARDING A CASUALTY? - SECTION 420 OF MSL 2008:**

The Investigator has very wide powers in this regard and in essence may request whatever information, documents or other records he regards to be necessary for the investigation and it is an offence to refuse such a request (See section 18.3 for more information on the powers available to an Inspector).



**18.6 THE IMO CASUALTY INVESTIGATION CODE:**

- (1) The IMO Casualty Investigation Code is now in effect for all Parties to SOLAS 74. Hence it would be applied with respect to Casualty Investigations undertaken by MACI.
- (2) There are mandatory and recommendatory sections in the Code and in essence the Code sets out the way in which Casualty Investigations (referred to as Marine Safety Investigations or MSI's) are to be conducted and the principles and standards to be adhered to.
- (3) The current provisions of the MSL 2008 and the way in which MACI undertakes Casualty Investigations already comply with Code requirements to a very large extent though some amendments to the MSL 2008 will likely brought to consolidate matters.

**18.7 WHAT ENTRIES ARE TO BE MADE IN WHICH OF THE SHIPS LOG BOOKS FOLLOWING A CASUALTY?:**

- (1) When any incident that is described in subsection 18.1 of this Manual occurs on board a Cayman Islands ship, an entry is required to be entered in the Official Log Book (OLB) and the record should include a description of the casualty and the place where, or the position of the ship when, it occurred.
- (2) This does not preclude appropriate entries also being made in the Deck or Engine Room Log Books, as appropriate, as per normal practice and indeed such entries, made during the actual accident or incident, are often used to formulate an appropriate entry in the OLB.

**18.8 PRELIMINARY INQUIRIES AND FORMAL INVESTIGATIONS – SECTION 430 OF MSL 2008:**

- (1) Section 430 of the MSL 2008 makes provisions for the holding of Preliminary Inquiries (PIs) and Formal Investigations (FIs), which may be instigated by the Minister. In practical terms almost all Casualty Investigations are held under the provisions of section 419.
- (2) The PIs and FIs may be regarded more as the means by which a wider Investigation may be mounted where this is felt to be in the public interest within Cayman. The types of investigation have their roots in original UK Maritime Law and whilst FIs remain relevant, the use of PIs is becoming much less frequent and may be considered obsolescent. PIs will likely be removed at the next revision of the MSL 2008.
- (3) A PI is usually held by one or more Inspectors as in the case of an Investigation under section 419, but as indicated, its scope is widened and may include the making of recommendations for the cancellation or suspension of a Certificate of Competency where this seems appropriate. Also a PI may be held to assist in determining if a FI should be held.
- (4) A FI on the other hand is, as the name implies, a much more formal type of Investigation conducted by a Board appointed for the purpose, consisting of a judge assisted by one or more assessors as necessary. Such assessors could be the usual Investigation Inspectors or other persons with specialist knowledge and expertise. A FI Board will deal with any issues regarding the suspension or cancellation of Certificates of Competency and may also, by Court Order,

award costs as it sees fit. The Board reports to the Minister. A FI may be held whether or not a PI has been launched or completed.

**SUMMARY: CASUALTY INVESTIGATION - WHAT DO I NEED TO KNOW?**

- Almost all Investigations into Marine Casualties are held in accordance with the provisions of section 419 of the MSL 2008, under which MACI has authority, vested in the Chief Executive Officer, (CEO) to require such an investigation. MACI will conduct some form of Investigation into all but very minor incidents.
- The CEO has powers to appoint Surveyors and Inspectors under powers transferred from the MSL 2008 to the Maritime Authority Law (2008 Revision) (MAL 2008). Casualty Investigations are undertaken by MACI appointed Inspectors, which are usually also appointed as Surveyors, and such officers are vested with wide ranging powers to enable them to carry out their duties, including the investigation of Marine Casualties. Similar powers exist in the Marine Pollution Law 2001.
- The level of investigation will be determined by the seriousness of the Casualty. All very serious marine Casualties will be investigated fully.
- Though Surveyors and Inspectors have considerable powers at their disposal they also have a duty of care in how those powers are used.
- Whilst persons who have information are obliged to answer questions put to them regarding a Marine Casualty or Incident, the answers given or statements made are treated in confidence and cannot be used as evidence in any court of law, either against the witness or the witness' spouse, unless such information was knowingly false or misleading.
- An Investigator can require the production to him of any documents, reports or other information, relating to the ship and its operations, during the course of his investigation into a Marine Casualty, including access to the Vessel's VDR. The Inspector may make copies of such documents, reports and information as he sees necessary.
- In addition to implementing the provisions of the MSL 2008, MACI also applies the provisions of the IMO Marine Casualty Investigation Code in dealing with Casualty Investigations.
- Masters are required to record details of a Marine Casualty in the OLB in addition to any entries regarding same in the Deck and Engine Room log books.
- The MSL 2008 makes provision for the holding of Preliminary Inquiries (PIs) and Formal Investigations (FIs) which are intended to allow for a broader Investigation where this is in the wider public interest. For an FI a Board is appointed consisting of a judge assisted by one or more assessors. The Board can suspend or cancel a Master's or Officer's Certificate of Competency and can award costs.

**19. PORT STATE CONTROL AND FLAG STATE INSPECTION:****19.1 PORT STATE CONTROL (PSC) - GLOBAL COVERAGE AND INSPECTIONS OF CAYMAN ISLANDS SHIPS IN FOREIGN PORTS:**

(1) Port State Control (PSC) means the inspection of a ship registered in one country by the authorities of the State being visited by the ship, for example a Cayman Islands registered ship visiting the Netherlands. Most Port States are grouped into a number of PSC Memoranda of Understanding (MoUs) which operate joint PSC regimes and will share information and target inspections according to the past record of the vessel and the Flag the vessel flies. The PSC MoUs regions are as follows-

<b>NAME OF MOU</b>	<b>AREA COVERED/REMARKS<sup>17</sup></b>
Black Sea	Bulgaria, Georgia, Romania, Russian Federation, Turkey, Ukraine.
Indian Ocean	Australia, Eritrea, La Reunion Island, India, Iran. Kenya, Maldives, Mauritius, Oman, Sri Lanka, South Africa, Sudan, Tanzania and Yemen.
Caribbean	Antigua and Barbuda; Aruba; Bahamas; Barbados; Belize; Cayman Islands; Cuba; Grenada; Guyana; Jamaica; Netherlands Antilles; Saint Kitts and Nevis; Suriname; Trinidad and Tobago.
West and Central Africa	Senegal; Nigeria, Guinea; Sierra Leone; Congo; Ghana; The Gambia and Benin.
Viña del Mar	Argentina; Bolivia; Brazil; Columbia; Chile; Cuba; Ecuador; Honduras, Mexico, Panama; Peru; Uruguay and Venezuela.
Tokyo	Some 18 countries forming the Pacific Rim are Members of this MOU, including Australia, Canada, Chile, China, Hong Kong, Japan. New Zealand, the Russian Federation, and Singapore.
Mediterranean	Algeria; Cyprus; Egypt; Israel; Jordan; Lebanon; Malta; Morocco; Tunisia and Turkey.
Paris	Includes all the European Union coastal States, Russian Federation, Canada, Norway and Iceland.
US Coast Guard	Includes all US ports. Though not strictly a MoU, the USCG operates as such in practical terms.
It should be noted that a State may be a Member of more than one PSC MoU.	

<sup>17</sup> For up to date information on any of the MoUs the relevant website should be consulted.

(2) Cayman Islands ships are therefore subject to inspections under PSC arrangements in any foreign port which they may visit and where a ship is found by a Port State Control Officer (PCSO) to be deficient then, depending on the nature of the deficiencies, the PCSO may take action, which when considered sufficiently serious may include detention of the ship. The authorities inspecting the ship under these arrangements may be the local Port Authority but need not necessarily be so.

(3) Intervention by a PSC Authority is always potentially a serious matter and where detention is involved then it has undoubtedly become a serious matter. Masters, Owners and Operators should therefore make every effort to ensure the ship is properly maintained and in compliance with all the standards covered by their operational Certificates. There are a number of actions that can be taken to avoid Port State Control detentions for which there is much industry guidance and standards and some advice on these is contained in [Shipping Notice CISN 06/04](#).

(4) Similarly, foreign ships visiting Cayman Islands waters are subject to PSC inspections and these are carried out by MACI in coordination with the Cayman Islands Port Authority. Where the deficiencies during a Cayman Islands PSC Inspection are found to be serious enough the vessel will be detained. It is a serious offence if a ship under detention proceeds or attempts to proceed to sea before it is officially released from detention. Where a ship is considered unsafe by the Cayman Islands authorities it will not be released from detention until the deficiencies have been sufficiently rectified to allow the ship to proceed to sea, or, where the deficiencies cannot be permanently repaired or rectified, to a port where permanent repairs or rectification of the deficiencies can be carried out. Whilst the Cayman Islands cannot legislate for the penalties imposed on a Cayman Islands ship detained in a foreign port, most States would have similar provisions and penalties in place with respect to PSC and detention thereunder, and Masters of Cayman Islands ships need to be fully aware of this.

## **19.2 ACTION FOLLOWING PORT STATE CONTROL INTERVENTION ON A CAYMAN ISLANDS SHIP:**

(1) When a Cayman Islands ship is detained it is essential that MACI is informed immediately with the basic facts, including, where possible, photographs of all detainable deficiencies, particularly in cases where the detention appears unreasonable. Such photographs should in any case be retained for use by MACI.

(2) Following the justifiable detention of a Cayman Islands ship in a foreign port MACI will usually undertake its own Flag State inspection of the vessel as soon as possible after the detention.

(3) MACI takes any detention of a Cayman Islands ship very seriously. Every detention damages the high reputation of the Cayman flag and increases the number of inspections of Cayman Islands ships undertaken by the PSC regime concerned (and may well have wider repercussions given the ready exchange of information between the various PSC MoU systems).

(4) In some areas repeated detention can lead to a ship being banned from the area. This would be completely unacceptable for a Cayman Islands registered ship and would also have serious consequences for the Owners and severe hardship. It must not be allowed to happen.

### 19.3 FLAG STATE INSPECTION AND THE ROLE OF CLASSIFICATION SOCIETIES:

(1) Except where undertaken following a PSC intervention, Flag State inspections/surveys are generally held on board a vessel in order to confirm either the initial, or the continued, compliance by the vessel and its crew with the various Maritime Codes and Conventions (e.g. SOLAS 74, Load Line 66, MARPOL 73/78, ISM Code etc.) or to renew a Certificate that has or is due to expire. On confirmation of compliance, the Flag State endorses the existing Certificate or issues the vessel a new Convention Certificate, as the case may be. A new Certificate will normally be issued for the full term allowable generally subject to any applicable annual or intermediate surveys required.

(2) The inspections are held as determined by the individual Conventions and the relevant Certificates. The Cayman Islands complies with the Harmonised System of Surveys and Certification (HSSC) under which most Convention Certificates have a five year overall period of validity, subject to annual inspections, periodical surveys or intermediate surveys as the case may be. Additional surveys may also be held as and when required (e.g. following an accident or major alterations to the ship).

(3) The inspections can be carried out either by the Flag State itself, or they may be delegated by the Flag State to a Recognised Organization (RO)<sup>18</sup>. Typically the vessel's Classification Society (CS) may be appointed by MACI as a RO and authorised to carry out surveys on MACI's behalf.

(4) Flag State surveys (Statutory surveys) should be distinguished from those required to maintain a vessel's "Class" (Class surveys). Statutory surveys are carried out to confirm compliance with the International Maritime Conventions as required by the country in which the vessel is registered, or by those countries it may visit. Class surveys are held in order that a vessel may be remain "in Class" with its CS.

(5) A CS typically has prescriptive rules setting out the structural standards, including such matters as scantlings and weld quality, as well as machinery, electrical installation and piping standards, which a vessel must be built to and maintained. Maintenance of 'Class' is essential since it is a requirement in ensuring the vessel's structural strength is adequate as required by LL 66, and by the Safety Construction Certificate required under SOLAS 74. In addition, withdrawal of Class will almost certainly void a vessel's hull and machinery insurance. There is a degree of overlap between Class and Convention requirements.

(6) Masters will also be aware that Class may issue various "Conditions of Class" whereby the repair or rectification of relatively minor structural or machinery damage or deficiencies may be deferred for a stated period (often until the vessel's next schedule dry-dock). In some cases temporary repairs may be required pending the permanent repairs. The use of Conditions of Class are perfectly legitimate though Masters remain responsible for the safety and seaworthiness of their ships and if the use of Conditions of Class appear excessive or

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<sup>18</sup> For Cayman the seven Classification Societies recognised are American Bureau of Shipping (ABS), Bureau Veritas (BV), Det Norske Veritas (DNV), Germanischer Lloyd (GL), Lloyds Register (LR), Nippon Kaiji Kyokai (Class NK), and Registro Italiano Navale (RINA Class).

unreasonable to the extent that the Master feels the safety of his ship is compromised then he should take the matter up with his owners or Operators and alert the Flag State.

(7) Examples of the various types of statutory Certificates issued and the typical inspecting authority include (for more detail please see Annex A)-

- (a) Statutory Certificates where surveys are typically undertaken by MACI directly-
  - (i) Cargo Ship Safety Equipment Certificate (SEC) - issued under SOLAS 74;
  - (ii) Safety Management Certificate (SMC) and Document of Compliance (DOC) - issued under the International Ship Management Code (ISM Code);
  - (iii) International Ship Security Certificate (ISS Certificate) – issued under the ISPS Code)
  - (iv) International Oil Pollution Prevention Certificate (IOPP Certificate) - issued under Annex 1 to MARPOL 73/78;
  - (v) Certificate of Compliance – issued under the Large Yacht Code (LY2).
- (b) Statutory Certificates where surveys are typically delegated by MACI to Class-
  - (i) Load Line Certificate LL Certificate) – issued under LL66;
  - (ii) Cargo Ship Safety Construction Certificate (SafCon Certificate) - issued under SOLAS 74;
  - (iii) Cargo Ship Safety Radio Certificate (SR Certificate) - issued under SOLAS 74;
  - (iv) International Sewage Pollution Prevention Certificate (ISPP Certificate) - issued under Annex IV to MARPOL; 73/28;
  - (v) International Air Pollution Prevention Certificate (IAPP Certificate) - issued under Annex VI to MARPOL; 73/28.

#### **19.4 WHAT ARE IMPROVEMENT AND PROHIBITION NOTICES? - SECTIONS 424 – 429 OF MSL 2008:**

##### **Improvement Notices:**

(1) If an Inspector or Surveyor is of the opinion that a person is contravening one or more relevant statutory provisions (those for safety and protection of the marine environment) or has contravened one or more of those provisions such that, in the opinion of the Inspector or Surveyor, it is likely that the contravention will be repeated, he may serve an “Improvement Notice”. The notice will state the concerns that the Inspector or Surveyor has, specifying the provision or provisions which he thinks are being contravened and why. The Notice will require the person to remedy the contravention or conditions leading to it within a period specified by the Inspector or Surveyor. An Improvement Notice may include directions as to the measures to be taken to remedy any contravention or matter to which it relates. A Notice should not require any measures to be taken that are more onerous than those necessary to secure compliance with that provision. Whoever contravenes any requirement imposed by an Improvement Notice is guilty of an offence unless he proves that he exercised all due diligence to avoid a contravention of the requirement.

**Prohibition notices:**

(2) If an Inspector or Surveyor is of the opinion that activities are being, or are likely to be, carried out on board any ship such that, in the opinion of the Inspector or Surveyor, those activities will involve the risk of serious personal injury to any person, whether on board the ship or not, or that the activities are in serious contravention of the relevant statutory provisions for safety of the ship or protection of the marine environment, he may serve a “Prohibition Notice”. The notice will state the risk and concerns that the Inspector or Surveyor has which give rise to the risk, and will also specify any provision or provisions which the Inspector or Surveyor thinks are being contravened and why. The notice will direct that any such activities or contraventions are to cease immediately and that, where relevant, the ship cannot go to sea until such activities are halted and contraventions of any provisions listed are remedied. A Prohibition Notice may include directions as to the measures to be taken to remedy any contravention or matter to which it relates. Any notice should not require any measures to be taken that are more onerous than those necessary to secure compliance with that provision.

**SUMMARY: PORT STATE CONTROL, FLAG INSPECTIONS AND THE ROLE OF CLASSIFICATION SOCIETIES - WHAT DO I NEED TO KNOW?**

- Port State Control inspections are held by a foreign Port State on Cayman Islands ships when they enter the ports of that State to ensure that the ship is in compliance with the various international maritime Conventions, Codes and other such Instruments. There is virtually global coverage regarding Port State Control (PSC) regimes with nine PSC regimes (MoUs) currently in existence. A State may belong to more than one such regime.
- Similarly, MACI conducts Port State Control inspections on foreign ships visiting Cayman waters.
- Ships may be detained by PSC if found to be in contravention with the various maritime conventions and codes and MACI takes any detentions of a Cayman Islands ship very seriously. Every effort needs to be taken by the ship to prevent a PSC detention.
- There are severe penalties for sailing or attempting to sail while the ship is under detention.
- Flag State inspections are held by MACI on all Cayman Islands registered ships to ensure that the ship is in compliance with the various international maritime Conventions, Codes and other such Instruments.
- If a Cayman Islands ship is detained by PSC or deficiencies are found MACI may undertake a flag inspection of the ship.
- Where a Cayman Islands ship is detained MACI must be informed without delay of all the circumstances surrounding the detention.
- Repeated detention of the same ship can lead to that ship being banned from trading in the PSC region concerned.
- Cayman Islands commercial ships are to be classed with one of the Classification Societies recognised by MACI and the vessel is to be maintained in Class. Conditions of Class may be issued for non-essential repairs but excessive use of this facility should be guarded against.
- If an Inspector is of the opinion that a person in Cayman waters, or on a Cayman Island ship wherever it might be, is contravening one or more of the relevant statutory provisions or has contravened one or more of those provisions such that in the opinion of the Inspector makes it likely that the contravention will be repeated, the Inspector may serve an “Improvement Notice”. The Notice will require the person to remedy the contravention or conditions matters leading to it within a period specified by the Inspector.
- If an Inspector is of the opinion that activities are being, or are likely to be, carried out on board any ship in Cayman waters or on any Cayman Islands ship wherever it might be, and the Inspector is of the view that these activities will involve the risk of serious personal injury to any person, whether on board the ship or not, he may serve a “Prohibition Notice”. The Notice will direct that any such activities or issues are ceased forthwith and that the ship cannot go to sea until such activities have been ceased and contraventions of any provisions listed in the Notice are remedied.

**ANNEX A: ISSUE OF CERTIFICATES:**

The following lists the main full term Certificates issued to the ship and by whom they may be issued. However it should be noted that the list below is not exhaustive and Masters and senior Officers should always be aware of the Certificates the vessel is required to maintain to comply with the international Conventions etc. In addition the issuing body may change over time as the CISR may delegate some of the functions not already delegated to an authorised Classification Society, either generally or on a case-by-case basis-

<b>NAME OF CERTIFICATE OR DOCUMENT</b>	<b>NORMALLY ISSUED BY</b>
Cargo Ship Safety Construction Certificate (SAFCON).	Classification Society.
Cargo Ship Safety Equipment Certificate (SEC). (with Form E)	MACI/CISR.
Cargo Ship Safety Radio Certificate (SRC). (with Form R)	MACI/CISR.
Cargo Ship Safety Certificate <sup>1</sup> . (with Form C)	MACI/CISR.
International Tonnage Certificate (ITC).	Classification Society.
International Load Line Certificate (ILLC). (with Conditions of Assignment)	Classification Society.
Minimum Safe Manning Document (MSMD).	MACI/CISR.
Passenger Ship Safety Certificate (PSC). (with Form P)	MACI/CISR.
International Oil Pollution Prevention Certificate (IOPPC). (with Form A)	MACI/CISR.
ISM Safety Management Certificate (SMC). (Ship based)	MACI/CISR.
ISM Document of Compliance (DOC). (Company based)	MACI/CISR.
International Ship Security Certificate (ISSC).	MACI/CISR.
International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk (IPPC-NLS).	Classification Society.
International Sewage Pollution Prevention Certificate (ISPPC).	Classification Society.
Engine International Air Pollution Prevention Certificate <sup>2</sup> (EIAPP).	Classification Society.
International Air Pollution Prevention Certificate <sup>3</sup> (IAPPC).	Classification Society.
Anti-Fouling System - Certificate of Compliance (AFS-COC).	Classification Society.
International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk.	Classification Society.
International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.	Classification Society.
Document of Compliance for Carriage of Dangerous or Bulk Cargoes (IMDG/BC Codes).	Classification Society.
Civil Liability Certificate (Oil Pollution) (CLC-OP).	MACI/CISR.
Civil Liability Certificate (Bunkers Convention) (CLC-BC).	MACI/CISR.
Record of Approved Ship Safety Equipment.	Classification Society.
Certificate of Compliance for Large Commercial Sailing and Motor Vessels (COC-LY2)).	MACI/CISR.
Grain Loading Letter Class – CISR.	MACI/CISR.
Mobile Offshore Drilling Unit Code Certificate (MODU Certificate)	Classification Society.
<sup>1</sup> The Cargo Ship Safety Certificate combines the Cargo Ship SEC and the Cargo Ship SR Certificates.	
<sup>2</sup> The Engine International Air Pollution Prevention Certificate is a sort of “type approval” Certificate issued by the engine manufacturers,	
<sup>3</sup> The International Air Pollution Prevention Certificate is a ship specific Certificate issued after the installation of the engine in the ship,	



**ANNEX B: OUTLINE SYLLABUS FOR LAWS AND PROCEDURE TESTS**

MAIN HEADING	SUB-GROUPS	KNOWLEDGE REQUIRED BY	
		MASTER ONLY	SENIOR OFFICERS
<b>Registration of Ships:</b>			
	Registration requirements and Procedure.	■	
	Certificate of Registry.	■	
	Demise (Bareboat) Charter Registration.	■	
	Carving and Marking of ship.	■	
	Registrations of Alterations and Registration anew.	■	
	Tonnage Measurement.	■	
	Transfers of Ownership.	■	
	Requirement for Insurance cover.	■	
<b>National Character and Flag:</b>			
		■	■
<b>Masters and Seafarers, Log Books and Documents:</b>			
	Engagement and Discharge of Crew.	■	
	Lists of Crew.	■	
	Payment of Crew's Wages.	■	
	Employment of young persons.	■	■
	Crew's entitlement to on-board accommodation, food and water.	■	■
	Manning, Certification, Knowledge of English.	■	■
	Hours of Work and Rest.	■	■
	Seafarer's Safety, Health and Welfare.	■	■
	Crew's entitlement regarding repatriation.	■	■
	Master's powers in relation to crew misconduct, including absence without leave.	■	■
	Disqualification of Seafarers and Inquiry into fitness of conduct.	■	■
	Payment of wages of deceased seafarer or seafarer or seafarer left behind.	■	■
	Log Books and documentation.	■	■
	Handing over documents by Master.	■	■
<b>Prevention of Collisions and Safety of Navigation:</b>			
	Adherence to Collision Regulations and Traffic Separation Schemes.	■	■
	Collision Liability.	■	■
	Duty to render assistance following a collision.	■	■
	Duty to assist ships in distress and persons in danger at sea.	■	■
	Reporting of accidents.	■	■
	Life boat and fire drills, entry into dangerous spaces and Inspections of Safety Equipment.	■	■
	Carriage of Nautical Publications.	■	■

MAIN HEADING	SUB-GROUPS	KNOWLEDGE REQUIRED BY	
		MASTER ONLY	SENIOR OFFICERS
<b>International Safety Management (ISM) Code:</b>			
	Purpose of the ISM Code.		
	Certificates and periods of validity.	■	■
	Responsibility of Owner and Master for compliance with the ISM Code.	■	■
	Designated Person Ashore (DPA) and functions.	■	■
	Effect of the withdrawal or cancellation of the DOC.	■	■
<b>International Ship and Port Facility Security (ISPS) Code:</b>			
	ISSC Certificate – Period of Validity and inspections.	■	■
	Security Levels.	■	■
	ISPS Ship Security Plan.	■	■
	Ship Security Officer (SSO) and functions.	■	■
	Company Security Officer (CSO) and functions.	■	■
	Ship Security Alarm systems and testing.	■	■
	Access and egress control.	■	■
<b>Safety of Life at Sea and Maritime Security:</b>			
	Safety of Life at Sea Convention, 1974 (SOLAS 74).	■	■
	Master's obligations and authority with respect to ship Certificates.	■	
	Effect of an operational Certificate becoming invalid.	■	■
<b>Load Lines:</b>			
	The Load Lines Convention, 1966.	■	■
	Submersion of Load Lines.	■	■
	Posting up of Load Line Certificate, draft and freeboard prior to leaving port.	■	■
	Load Line marks and offences in relation to these.	■	■
	Ships not to proceed without a Load Line Certificate.	■	■
	Load Line Exemption Certificate.	■	■
<b>Carriage of Dangerous Goods and Bulk Cargoes:</b>			
	Application of Codes.	■	
	Rejection, disposal or forfeiture of Dangerous Goods.	■	
	Carriage of Grain.	■	
	Carriage of other bulk cargoes.	■	
<b>Unsafe Ships:</b>			
	What is an Unsafe Ship?	■	■
	Responsibilities and liabilities in relation to an Unsafe Ship	■	■

MAIN HEADING	SUB-GROUPS	KNOWLEDGE REQUIRED BY	
		MASTER ONLY	SENIOR OFFICERS
<b>Wreck and Salvage:</b>			
	Wreck – what it is and what action to take with respect to it.	■	■
	Salvage – What constitutes salvage.	■	■
	Master’s authority to enter into salvage agreement.	■	
	SCOPIIC Clause of the Salvage Convention.	■	
<b>Control of and returns as to persons on board:</b>			
	Procedures for Births and Deaths on board	■	
	Stowaways	■	
	Powers of arrest	■	
	Unauthorised presence on board.	■	
<b>Liability and Compensation for Oil Pollution Damage (Tankers):</b>			
	Overview of CLC and Fund regime.	■	
	Certificate of Insurance for Oil Pollution Damage.	■	
	Penalties	■	
<b>Compensation for Oil Pollution Damage (Bunker Oil):</b>			
	Overview of Bunkers Convention regime.	■	
	Bunker Oil Pollution Insurance Certificate.	■	
	Penalties	■	
<b>Prevention of Oil spills and action in the event of a spill:</b>			
	IOPP Certificate Regime.	■	■
	SOPEP manual.	■	■
	Reporting procedures in the event of a cargo oil spill.	■	■
	Procedure for the Approval of a SOPEP	■	■
<b>Piracy and Hijacking:</b>			
	Piracy	■	■
	Hijacking and Destroying Ships	■	■
	Offences endangering safe navigation, threats and ancillary offences	■	■
<b>Limitation and Division of Liability:</b>			
	What constitutes a maritime claim.	■	
	What is “general average”	■	
	What claims are excepted from limitation.	■	
	Claims against a Port Authority for damages.	■	
<b>Casualty Investigations:</b>			
	General Framework for Casualty Investigations.	■	■
	Procedures for mounting an investigation	■	■
	Powers of an inspector holding investigation.	■	■
	Protection for witnesses	■	■
	What documents of information are the Master and crew required to give the Investigator regarding a Casualty?	■	■
	The IMO Casualty Investigation Code	■	■

MAIN HEADING	SUB-GROUPS	KNOWLEDGE REQUIRED BY	
		MASTER ONLY	SENIOR OFFICERS
	What entries are to be made in the ships' Log Books following a casualty?	■	
	Preliminary Inquiries and Formal Investigations	■	■
<b>Port State Control and Flag State Inspection:</b>			
	Port State Control (PSC) – Global Coverage, and Inspections of Cayman Islands ships in foreign Ports.	■	■
	Action following PSC intervention on a Cayman Islands Ship	■	■
	Flag State Inspection and the role of Classification Societies.	■	■
	What are Improvement and Prohibition Notices.	■	■

## **ANNEX C: SUMMARY LIST OF CURRENT MAIN CAYMAN ISLANDS SHIPPING LAWS AND REGULATIONS**

### **1. PRIMARY LEGISLATION:**

- (a) The Merchant Shipping Law (2008 Revision).
- (b) The Merchant Shipping (Marine Pollution) Law, 2001.
- (c) The Maritime Authority Law (2008 Revision).
- (d) The Merchant Shipping (Amendment) Law 2010

### **2. REGULATIONS MADE UNDER THE CURRENT MERCHANT SHIPPING LAW AND THE CURRENT MARINE POLLUTION LAW:**

- (a) Merchant Shipping (Returns of Births and Deaths) Regulations, 2004.
- (b) Merchant Shipping (Classes of Ships) Regulations, 2002.
- (c) Merchant Shipping (Carriage of Packaged Irradiated Nuclear Fuel Etc) (INF Code) Regulations, 2003.
- (d) Merchant Shipping (Certification of Ships' Cooks) Regulations, 2004.
- (e) Merchant Shipping (Classes of Ships) Regulations, 2002.
- (f) Merchant Shipping (Prevention of Collisions and Use of Distress Signals) Regulations, 2003.
- (g) Merchant Shipping (Counting and Registration of Persons on Board Passenger Ships) Regulations, 2002.
- (h) Merchant Shipping (Entry into Dangerous Spaces) Regulations, 2004.
- (i) Merchant Shipping (Registration Fees) Regulations, 2006.
- (j) Merchant Shipping (Guarding Of Machinery and Safety of Electrical Equipment) Regulations, 2004.
- (k) Merchant Shipping (Load Line) Regulations, 2002.
- (l) Merchant Shipping (Certification, Safe Manning, Hours of Work and Watchkeeping) Regulations, 2002.
- (m) Merchant Shipping (Certification, Safe Manning, Hours of Work and Watchkeeping)(Amendment) Regulations 2003.
- (n) Merchant Shipping (Marine Pollution) Regulations, 2004.
- (o) Merchant Shipping (Means of Access) Regulations, 2004.
- (p) Merchant Shipping (Medical Examination) Regulations, 2002.
- (q) Merchant Shipping (Carriage of Nautical Publications) Regulations, 2002.
- (r) Merchant Shipping (Port State Control) Regulations, 2003.
- (s) Merchant Shipping (Registration of Ships) Regulations, 2002.
- (t) Merchant Shipping (Marine Pollution) (Reporting of Incidents Involving Harmful Substances) Regulations, 2004.
- (u) Merchant Shipping (Safety of Navigation) Regulations, 2004.

- (v) Merchant Shipping (Tonnage) Regulations, 2002.
- (w) Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations, 2002.

**3. REGULATIONS MADE UNDER EARLIER MERCHANT SHIPPING LAW AND MARINE POLLUTION LAW BUT RETAINED UNDER CURRENT LAWS:**

- (a) Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk)(Cayman Islands) Regulations 1988.
- (b) Merchant Shipping (BCH Code) (Cayman Islands) Regulations, 1988.
- (c) Merchant Shipping (IBC) Code) (Cayman Islands) Regulations, 1988.
- (d) Merchant Shipping (Crew Accommodation) (Cayman Islands) Regulations, 1988.
- (e) Merchant Shipping (Prevention of Pollution by Garbage) (Cayman Islands) Regulations, 1988.
- (f) Merchant Shipping (Submersible Craft Construction, Equipment and Survey)(Cayman Islands) Regulations 1991.
- (g) Merchant Shipping (Submersible Craft Operations) (Cayman Islands) Regulations, 1991.
- (h) Merchant Shipping (Provisions and Water) (Cayman Islands) Regulations, 1989.
- (i) Merchant Shipping (Repatriation) (Cayman Islands) Regulations, 1989.
- (j) Merchant Shipping (Crew Agreements, List of Crew and Discharge of Seamen) Regulations, 1992.

Whilst maritime legislation deals with shipping matters there are on occasion necessary references to non-maritime legislation, for example the reference in the Merchant Shipping Law to the Companies law. Where this occurs, the reference is clear and unambiguous so that the referenced legislation can easily be identified and sourced.

**ANNEX D: KEY INTERNATIONAL MARITIME CONVENTIONS RATIFIED BY THE UK AND EXTENDED TO THE CAYMAN ISLANDS**

Of the various IMO Conventions that have been extended to the Cayman Islands, the following are the *main* ones:

*(Note: In all cases the listed Conventions are inclusive of all applicable amendments in force)*

**1. IMO CONVENTIONS AND CONVENTIONS WHICH IMO ACT AS THE DEPOSITORY:**

<b>REF. No.</b>	<b>SHORT TITLE</b>	<b>FULL TITLE</b>
1.	SOLAS 1974.	International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS 1974)/
2.	SOLAS PROTOCOL 1978.	Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS PROT)
3.	SOLAS PROTOCOL 1988.	Protocol of 1988 relating to the International Convention for the Safety of Life at Sea, 1974 (SOLAS PROT (HSSC) 1988).
4.	COLREG 1972.	Convention on the International Regulations for Preventing Collisions at Sea (COLREG 72).
5.	MARPOL 73/78 (MAIN BODY).	International Convention for the Prevention of Marine Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto.
6.	MARPOL Annex I.	Oil Pollution.
7.	MARPOL Annex II.	Noxious Liquid Substances in Bulk.
8.	MARPOL Annex III.	Harmful Substances Carried by Sea in Packaged Form.
9.	MARPOL Annex V.	Garbage.
10.	LOAD LINE 1966.	International Convention on Load Lines, 1966.
11.	LOAD LINE PROTOCOL 1988.	Protocol of 1988 relating to the International Convention on Load Lines, 1966.
12.	TONNAGE 1969.	International Convention on Tonnage measurements of Ships, 1969.
13.	INTERVENTION 1969.	International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.
14.	STCW 1978.	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.
15.	INTERVENTION PROTOCOL 1973.	Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973.
16.	CLC 1969	International Convention on Civil Liability for Oil Pollution Damage, 1969

REF. No.	SHORT TITLE	FULL TITLE
17.	CLC PROTOCOL 1992	Protocol to of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969.
18.	FUND 1971.	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.
19.	FUND PROTOCOL 1992.	Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971
20.	PAL 1974.	Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 (PAL 1974)
21.	LLMC PROT 1996.	Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976 (LLMC PROT 1996)
22.	BUNKERS 2001.	International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001
23.	SALVAGE 1989.	International Convention on Salvage, 1989.
24.	LC 1972.	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, as amended.
25.	LC PROT 1996	Protocol of 1996 to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other matter, 1972.
26.	Brussels Collision 1910.	Brussels Collision Convention - International Convention for the Unification of Certain Rules of Law respecting Collisions between Vessels, 1910.
27.	Arrest 1910.	International Convention for the Unification of Certain Rules relating to the Arrest of Sea-going Ships, Brussels, 1952.

## 2. ILO CONVENTIONS:

The following main ILO Conventions are complied with through provisions contained in Cayman Islands Law:

REF. No.	SHORT TITLE	FULL TITLE
28	C.073.	Medical Examination (Seafarers) Convention, 1946.
29	C.092.	Accommodation of Crews Convention (Revised), 1949.
30	C.133.	Accommodation of Crews (Supplementary Provisions) Convention, 1970.



<b>REF. NO.</b>	<b>SHORT TITLE</b>	<b>FULL TITLE</b>
31	C.147.	Merchant Shipping (Minimum Standards) Convention, 1976.
32	C.164.	Health Protection and Medical Care Convention, 1987.
33	C.166.	Repatriation of Seafarers Convention (Revised), 1987.
34	C.178.	Labour Inspection (Seafarers) Convention, 1996.
35	C.180.	Seafarers' Hours of Work and the Manning of Ships Convention, 1996.

### 3. OTHER CONVENTIONS:

<b>REF. NO.</b>	<b>SHORT TITLE</b>	<b>FULL TITLE</b>
36.	UNCLOS 1982	United Nations Convention on the Law of the Sea, 1982.

**MACI**  
**APRIL2011**



### **Head Office - Grand Cayman**

PO Box 2256  
2nd Floor, Strathvale House  
90 North Church Street  
Grand Cayman KY1-1107  
CAYMAN ISLANDS  
Tel: +1 345 949 8831  
Fax: +1 345 949 8849

### **European Regional Office – United Kingdom**

1st Floor, Vanbrugh House  
Grange Drive, Hedge End  
Southampton, SO30 2AF,  
England  
UNITED KINGDOM  
Tel: +44 (0) 1489 799 203  
Fax: +44 (0) 1489 799 204

General enquiries: [cisrky@cishipping.com](mailto:cisrky@cishipping.com)  
Shipping Master enquiries: [shipping.master@cishipping.com](mailto:shipping.master@cishipping.com)  
Survey enquiries: [survey@cishipping.com](mailto:survey@cishipping.com)