

THE MERCHANT SHIPPING (CREW AGREEMENT) REGULATIONS 2009

Made by the Minister of Public Works, Utilities, Transport & Posts under Sections 86 & 139 of the Merchant Shipping Act No. 24 of 2002

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1. These Regulations may be cited as the Merchant Shipping (Crew Agreement) Regulations 2009. Citation

2. In these Regulations definitions as stated in the Merchant Shipping Act No. 24 of 2002 Part I apply, unless expressly stated - Interpretation
 - "the Act" means the Merchant Shipping Act No. 24 of 2002;
 - "the appropriate proper officer" means a proper officer for the place at which a crew agreement, or an agreement with any person added to those contained in a crew agreement, is or is to be made or an officer as defined in section 412 (1) of the Act or a Special Agent appointed according to section 446 (4) of the Act or the Director or the Registrar;
 - "coastal voyage" means a voyage between places in Saint Christopher & Nevis or from and returning to such a place during which, in either case, no call is made at any place outside Saint Christopher & Nevis;
 - "manager" means the Company who has assumed the responsibility for operation of the ship from the owner of the ship and for those ships to which the International Safety Management (ISM) Code apply, who on assuming such responsibility has agreed to take over all the duties and responsibilities imposed by the ISM Code
 - "Registrar of Shipping & Seamen" & "Registrar" means the officer appointed as such under section 446(5) of the Act;
 - "seafarer" has the same meaning as "seaman" as defined within the Act and reference to the masculine is taken to mean reference to both the masculine and feminine when referring to any seafarer.
 - "ship" means a ship, as defined within the Act, registered in Saint Christopher & Nevis.

PART I

CREW AGREEMENTS

3. (1) The requirements of section 86 of the Act relating to crew agreements shall not apply to the following descriptions of ships and voyages:— Exemptions from requirements of section 86 (crew agreements)
 - (a) a government ship engaged on public non-commercial service;
 - (b) a pleasure vessel, as defined within the Act
 - (c) a fishing vessel, as defined within the Act
 - (d) any other ship, which may be exempted from time to time by the Registrar of Shipping & Seamen
 - (e) a voyage by any ship solely for the purpose of trials of the ship, its machinery or equipment.

(2) The requirements of section 86 of the Act relating to crew agreements shall not apply to the following descriptions of seafarers:—

- (a) a person employed in a ship solely in connection with the construction, alteration, repair or testing of the ship, its machinery or equipment, and not engaged in the navigation of the ship;
- (b) a person solely employed in work directly related to:
 - (i) the exploration of the seabed or sub-soil or the exploitation of their natural resources;
 - (ii) the storage of gas in or under the seabed or the recovery of gas so stored;
 - (iii) the laying, inspection, testing, repair, alteration, renewal or removal of any submarine telegraph cable; or
 - (iv) pipeline works, including the assembling, inspection, testing, maintaining, adjusting, repairing, altering, renewing, changing the position of, or dismantling a pipe-line or length of pipe-line, or
 - (v) the provision of goods, personal services or entertainment on board;and who is not employed by the owner or the person employing the Master of the ship and is not engaged in the navigation of the ship in the deck, engine room, radio, medical or catering department of that ship and who has been given a written statement by his employer specifying:
 - ~~(i) the nature of the employment, the remuneration, the intervals at which the remuneration is to be paid and the length of notice which he is required to give and entitled to receive to determine his employment; and~~
 - ~~(ii) any terms or conditions of his employment relating to sick pay, hours of work (including any terms and conditions relating to normal working hours), pensions and entitlement to holidays;~~
- (c) a member of the naval, military or air forces of Saint Christopher & Nevis.

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Carrying of copy of crew agreement in ships

4. (1) A ship required under section 86 of the Act to carry a crew agreement may, in the case of an agreement which relates to both that and to other ships and which is kept at an address ashore in Saint Christopher & Nevis, comply with that requirement by carrying a copy of the agreement certified in the manner provided by sub-regulation (2).

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(2) A copy of a crew agreement carried in a ship in accordance with sub-regulation (1) shall bear a certificate signed by the Master certifying that it is a true copy of the crew agreement and specifying the address in Saint Christopher & Nevis at which the crew agreement is kept and the name of the person by whom it is so kept.

5. The Crew Agreement should be in the English language and annexed to the Crew List held onboard. Where necessary a foreign language version made be attached to or otherwise made a part of it.

6. The Master of a ship shall cause—

- (a) a copy of any crew agreement relating to the ship; or
- (b) an extract containing the terms of that agreement applicable—
 - (i) to all seafarers employed under it, and
 - (ii) to each description of seafarers so employed

to be posted in some conspicuous place on board the ship where it can be read by the persons employed under the crew agreement and he shall cause it to be kept so posted and legible so long as any seafarer is employed in the ship under the crew agreement.

Display of crew agreement

7. Upon a seafarer making a demand of his employer or of the Master, the employer or the Master, as the case may be, shall, within a reasonable time—
- (a) cause to be supplied to him a copy of the crew agreement under which he is employed or such extracts therefrom as are necessary to show the terms on which he is employed; and
 - (b) cause to be made available to him a copy of any document referred to in the agreement.
8. The Master shall, on demand by the Director, the Registrar of Shipping & Seamen, a Special Agent or by any proper officer, produce to him—
- (a) any crew agreement, or the copy of any crew agreement carried in the ship in pursuance of regulation 4; and
 - (b) any certificate evidencing an exemption granted by the Director from the requirements of section 86 of the Act with respect to the ship or to any person in it.
9. (1) A Master or a person who fails to comply with an obligation imposed on him by or under these Regulations
- (2) Any offence under this regulation shall be punishable on summary conviction with a fine not exceeding [US\$500].

Supply and production of copy documents

Production of documents to officials of Government

Offences under Part I

PART II

LISTS OF CREW

10. (1) In this Part of these Regulations—
- "endorsement" in relation to a certificate of competency or of service means an endorsement in respect of a trading area, type of ship or dangerous cargo;
- "seafarer" includes the Master of a ship,
- (2) where the context otherwise requires, references to the employment discharge include references to termination of engagement.
11. The duty imposed by section 139 of the Act to make and maintain a list of the crew shall not apply in relation to a those vessels described in Section 3(1) of these Regulations.
12. A list of crew may be contained in the same document as a crew agreement relating to one ship only and any particulars entered in the crew agreement shall be treated as forming part of the particulars entered in the list.
13. Masters & Owners will use the standard form of Crew List produced by the International Maritime Organisation, the current form of which is contained in Annex 1 to these regulations.
14. (1) A copy of every list of crew (including all changes in it notified to the owner) shall be maintained by the owner of the ship at their place of business or the place of business of their manager.

Interpretation of Part II

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Exemptions from the requirements of section 139 of the Act (lists of crew)

List of crew contained in crew agreement

Form of Crew List to be used

Copies of list of crew

(2) The Master shall, as soon as practicable and in any event within 3 days of any change being made in the list of crew, notify the change to the owner and manager of the ship.

Production of crew list to proper officer

16. The Master, owner or manager or other person having in his possession a Crew List or copy thereof shall produce it on demand to a proper officer.

17. Except in the case where a crew agreement for the ship covers an indefinite period a list of crew shall remain in force—

Duration of list of crew

- (a) where any person is employed in the ship under a crew agreement, until all the persons employed under that agreement in that ship have been discharged; and
- (b) in the case of a ship engaged on coastal voyages for port authorities, whose crew are returned to shore within each period of 24 hours, for 12 months after the first entry relating to a seafarer is made on the list.
- (c) in any other case, until the ship first calls at a port more than 6 months after the first entry relating to a seafarer is made in the list.

Offences under Part II

18. (1) A Master, owner, manager or other person who fails to comply with an obligation imposed on him by or under these Part II of these Regulations shall be guilty of an offence.

(2) Any offence under these Regulation shall be punishable on summary conviction with a fine not exceeding [US\$200].

PART III

DISCHARGE OF SEAFARERS

Notice of discharge

22. (1) (a) In the event of any dispute about a seafarer's wages, and that dispute is at the time of discharge to be submitted to a proper officer under section 94 of the Act then subject to regulation 23 the Master of a ship shall, not less than 48 hours before the seafarer is discharged from the ship give a notice of discharge in writing to a proper officer for the place where the seafarer is to be discharged.

(b) Where it is not practicable to give the notice within that period, it shall be given as soon as practicable thereafter.

(2) A notice of discharge shall contain the following particulars—

- (a) the name of the ship, its port of registry and official number;
- (b) the place, date and time of the seafarer's discharge;
- (c) the capacity in which the seafarer is employed in the ship.

(3) Where a notice of discharge relates to more than one seafarer, it shall state, in addition to the particulars specified in sub-regulation (2), the number of seafarers being discharged.

Discharge

23. A notice of discharge is not required in respect of a seafarer discharged—

- (a) where the seafarer is to be discharged from a ship exempted from the requirements of section 86 of the Act by regulation 3(1); or

- (b) where the seafarer is exempted from the requirements of section 86 of the Act by regulation 3(2).

24. (1) Where a seafarer is present when he is discharged:

Procedure on discharge

- (a) the Master, or one of the ship's officers authorised by him in that behalf, shall, before the seafarer is discharged—
 - (i) where the seafarer produces his discharge book to him, record in it the name of the ship, its port of registry, gross or net tonnage and official number, the description of the voyage, the capacity in which the seafarer has been employed in the ship, the date on which he began to be so employed and the date and place of his discharge; or
 - (ii) where the seafarer does not produce his discharge book to him, give to the seafarer a Certificate of Discharge containing the like particulars;
- (b) the Master shall ensure that the seafarer is discharged in the presence of—
 - (i) the Master himself, or
 - (ii) the seafarer's employer, or
 - (iii) a person authorised in that behalf by the Master or employer;
- (c) the person mentioned in paragraph (b) in whose presence the seafarer is being discharged shall—
 - (i) make and sign an entry in the official log book recording the place, date and time of the seafarer's discharge; and
 - (ii) make and sign an entry in the crew agreement or, if there is a list of crew separate from a crew agreement, in the list of crew, recording the place and date of, and the reason for, the seafarer's discharge, and
- (d) the seafarer shall sign the entry in the crew agreement and list of crew referred to in paragraph (1)(c)(ii).

(2) Where a seafarer is not present when he is discharged, the Master, or a person authorised in that behalf by the Master, shall make the entries referred to in sub-regulation (1)(c).

(3) All entries in the official log book required under the preceding sub-regulations of this regulation shall, in addition to being signed by the person making the entry, be signed also by a member of the crew.

(4) Where a seafarer so requests, within a period of 6 months from the date of his discharge from or his leaving the ship, the Master, owner or manager shall give to the seafarer a certificate (which shall be separate from any other document) either as to the quality of his work or indicating whether he has fully discharged his obligations under his contract of employment.

Offences under Part III

25. (1) Any person (including a Master)—

- (a) who fails to comply with an obligation imposed on him by or under Part III of these Regulations shall be guilty of an offence.
- (4) Any offence under this regulation shall be punishable on summary conviction with a fine not exceeding [US\$200].

