

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE MERCHANT SHIPPING LAW
(2004 REVISION), TO IMPLEMENT AMENDMENTS TO THE
INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT
SEA, AND THE PROVISIONS OF THE INTERNATIONAL CODE FOR
THE SECURITY OF SHIPS AND PORT FACILITIES, WHICH RELATE
TO SHIPS' MARITIME SECURITY; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

THE MERCHANT SHIPPING (AMENDMENT) BILL, 2004

MEMORANDUM OF OBJECTS AND REASONS

The Islands are subject to the provisions of the International Convention for the safety of Life at sea 1974 (SOLAS).

The Convention was amended on 12 December, 2002, and at the same time the Convention Conference adopted the International Code for the Security of Ships and Port Facilities (the ISPS Code). The amendments and, later, the ISPS Code introduce new procedures in relation to maritime security in response to the recent heightened risk of terrorist activities. They require amendments to be made to the legislation of the Islands, and this Bill makes those amendments and authorises the passing of the regulations that are necessary to implement the new procedures.

Clause 1 contains the short title, and Clause 2 is an interpretation clause.

Clause 3 is a procedural clause amending a heading of the Merchant Shipping Law (2004 Revision) (“the Law”).

Clause 4 contains definitions to be inserted in section 171 of the Law, which is an interpretation section.

Clause 5 inserts new sections 206A – 206F in the Law.

New section 206A makes provision for the ISPS Code to apply to classes of Cayman Islands ships.

New section 206B enables alternative security measures, other than those required by SOLAS and the ISPS Code, to be implemented.

New section 206C authorises the making of regulations.

New section 206D imposes duties and responsibilities on the Director of the Shipping registry in relation to maritime security, provides for the delegation of those duties, and enables him to act as the agent for another government in cases of necessity.

New section 206E allocates to the Governor, acting in his discretion, responsibility for the setting of security levels and provides for the communication to Cayman Islands Ships, information concerning those levels.

New section 206F enables the government of the Islands to agree with the government of another SOLAS state on security arrangements alternative to those prescribed by the Safety Convention and the ISPS Code.

THE MERCHANT SHIPPING (AMENDMENT) BILL, 2004

ARRANGEMENT OF CLAUSES

1. Short title.
2. Definition.
3. Amendment of Part VII - Safety of Life at Sea.
4. Amendment of section 171 - Definitions in this Part.
5. Insertion of sections 206A – 206F.

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Merchant Shipping (Amendment) Bill, 2004. Short title
2. In this Law, unless the context requires otherwise “Law” means the Merchant Shipping Law (2004 Revision). Definition
3. Part VII of the Law is amended in the heading by inserting “**and Maritime Security**” at the end. Amendment of Part VII
- Safety of Life at Sea
4. Section 171 of the Law is amended by inserting the following definitions in their appropriate alphabetical order— Amendment of section
171 - Definitions in this
Part

 “ “intentional unlawful act” means a deliberate act which, by its nature or context, could harm vessels used for international or national maritime

traffic, their passengers or cargoes or any port facilities whether or not actually used by such vessels;

“ISPS Code” means the International Code for the Security of Ships and Port Facilities adopted by the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea 1974 on the 12 December 2002, together with such amendments thereof or replacements therefor as may be in effect from time to time in relation to the Islands;

“maritime security” means the combination of measures intended to protect shipping and port facilities against intentional unlawful acts;

“port facility” means a location where an interface between ships and ports takes place, and includes anchorages, waiting berths and approaches from seaward;

“security level” means the quantification of the degree of risk that a security incident will be attempted or will occur;

“security incident” means any suspicious act or circumstance threatening the security of—

- (a) a ship, including a mobile offshore drilling unit and a high speed craft;
- (b) a port facility;
- (c) a ship/port interface; or
- (d) a ship to ship activity;

“ship/port interface” means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provision of port services to or from the ship; and

“ship-to-ship activity” means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another.”.

Insertion of sections
206A – 206F

5. The Law is amended by inserting after section 206 the heading “**Maritime Security**” followed by the following sections—

“Application of the ISPS Code 206A. (1) Subject to subsection (2), the ISPS Code, including all its related instruments, shall, unless excepted by or under this Law, apply to all Cayman Islands ships and to all other ships engaged on international or domestic voyages while they are in

Cayman Islands waters.

(2) Unless expressly provided otherwise, the ISPS Code shall not apply to-

- (a) ships of war and troop ships;
- (b) cargo ships of less than five hundred tons;
- (c) ships not propelled by mechanical means;
- (d) wooden ships of primitive build;
- (e) pleasure vessels not engaged in trade; and
- (f) fishing vessels.

Exemptions

206B. The Director may permit any Cayman Islands ship to implement security measures other than those required by the Safety Convention and Part A of the ISPS Code but only where he is satisfied that those security measures are at least as effective in every respect as those prescribed by the Safety Convention and Part A of the ISPS Code.

Regulations for maritime security

206C. The Governor may make regulations prescribing such requirements and other matters as are necessary to implement those provisions of the Safety Convention and the ISPS Code that relate to maritime security in relation to ships.

Responsibility for ship security

206D. (1) The Director shall be the national authority for the Islands, responsible for ship security in accordance with Regulation 13 of Chapter XI-2 of the Safety Convention.

(2) The Director shall communicate to the Organisation from time to time, and in accordance with the Safety Convention and the ISPS Code, the information relating to Cayman Islands ships that is required pursuant to Regulation 13 of Chapter XI-2 of the Safety Convention.

(3) The Director shall provide advice and information on maritime security matters relating to any ship operating or intending to operate in Cayman Islands

waters.

(4) The Director shall identify the requirements for declarations of security.

(5) The Director shall issue continuous synopsis records in accordance with the Safety Convention.

(6) The Director may delegate any of his functions under this Law, the Safety Convention or the ISPS Code relating to the assessment, certification or verification of an individual ship and its security measures to a person with appropriate expertise in security matters and with appropriate knowledge of ship and port operations.

(7) The Director may act as the agent of the government of another state which is a contracting party to the Safety Convention.

Responsibility for
setting security
levels

206E. (1) 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 the Safety Convention and the ISPS Code and shall immediately inform the Director of such setting or amendment.

(2) On the setting or amendment of a security level in accordance with subsection (1) the Director shall immediately inform the owners of all Cayman Islands ships of the security level to be operated, together with all other relevant information.

(3) When a risk of attack has been identified the Governor, acting in his discretion, shall advise the Director of the current security level and the Director shall 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.

Alternative security
agreements

206F. The Minister may enter into an agreement on behalf of the Government with any other government which is a contracting government to the Safety Convention specifying arrangements alternative to those prescribed in the Safety Convention and the ISPS Code to cover short international voyages on fixed routes between ports within their respective territories.

(2) An agreement under subsection (1) shall not compromise the level of security of any ship or port not covered by the agreement, and no ship shall conduct ship-to-ship activities with a ship not covered by the agreement.”.

Passed by the Legislative Assembly the day of , 2004.

Speaker.

Clerk of the Legislative Assembly.