

Nairobi Wreck Removal Convention extended to the Cayman Islands - implications for owners and masters

On 7 February 2017 the Nairobi International Convention on the Removal of Wrecks, 2007 (the “**Nairobi Convention**”) was given legal effect in the Cayman Islands through the Merchant Shipping (Wreck Removal Convention) Regulations 2017 (the “**Regulations**”).

The Nairobi Convention now applies to;

1. Cayman Islands flagged vessels anywhere in the world;
2. non-Cayman Islands flagged vessels operating in the Cayman Islands convention area (up to 25 nautical miles seaward from baselines); and
3. vessels involved in an accident where a vessel or anything from it becomes a wreck in Cayman Islands waters.

The Nairobi Convention

The Nairobi Convention aims to remove legal uncertainty on the issue of the reporting and the removal of a shipwreck and the minimum insurance cover required to protect against the occurrence of a shipwreck. It provides contracting states the legal basis on which to require compulsory insurance and to remove, or have removed, shipwrecks that may have the potential to adversely affect the safety of navigation, lives, goods and/or property at sea or the marine environment.

Implications for Owners, Masters and Vessels

Following the implementation of the Nairobi Convention, the owner and the master of any vessel to which the Nairobi Convention applies must report any accident which results in a wreck to (a) the Cayman Islands Government if the wreck is in the Cayman Islands convention area or (b) the government of the territory for the convention area where the wreck is. Failure to report a wreck is an offence under the Regulations.

In addition to reporting obligations, owners are liable for the costs of the removal of the wreck in any convention area and in Cayman territory. The Cayman Islands Government has the authority to serve a removal notice on an owner and failure to comply with this would be an offence under the Regulations. In addition, the Cayman Islands Government has the authority to remove any wrecks in its territory and to hold the owner liable for the costs of

doing so.

Owners are required to have wreck removal insurance in place under the Nairobi Convention. Failure to have wreck removal insurance would mean that (a) for Cayman Islands flagged vessels (of 300 GTs or more), they must not trade to or from any port (on a worldwide basis) and (b) for non-Cayman flagged vessels (of 300 GTs or more) that they cannot enter or leave any Cayman Islands port, or attempt to navigate to do so. A failure to comply with these provisions would constitute an offence under the Regulations and would expose the vessel to port state control detention.

Please note that **from 20 February 2017** onwards, for Cayman Islands flagged vessels (of 300 GTs or more) the certificate attesting that the insurance complies with the Nairobi Convention must be issued by the Cayman Islands Ship Registry or another Red Ensign Group flag state authority. Certificates attesting compliance with the Nairobi Convention issued to Cayman Islands flagged vessels by any other means will no longer be deemed acceptable. For Cayman Islands flagged vessels, all new certificates attesting compliance with the Nairobi Convention must be issued by the Cayman Islands Shipping Registry. Failure to comply with the wreck removal insurance obligations will be an offence under the Regulations and may result in detention of Cayman Islands flagged vessels by port state control. From 20 February 2017 this would be the case even if a Cayman Islands flagged vessel had obtained a certificate attesting to compliance with the Nairobi Convention from another flag state (other than the UK, the Isle of Man or Gibraltar) and this certificate had not expired.

It is, therefore, very important that **before 20 February 2017**, owners obtain wreck removal insurance if they have not done so (please contact your P&I Club at your earliest convenience) and thereafter obtain a certificate attesting compliance with the Nairobi Convention from the Cayman Islands Shipping Registry, or if they have a certificate already issued by another flag state, to check not only the expiry date of such certificate, but also the identity of the issuing flag state. For Cayman Islands flagged vessels, if the issuing flag state of the pre-existing certificate is not the Cayman Islands it must be one of the UK, the Isle of Man or Gibraltar. Certificates attesting compliance with the Nairobi Convention issued by any other flag state to Cayman Islands flagged vessels will not be accepted.



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