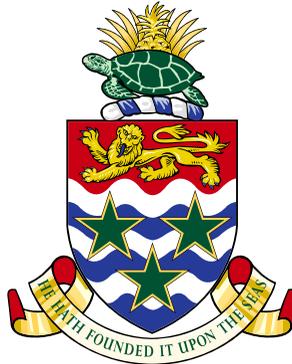


**CAYMAN ISLANDS**



**Merchant Shipping Act, 2024**

**(Act 1 of 2024)**

**MERCHANT SHIPPING  
(SUPPLEMENTARY FUND)  
REGULATIONS, 2025**

**(SL 33 of 2025)**

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 FUND) REGULATIONS, 2025**  
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**Arrangement of Regulations**

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## CAYMAN ISLANDS

Merchant Shipping Act, 2024  
(Act 1 of 2024)MERCHANT SHIPPING (SUPPLEMENTARY  
FUND) REGULATIONS, 2025  
(SL 33 of 2025)

In exercise of the powers conferred by sections 404 and 457 of the Merchant Shipping Act, 2024, the Cabinet makes the following Regulations —

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**Citation and commencement**

1. (1) These Regulations may be cited as the Merchant Shipping (Supplementary Fund) Regulations, 2025.
- (2) These Regulations come into force on the date that the *Fund Protocol of 2003* is extended to the Islands.

**Definitions**

2. (1) In these Regulations —
  - “**bunker oil**” means any hydrocarbon mineral oil, including lubricating oil which is carried by a ship and used or intended to be used for the operation or propulsion of that ship and any residues of such oil;
  - “**Fund**” means the International Fund established by the Fund Convention;
  - “**Fund Convention**” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 as amended and as extended to the Islands;

“**Fund Protocol of 2003**” means the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 as amended, modified or replaced and as extended to the Islands;

“**Fund Protocol of 2003 country**” means a country in respect of which the *Fund Protocol of 2003* is in force;

“**incident**” means any occurrence, or series of occurrences having the same origin, resulting in —

- (a) a discharge or escape of oil from a ship; or
- (b) a relevant threat of contamination,

and in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“**Liability Convention**” means the International Convention on Civil Liability for Oil Pollution Damage 1992 as amended, modified or replaced and as extended to the Islands;

“**Office**” means the Utility Regulation and Competition Office established under section 4 of the *Utility Regulation and Competition Act (2024 Revision)*;

“**oil**” means persistent hydrocarbon mineral oil except —

- (a) when used in relation to bunker oil; or
- (b) in regulations 3 and 4;

“**owner**” means the person or persons registered as the owner of the ship, or in the absence of registration, the person or persons owning the ship; however, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship’s operator, registered owner shall mean such company;

“**pollution damage**” means loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil or bunker oil from the ship wherever such escape or discharge may occur provided that compensation for the impairment of the environment other than loss of profit from such impairment shall be limited —

- (a) to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and
- (b) the costs of preventive measures and further loss or damage caused by preventive measures;

“**preventive measures**” means any reasonable measures taken by a person after an incident has occurred to prevent or minimize pollution damage;

“**relevant threat of contamination**” means a grave and imminent threat of pollution damage being caused outside a ship by contamination resulting from a discharge or escape of oil, including bunker oil, from the ship;



“**SDR**” means Special Drawing Rights as adopted by the International Monetary Fund;

“**ship**” means any ship within the meaning of Chapter 7 of the Act to which section 382 of the Act applies; and

“**Supplementary Fund**” means the International Oil Pollution Compensation Supplementary Fund, 2003 established by the *Fund Protocol of 2003*.

- (2) In these Regulations —
- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
  - (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.
- (3) References in these Regulations to the territory of any country includes the territorial sea of that country, and —
- (a) in the case of the Islands and any Fund Protocol of 2003 country, the exclusive economic zone of the Islands and any Fund Protocol of 2003 country established in accordance with international law; or
  - (b) if such a zone has not been established, such area adjacent to the territorial sea of the Fund Protocol of 2003 country established and extending not more than two hundred nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by the State in question in accordance with international law.

### **Contributions to the Supplementary Fund by importers of oil and others**

3. (1) Persons specified in paragraph (4) shall pay contributions to the Supplementary Fund in respect of oil carried by sea to ports or terminal installations in the Islands otherwise than on a voyage only within its national waters.
- (2) Paragraph (1) applies whether or not the oil is being imported and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.
- (3) Persons specified in paragraph (4) shall also pay contributions to the Supplementary Fund in respect of oil when first received by those persons in any installation in the Islands after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Protocol of 2003 country.
- (4) The person liable to pay contributions is —
- (a) in the case of oil which is being imported into the Islands, the importer; and

- (b) otherwise, the person by whom the oil is received.
- (5) A person shall not be liable to make contributions in respect of the oil imported or received by the person in any year if the oil which is imported or received in the year does not exceed one hundred and fifty thousand tonnes.
- (6) For the purposes of paragraph (5) —
- (a) all the members of a group of companies shall be treated as a single person; and
- (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.
- (7) The contributions payable by a person for any year shall —
- (a) be of such amount as may be determined by the Director of the Supplementary Fund under Article 11 of the *Fund Protocol of 2003* and notified to that person by the Supplementary Fund; and
- (b) be payable in such instalments, becoming due at such times, as may be so notified to the person,

and, if any amount due from the person remains unpaid after the date on which it became due, it shall from that date bear interest, at a rate determined by the Assembly of the Supplementary Fund, until it is paid.

- (8) In this regulation and regulation 4 —

“**company**” means a body incorporated under the law of the Islands or of any other country;

“**crude oil**” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes —

- (a) crude oils from which distillate fractions have been removed; and
- (b) crude oils to which distillate fractions have been added;

“**fuel oil**” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials Specification for Number Four Fuel Oil (Designation D396-96)”, or heavier;

“**group**” in relation to companies, means a holding company and its subsidiaries regulated by the *Companies Act (2025 Revision)*, subject, in the case of a company incorporated outside the Islands, to any necessary modifications of those definitions;

“**importer**” means a person by whom or on whose behalf the oil in question is entered for customs purposes on importation, and “**import**” shall be construed accordingly;



“**national waters**”, in relation to the Islands, mean Cayman Islands waters landward of the baselines for measuring the breadth of its territorial sea;

“**oil**” means crude oil and fuel oil; and

“**terminal installation**” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated offshore and linked to any such site.

### **Power to obtain information**

4. (1) For the purpose of transmitting to the Supplementary Fund the names and addresses of the persons who, under regulation 3, are liable to make contributions to the Supplementary Fund for any year, and the quantity of oil in respect of which they are so liable, the Office may, by notice, require a person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.
- (2) A notice under this regulation may require a company to give such information as may be required to ascertain whether its liability is affected by regulation 3(6).
- (3) A notice under this regulation may specify the way in which, and the time within which, it is to be complied with.
- (4) In proceedings by the Supplementary Fund against a person to recover any amount due under regulation 3, particulars contained in any list transmitted by the Office to the Supplementary Fund shall, so far as those particulars are based on information obtained under this regulation, be admissible as evidence of the facts stated in the list.
- (5) So far as particulars under paragraph (4) which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.
- (6) A person who discloses any information which has been furnished to or obtained by the person under this regulation, or in connection with the execution of this regulation, then, unless the disclosure is made —
- (a) with the consent of the person from whom the information was obtained;
  - (b) in connection with the execution of this regulation; or
  - (c) for the purposes of any legal proceedings arising out of this regulation or of any report of such proceedings,
- commits an offence and is liable on summary conviction to a fine of five thousand dollars.
- (7) A person who —
- (a) refuses or wilfully neglects to comply with a notice under this regulation;
- or

- (b) in furnishing any information in compliance with a notice under this regulation makes any statement which the person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

commits an offence and is liable —

- (i) on summary conviction to a fine of four thousand dollars in the case of an offence under paragraph (a), and five thousand dollars in the case of an offence under paragraph (b); and
- (ii) on conviction on indictment, to a fine of fifteen thousand dollars and to imprisonment for twelve months.

### **Liability of the Supplementary Fund**

5. (1) The Supplementary Fund shall be liable for pollution damage in the territory of the Islands in accordance with the *Fund Protocol of 2003* in the circumstances mentioned in paragraph 1 of Article 4 of the *Fund Protocol of 2003*.
- (2) Paragraph (1) shall apply with the substitution for the words “the Islands” for the words “a Fund Protocol of 2003 country” where the incident has caused pollution damage in the territory of the Islands and of another Fund Protocol of 2003 country, and proceedings under the *Liability Convention* or the *Fund Convention* for compensation for the pollution damage have been brought in a country which is not a Fund Protocol of 2003 country or in the Islands.
- (3) Nothing in this regulation applies to pollution damage resulting from an incident if —
- (a) in the case of a single occurrence, it took place before the day on which the *Fund Protocol of 2003* enters into force as respects the Islands; or
- (b) in the case of a series of occurrences having the same origin, the first of those occurrences took place before that day.

### **Limitation of Supplementary Fund’s liability under regulation 5**

6. (1) The Supplementary Fund’s liability under regulation 5 shall be in accordance with —
- (a) paragraphs 2 and 3 of Article 4 of the *Fund Protocol of 2003*; and
- (b) paragraphs 2 and 3 of Article 15 of the *Fund Protocol of 2003*.
- (2) For the purpose of giving effect to paragraphs 2 and 3 of Article 4 of the *Fund Protocol of 2003*, a Court giving judgment against the Supplementary Fund in proceedings under regulation 5 shall notify the Supplementary Fund, and —
- (a) no steps shall be taken to enforce the judgment unless and until the Court gives leave to enforce it;
- (b) that leave shall not be given unless and until the Supplementary Fund notifies the Court either that the amount of the claim is not to be reduced



- under those paragraphs, or that it is to be reduced to a specified amount; and
- (c) in the latter case the judgment shall be enforceable only for the reduced amount.
- (3) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in paragraph (2) shall be steps to obtain payment in dollars, and for the purpose of converting from SDR into dollars, the day of conversion shall be construed as the date on which the Assembly of the Supplementary Fund decides the date for the first payment of compensation in respect of the incident or, if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

### **Jurisdiction and effect of judgments**

7. (1) Where, in accordance with rules of court made for the purposes of section 400(1) of the Act, the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 382 of the Act —
- (a) the notice shall be deemed to have been given to the Supplementary Fund as well; and
- (b) any judgment given in the proceedings, after it has become final and enforceable, shall also become binding on the Supplementary Fund in the sense that the facts and evidence in the judgment may not be disputed by the Supplementary Fund even if the Supplementary Fund has not intervened in the proceedings.
- (2) Where a person incurs a liability under the law of a Fund Protocol of 2003 country corresponding to Chapter 7 of Part 14 of the Act for pollution damage which is partly in the territory of the Islands, paragraph (1) shall, for the purpose of proceedings under these Regulations, apply with any necessary modifications to a judgment in proceedings under that law of the said country.
- (3) Subject to paragraph (4), any judgment given by a Court in a Fund Protocol of 2003 country to enforce a claim in respect of liability incurred under any provision corresponding to regulation 5 shall be enforceable by the Court in the Islands.
- (4) No steps shall be taken to enforce such a judgment unless and until the Supplementary Fund notifies the Court either that the amount of the claim is not to be reduced under paragraphs 2 and 3 of Article 4 of the *Fund Protocol of 2003* or that it is to be reduced to a specified amount, and in the latter case, the judgment shall be enforceable only for the reduced amount.

### **Extinguishment of claims**

8. (1) No action to enforce a claim against the Supplementary Fund under these Regulations shall be entertained by the Court in the Islands unless —

- (a) the action is commenced; or
- (b) a third party notice of an action to enforce a claim against the owner or the owner's guarantor in respect of the same damage is given to the Supplementary Fund,

not later than three years after the claim against the Supplementary Fund arose.

- (2) No action to enforce a claim against the Supplementary Fund under these Regulations shall be entertained by the Court in the Islands unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape, or, as applicable, in the relevant threat of contamination, by reason of which the claim against the Supplementary Fund arose.
- (3) In paragraph (1), "**third party notice**" means a notice of the kind described in regulation 7(1) and (2).
- (4) For the purposes of this regulation —
  - (a) a person who commences an action to enforce a claim against the Fund under Chapter 8 of Part 14 of the Act in relation to any damage shall be deemed to have also commenced an action to enforce any claim the person may have against the Supplementary Fund in relation to that damage; and
  - (b) a person who gives a third party notice to the Fund in relation to any damage as mentioned in section 401(1)(b) of the Act shall be deemed to have also given a notice to the Supplementary Fund in relation to that damage.

### **Subrogation**

- 9. (1) In respect of any sum paid by the Supplementary Fund as compensation for pollution damage, the Supplementary Fund shall acquire by subrogation any rights in respect of the damage which the recipient has, or, but for the payment would have, against any other person.
- (2) In respect of any sum paid by a public authority in the Islands as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Supplementary Fund under these Regulations.

### **Supplementary provisions as to proceedings involving the Supplementary Fund**

- 10. (1) Any proceedings by or against the Supplementary Fund may either be instituted by or against the Supplementary Fund in its own name or be instituted by or against the Director of the Supplementary Fund as the representative of the Supplementary Fund.



- (2) Evidence of any instrument issued by any organ of the Supplementary Fund or of any document in the custody of the Supplementary Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Supplementary Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

**Made in Cabinet the 27th day of August, 2025.**

**Jana Pouchie-Bush**  
*Acting Clerk of the Cabinet*