

1988 No. 246

**MERCHANT SHIPPING**

**The Merchant Shipping Act 1970 (Cayman Islands)  
Order 1988**

*Made* - - - - - *17th February 1988*

*Coming into force* - - - - - *17th March 1988*

At the Court at Buckingham Palace, the 17th day of February 1988

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 94 of the Merchant Shipping Act 1970(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Merchant Shipping Act 1970 (Cayman Islands) Order 1988 and shall come into force on 17th March 1988.

2. It is hereby directed that, subject to the exceptions, adaptations and modifications specified in the Schedule to this Order, the provisions of the Merchant Shipping Act 1970 shall extend to the Cayman Islands as part of the law thereof and shall apply to ships registered there and to masters and seamen employed in them as they apply to ships registered in the United Kingdom and to masters and seamen employed in them and the reference in section 91 of the said Act to the Merchant Shipping Act 1965(b) shall be to that Act as extended to the Cayman Islands by the Merchant Shipping (Tonnage) (Overseas Territories) Order 1971(c).

*G. I. de Deney*  
Clerk of the Privy Council

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(a) 1970 c.36.  
(b) 1965 c.47.  
(c) S.I. 1971/383.

**EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE  
EXTENSION TO THE CAYMAN ISLANDS OF THE MERCHANT SHIPPING  
ACT 1970**

**General**

1. Any reference to the Merchant Shipping Acts shall be construed as a reference to those Acts as they extend to the Cayman Islands.
2. In any case for the words "the United Kingdom" there shall be substituted the words "the Cayman Islands", with the following exceptions:-
  - (a) in sections 1(8), 9(d), 20(6), 21(5), 24(3), 45, 48(1)(b), 89(2), where, after the words "the United Kingdom" in each case where they occur, there shall instead be inserted the words "or the Cayman Islands", as well also as in the second and third cases where they occur in section 40, the first case in section 65(1)(c) and the second case in section 97(1);
  - (b) in the first case in which the words "the United Kingdom" occur in section 97(1).
3. For any reference to the Board of Trade or the Board there shall be substituted a reference to the Governor in Council.
4. For any reference to the Registrar General of Shipping and Seamen there shall be substituted a reference to the Registrar of Shipping.
5. For any reference to a superintendent, save in section 97(1), there shall be substituted a reference to a shipping master.

**Fines**

6. In sections 1(8), 21(4), 22(4)(a) and (b), 24(2), 68(6), 70(4) and 86(2) and in paragraph 4(2) of Schedule 2 the amount of the fine in each instance shall be replaced by the words "level 4 on the standard scale".
7. In sections 2(2), 3(4), 22(4) (other than paragraphs (a) and (b)), 23(3), 47, 51(4), 59, 62(6), 65(3), 74 and 77(1) the amount of the fine in each instance shall be replaced by the words "level 3 on the standard scale".
8. In sections 6(4), 8(5), 68(5), 69(5), 70(2), 71(2), 72(4), 78, 87(3), 89(4), and in paragraph 8(5) of Schedule 2 the amount of the fine in each instance shall be replaced by the words "level 2 on the standard scale".
9. In section 19(5) the words "on summary conviction" onwards shall be replaced by the words "on conviction on indictment with a fine and on summary conviction with a fine not exceeding level 5 on the standard scale".
10. In sections 20(6), 27(1), 43(5), 45, 48(2), 50(2), 73(2) and 76(4) the amount of the fine in each instance shall be replaced by the words "level 5 on the standard scale".
11. In sections 28 and 30 for the reference to a fine on summary conviction there shall be substituted the words "conviction on indictment to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine not exceeding level 5 on the standard scale".
12. In section 34(2) and paragraph 3 of Schedule 2 the amount of the fine in each instance shall be replaced by the words "level 1 on the standard scale".
13. In section 46(1) for the reference to a fine on summary conviction there shall be substituted the words "conviction on indictment to a fine and on summary conviction to a fine not exceeding level 5 on the standard scale".
14. The standard scale of fines is as set out below:
  - Level 1 - \$ 100
  - Level 2 - \$ 250
  - Level 3 - \$1000
  - Level 4 - \$2500
  - Level 5 - \$5000

### **Monetary Amounts**

15. In section 7(2) for the words "£50", in each case there shall be substituted the words "two hundred and fifty dollars".

16. In section 39(3)(a) for the words "£10", there shall be substituted the words "one hundred dollars".

17. In sections 39(3)(b), 41(3) and in section 1(6A) of the Merchant Shipping Act 1965, as substituted by section 91, for the words "£100", there shall be substituted the words "five hundred dollars".

18. In section 66(2) for the words "£500", there shall be substituted the words "two thousand, five hundred dollars".

### **Other Exceptions, Adaptations and Modifications**

19. In section 17, subsections (7) and (11) shall be omitted and in subsection (10) the words "the Ministry of Health and Social Services for Northern Ireland" shall be omitted.

20. Section 42 shall be omitted.

21. In section 43(1) after the word "may" there shall be added the words "after consulting the Secretary of State for Transport of the United Kingdom".

22. For section 49, there shall be substituted the following provision:-

"49. Sections 43, 45, 47 and 48 of this Act apply to every ship registered in the Cayman Islands and also to any ship registered elsewhere which carries passengers-

(a) between places in the Cayman Islands; or

(b) on a voyage which begins and ends at the same place in the Cayman Islands and on which the ship calls at no place outside the Cayman Islands."

23. In section 51(5) for the words "in Scotland" onwards until the words "in England and Wales;" inclusive there shall be substituted the words "under the enactments relating to education in the Cayman Islands."

24. In section 52(2) for the words "the High Court" onwards there shall be substituted the words "the Grand Court, and the decision of the court on such an application shall be final."

25. In section 55:

(a) in subsection (1) (ii) the words " , if in England, Wales or Northern Ireland," and "and, if in Scotland, by the sheriff" shall be omitted; and

(b) in subsection (2) there shall be substituted for the words after "by" the words "section 72 of the Merchant Shipping (Applicable Conventions) Law 1987"(a).

26. In section 56 the words "or sheriff" shall be omitted wherever they occur and subsections (2), (3) and (7) shall be omitted.

27. In section 57:

(a) for subsection (2) there shall be substituted the following provision:-

"(2) An order under subsection (1) of this section may provide for the re-hearing to be by the Grand Court"; and

(b) in subsection (3) for the words "High Court or the Court of Session" there shall be substituted the words "Grand Court".

28. In section 57(4) and 58(1) for the words "the High Court" onwards there shall be substituted the words "the Grand Court."

29. In section 58(3) for any reference to the High Court there shall be substituted a reference to "the Grand Court".

30. In section 61:

(a) in subsection (2) there shall be substituted for the words after "by" the words "section 72 of the Merchant Shipping (Applicable Conventions) Law 1987"; and

(b) subsection (4) shall be omitted.

31. In section 70(1) for the words "may be so framed" onwards there shall be substituted the words "shall be so framed as to apply only to British Seamen connected with the Cayman Islands and as to have effect subject to any exemptions for which provision may be made by the regulations".

32. In section 70(3) for the reference to the British Nationality Act 1948 (c.56) there shall be substituted a reference to the British Nationality Act 1981 (c.61).

33. In section 72(2) for the words "General for England" onwards there shall be substituted the words "responsible for registering births and deaths in the Cayman Islands".

34. In section 72(3) the words "General" and "; and the enactments" onwards shall be omitted.

35. In section 77 subsection (2) shall be omitted.

36. In section 82 for the reference in subsection (1) to the Lord Chancellor there shall be substituted a reference to the Attorney General of the Cayman Islands and subsection (2) shall be omitted.

37. In section 83 for the words "Lord Chancellor may with the consent of the Treasury" there shall be substituted the words "Attorney General may with the consent of the Governor in Council".

38. In section 84 the words "with the consent of the Treasury" shall be omitted.

39. Section 85 and Schedule 1 shall be omitted.

40. In section 87 subsection (4) shall be omitted.

41. Section 88 shall be omitted.

42. In section 89:

- (a) in subsection (3) for the words "magistrates' court" there shall be substituted the words "a court of summary jurisdiction";
- (b) in subsection (5) after the word "Council" there shall be added the words "made under this subsection as it applies in the United Kingdom"; and
- (c) subsections (6) and (7) shall be omitted.

43. Sections 93 and 94 shall be omitted.

44. In section 95:

- (a) in subsection (1)(a) for the words "89 and 93" there shall be substituted the words "and 89"; and
- (b) subsection (4) shall be omitted.

45. In section 96(1) the word "88" shall be omitted.

46. In section 97:

- (a) in subsection (1):
  - (i) the definition of "enactment" shall be omitted;
  - (ii) in the definition of "proper officer" after the word "superintendent" there shall be added the words "in the United Kingdom";
  - (iii) after the definition of "proper officer" there shall be added the following definition of a "shipping master":

"shipping master" means an official exercising functions similar to those of a superintendent in the United Kingdom";
  - (iv) in the definition of "the Merchant Shipping Acts" the words ", the Fishing Vessels (Safety Provisions) Act 1970" shall be omitted; and
- (b) subsection (7) shall be omitted.

47. In section 98:

- (a) in subsection (1) for the word "Parliament" there shall be substituted the words "the Legislative Assembly"; and
- (b) subsection (2) shall be omitted.

- 48. Section 99 shall be omitted.**
- 49. In section 101:**
- (a) in subsection (2) for the words “, the Merchant Shipping Acts 1894 to 1967 and the Fishing Vessel (Safety Provisions) Act 1970” there shall be substituted the words “and the Merchant Shipping Acts 1894 to 1967”.**
  - (b) in subsection (3) for the words “Fishing Vessels (Safety Provisions) Act 1970” there shall be substituted the words “Merchant Shipping (Applicable Conventions) Law 1987”.**
  - (c) in subsection (4) the words “made by statutory instrument” shall be omitted.**
- 50. In paragraph 5(2) of Schedule 2 there shall be substituted for the words after “by” the words “section 72 of the Merchant Shipping (Applicable Conventions) Law 1987”.**
- 51. In Schedule 3 paragraphs 1 and 5 to 14 inclusive shall be omitted.**
- 52. In Schedule 4 paragraphs 1, 6, 7 and 10 shall be omitted.**
- 53. Schedule 5 shall have effect only to the extent that it repeals enactments applied in or extended to the Cayman Islands.**

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order applies, with the necessary modifications, the Merchant Shipping Act 1970 to the Cayman Islands. This has the effect, principally, of repealing Part II of the Merchant Shipping Act 1894 (c.60) as it applies there, and replacing the repealed provisions with those of the 1970 Act so as to bring the territory's law concerning masters and seamen more closely into line with the law in the United Kingdom and so as to enable effect to be given in the Cayman Islands to the International Convention on Tonnage Measurements of Ships, 1969 (Cmnd. 4332).

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