



STATUTORY INSTRUMENTS.

S.I. No. 373 of 2014

MERCHANT SHIPPING (MARITIME LABOUR CONVENTION)
(SEAFARER EMPLOYMENT AGREEMENT AND WAGES)
REGULATIONS 2014

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I, PASCHAL DONOHOE, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 12 of the Merchant Shipping Act 1947 (No. 46 of 1947), section 87 of the Merchant Shipping Act 2010 (No. 14 of 2010) (as adapted by the Transport (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 141 of 2011)), and for the purpose of giving effect to Council Directive 2009/13/EC of 16 February 2009¹ hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) (Seafarer Employment Agreement and Wages) Regulations 2014.

(2) These Regulations come into operation on 20 August 2014.

Interpretation

2. In these Regulations—

“Act of 1992” means the Merchant Shipping Act 1992 (No. 2 of 1992);

“Act of 2010” means the Merchant Shipping Act 2010 (No. 14 of 2010);

“agreement” means a seafarer employment agreement (SEA);

“competent authority” means that part of the Department of Transport, Tourism and Sport which is known as the Marine Survey Office;

“Convention” means the Maritime Labour Convention 2006 adopted at Geneva on 23 February 2006;

“Irish ship” has the meaning assigned to it by section 2 of the Act of 2010;

“Marine Notice” means a notice, described as such, issued by the Minister, and any reference to a particular Marine Notice includes a reference to that notice as amended or replaced from time to time;

“Minister” means the Minister for Transport, Tourism and Sport;

“Regulations of 2011” means the European Communities (Passenger Ships) Regulations 2011 (S.I. No. 322 of 2011);

¹OJ No. L 124, 20.5.2009, p. 30

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 12th August, 2014.*

“seafarer” means any person, including a master, who is employed, engaged or works in any capacity on board a ship and whose normal place of work is on the ship but does not include a pilot within the meaning of section 2 of the Harbours Act 1996 (No. 11 of 1996);

“seafarer employment agreement” includes both a contract of employment and articles of agreement;

“seagoing”, in relation to a ship, means—

- (a) a ship in respect of which a certificate is required to be in force in accordance with the Merchant Shipping (Load Lines) Act 1968 (No. 17 of 1968),
- (b) a passenger boat that proceeds to sea of Class P3, P4, P5 or P6, in respect of which a passenger boat licence is required to be in force in accordance with the Act of 1992,
- (c) a passenger ship of Class I, II, II(A), III or VI in respect of which a passenger ship certificate is required to be in force in accordance with the Act of 1992,
- (d) a passenger ship of Class A, B, C or D in respect of which a passenger ship safety certificate is required to be in force in accordance with the Regulations of 2011,
- (e) a high-speed passenger craft in respect of which a High Speed Craft Safety Certificate and a Permit to Operate High Speed Craft outside waters of Categories A, B, C or D are required to be in force in accordance with the Regulations of 2011,
- (f) a Dynamically Supported Craft (DSC) in respect of which a DSC Construction and Equipment Certificate, and a DSC Permit to Operate High Speed Craft outside waters of Categories A, B, C or D are required to be in force in accordance with the Regulations of 2011, or
- (g) any other ship that proceeds to sea beyond the limits of smooth or partially smooth waters;

“ship” means any vessel, whether publicly or privately owned, which is ordinarily engaged in commercial operations, being a vessel other than a fishing vessel, warship or naval auxiliary;

“shipowner”, in relation to an Irish ship, has the meaning assigned to it in the Convention and includes an owner within the meaning of section 2 of the Act of 2010.

Application

3. These Regulations apply to all seagoing Irish ships wherever they may be.

Duties of owners with regard to agreements

4. A shipowner of a seagoing Irish ship who employs a seafarer shall ensure that—

- (a) an agreement is entered into, in writing, and signed in duplicate by the seafarer and the shipowner or his or her representative in which the terms and conditions of employment of a seafarer are set out,
- (b) before a seafarer signs the agreement, he or she is given an opportunity to examine and seek advice with respect to the agreement,
- (c) he or she retains a signed original of the agreement and that the seafarer is given a signed original of the agreement,
- (d) a copy of the agreement in respect of each seafarer shall be made available on board for inspection,
- (e) where a collective bargaining agreement forms all or part of an agreement, a copy of that agreement shall also be made available, and
- (f) except where a ship is engaged only in domestic voyages, where the language of the agreement and any applicable collective bargaining agreement is not in the English language, a copy of the standard form of the agreement and the portions of the collective bargaining agreement that are subject to port State inspection, shall also be available in English.

Minimum contents of seafarer employment agreement

5. An agreement referred to in Regulation 4 shall contain at least the following particulars:

- (a) the seafarer's full name, date of birth or age, and birthplace;
- (b) the shipowner's name and address;
- (c) the place where and date when the seafarer's employment agreement is entered into;
- (d) the capacity in which the seafarer is to be employed;
- (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating it;
- (f) the amount of paid annual leave or, where applicable, the formula used for calculating it;
- (g) the health and social security protection benefits to be provided to the seafarer by the shipowner;
- (h) the seafarer's entitlement to repatriation and terms and conditions relating thereto;

- (i) where the agreement is for a definite period, the date fixed for its expiry;
- (j) where the agreement has been made for an indefinite period, the terms or conditions relating to termination of the agreement, including the notice period required to be given by a shipowner or a seafarer, and such notice period, when given by the shipowner, shall be not less than the period which the seafarer is required to give to the shipowner;
- (k) where the agreement is in respect of a specified voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged; and
- (l) a reference to any collective bargaining agreement, if applicable.

Marine Notice

6. The Minister may, at any time, specify in a Marine Notice, the format to be used for an agreement.

Duties of owners with regard to records of employment

7. A shipowner or master of an Irish ship to which Regulation 4 applies shall ensure that each seafarer is given a record of their employment on board the ship which shall not contain any statement as to the quality of the seafarer's work or as to their wages. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered shall be determined by the competent authority.

Obligations towards seafarers who are not employees

8. Where the seafarer is not an employee of the shipowner, the shipowner shall ensure that contractual or similar arrangements providing him or her with working and living conditions as required by the Convention are in place.

Minimum notice period

9. (1) Subject to paragraph (2), a seafarer or a shipowner shall give not less than 1 week's notice of the early termination of an agreement.

(2) Where a seafarer needs to terminate an agreement for compassionate or other urgent reasons, he or she may terminate the agreement—

(a) without notice, or

(b) give a shorter period of notice than the period specified in paragraph (1),

without incurring any penalty.

Wages

10. The shipowner of a ship to which Regulation 3 applies shall ensure that—

- (a) the length of the intervals between the times at which payments are due to seafarers shall be not greater than one month,
- (b) a monthly account of the payments due and the amounts paid, including wages, additional payments and rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to, shall be given to seafarers,
- (c) notwithstanding section 63 of the Merchant Shipping Act 1906, measures are in place to allow seafarers to transmit all or part of their earnings to their families, dependants or legal beneficiaries which should include—
 - (i) a system for enabling seafarers, if they so desire, to allot a proportion of their wages for remittance at regular intervals by bank transfer or similar means, and
 - (ii) a requirement that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers, and any charge for the services referred to in this paragraph shall be reasonable, and the rate of currency exchange shall be at the prevailing market rate or the official published rate and not unfavourable to the seafarer.

Offences

11. (1) A shipowner who fails to comply with Regulation 4, 7, 8, 9(1) or 10 commits an offence.

(2) A master who fails to comply with Regulation 7 commits an offence.



GIVEN under my Official Seal,
7 August 2014.

PASCHAL DONOHOE,
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations:

- (a) implement the provisions of the Maritime Labour Convention 2006 relating to Seafarer Employment Agreements (SEA) and wages; and
- (b) implement provisions of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC.

These Regulations provide that a shipowner of a seagoing Irish ship who employs a seafarer must provide the seafarer with a written agreement in which the terms and conditions of employment of the seafarer are set out. The Regulations set out the minimum contents of seafarer employment agreements, the duties of shipowners with regard to records of employment, obligations towards seafarers who are not employees and minimum notice periods. The Regulations also set out provisions relating to the payment of wages.

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