



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART III

#### MASTERS AND SEAMEN

##### *Wages etc.*

#### **30 Payment of seamen's wages**

- (1) Where a seaman employed under a crew agreement relating to a United Kingdom ship leaves the ship on being discharged from it, then, except as provided by or under this Part or any other enactment, the wages due to the seaman under the agreement shall either—
  - (a) be paid to him in full at the time when he so leaves the ship (in this section and in section 31 referred to as the time of discharge), or
  - (b) be paid to him in accordance with subsections (4) and (5) below.
- (2) If the amount shown in the account delivered to a seaman under section 31(1) as being the amount payable to him under subsection (1)(a) above is replaced by an increased amount shown in a further account delivered to him under section 31(3), the balance shall be paid to him within seven days of the time of discharge; and if the amount so shown in the account delivered to him under section 31(1) exceeds £50 and it is not practicable to pay the whole of it at the time of discharge, not less than £50 nor less than one-quarter of the amount so shown shall be paid to him at that time and the balance within seven days of that time.
- (3) If any amount which, under subsection (1)(a) or (2) above, is payable to a seaman is not paid at the time at which it is so payable the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of 56 days following the time of discharge; and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at the rate of 20 per cent. per annum.

- (4) Where the crew agreement referred to in subsection (1) above provides for the seaman's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall (subject to subsection (5) below) be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.
- (5) If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (4) above, that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement had continued.
- (6) If any amount which, under subsection (4) or (5) above, is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent. per annum.
- (7) The provisions of subsection (3) or (6) above shall not apply if the failure to pay was due to—
- (a) a mistake,
  - (b) a reasonable dispute as to liability,
  - (c) the act or default of the seaman, or
  - (d) any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents;
- and so much of those provisions as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.
- (8) Where a seaman is employed under a crew agreement relating to more than one ship the preceding provisions of this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.
- (9) Where a seaman, in pursuance of section 29, is discharged from a ship outside the United Kingdom but returns to the United Kingdom under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections (1) to (4) above to the time of discharge there were substituted references to the time of his return to the United Kingdom, and subsection (8) above were omitted.
- (10) For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seaman—
- (a) on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was despatched by the recorded delivery service to the seaman's last known address, or
  - (b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount.

### **31 Account of seaman's wages**

- (1) Subject to subsections (4) and (5) below and to regulations made under section 32 or 73, the master of every United Kingdom ship shall deliver to every seaman employed

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in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

- (2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than 24 hours before the time of discharge or, if the seaman is discharged without notice or at less than 24 hours' notice, at the time of discharge.
- (3) If the amounts stated in the account require adjustment the persons who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of his wages is payable to the seaman.
- (4) Where section 30(4) or (5) applies to the payment of any amount of wages due to a seaman under a crew agreement—
  - (a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and
  - (b) any such account shall be so delivered at the time when the wages are paid to him; and
  - (c) subsections (1) to (3) above shall not apply;and section 30(10) shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (5) Where a seaman is employed under a crew agreement relating to more than one ship any account which under the preceding provisions of this section would be required to be delivered to him by the master shall instead be delivered to him by the persons employing him and shall be so delivered on or before the termination of his employment under the crew agreement.
- (6) If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.

## **32 Regulations relating to wages and accounts**

The Secretary of State may make regulations—

- (a) authorising deductions to be made from the wages due to a seaman under a crew agreement (in addition to any authorised by any provision of this Part or of any other enactment for the time being in force) in cases where a breach of his obligations under the agreement is alleged against him and such conditions, if any, as may be specified in the regulations are complied with, or in such other cases as may be specified in the regulations;
- (b) regulating the manner in which any amounts deducted under the regulations are to be dealt with;
- (c) prescribing the manner in which wages due to a seaman under a crew agreement are to be or may be paid;
- (d) regulating the manner in which such wages are to be dealt with and accounted for in circumstances where a seaman leaves his ship in the United Kingdom otherwise than on being discharged therefrom;
- (e) prescribing the form and manner in which any account required to be delivered by section 31 is to be prepared and the particulars to be contained therein (which may include estimated amounts).

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### **33 Power of superintendent or proper officer to decide disputes about wages**

- (1) Any dispute relating to the amount payable to a seaman employed under a crew agreement may be submitted by the parties to a superintendent or proper officer for decision; but the superintendent or proper officer shall not be bound to accept the submission or, if he has accepted it, to decide the dispute, if he is of the opinion that the dispute, whether by reason of the amount involved or for any other reason, ought not to be decided by him.
- (2) The decision of a superintendent or proper officer on a dispute submitted to him under this section shall be final.

### **34 Restriction on assignment of and charge upon wages**

- (1) As respects the wages due or accruing to a seaman employed in a United Kingdom ship—
  - (a) the wages shall not be subject to attachment;
  - (b) the wages shall not, in Scotland, be subject to any diligence other than those provided for in section 46(1) of the Debtors (Scotland) Act 1987;
  - (c) an assignment thereof before they have accrued shall not bind the seaman and the payment of the wages to the seaman shall be valid notwithstanding any previous assignment or charge; and
  - (d) a power of attorney or authority for the receipt of the wages shall not be irrevocable.
- (2) Nothing in this section shall affect the provisions of this Part with respect to allotment notes.
- (3) Nothing in this section applies to any disposition relating to the application of wages—
  - (a) in the payment of contributions to a fund declared by regulations made by the Secretary of State to be a fund to which this section applies; or
  - (b) in the payment of contributions in respect of the membership of a body declared by regulations made by the Secretary of State to be a body to which this section applies;or to anything done or to be done for giving effect to such a disposition.
- (4) Subsection (1)(a) above is subject, in relation to England and Wales, to the Attachment of Earnings Act 1971.
- (5) Subsection (1)(a) above is subject to any provision made by or under—
  - (a) section 31 or 33 of the Child Support Act 1991 (deductions from earnings orders); or
  - (b) Article 31 or 32 of the Child Support (Northern Ireland) Order 1991 (deductions from earnings orders).

### **35 Power of court to award interest on wages due otherwise than under crew agreement**

In any proceedings by the master of a ship or a person employed in a ship otherwise than under a crew agreement for the recovery of any sum due to him as wages the court, unless it appears to it that the delay in paying the sum was due to—

- (a) a mistake,
- (b) a reasonable dispute as to liability,

- (c) the act or default of the person claiming the amount, or
- (d) any other cause, not being the wrongful act or default of the persons liable to make the payment or their servants or agents,

may order them to pay, in addition to the sum due, interest on it at the rate of 20 per cent. per annum or such lower rate as the court may specify, for the period beginning seven days after the sum became due and ending when the sum is paid.

### **36 Allotment notes**

- (1) Subject to the following provisions of this section, a seaman may, by means of an allotment note issued in accordance with regulations made by the Secretary of State, allot to any person or persons part of the wages to which he will become entitled in the course of his employment in a United Kingdom ship or ships.
- (2) A seaman's right to make an allotment under this section shall be subject to such limitations as may, by virtue of the following provisions of this section, be imposed by regulations made by the Secretary of State.
- (3) Regulations made by the Secretary of State for the purposes of this section may prescribe the form of allotment notes and—
  - (a) may limit the circumstances in which allotments may be made;
  - (b) may limit (whether by reference to an amount or by reference to a proportion) the part of the wages that may be allotted and the number of persons to whom it may be allotted and may prescribe the method by which that part is to be calculated;
  - (c) may limit the persons to whom allotments may be made by a seaman to persons of such descriptions or persons standing to him in such relationships as may be prescribed by the regulations;
  - (d) may prescribe the times and the intervals at which payments under allotment notes are to be made.
- (4) Regulations under this section may make different provision in relation to different descriptions of seamen and different circumstances.

### **37 Right of person named in allotment to sue in own name**

- (1) A person to whom any part of a seaman's wages has been allotted by an allotment note issued in accordance with regulations made under section 36 shall have the right to recover that part in his own name and for that purpose shall have the same remedies as the seaman has for the recovery of his wages.
- (2) In any proceedings brought by a person named in such an allotment note as the person to whom any part of a seaman's wages has been allotted it shall be presumed, unless the contrary is shown, that the seaman is entitled to the wages specified in the note and that the allotment has not been varied or cancelled.

### **38 Right, or loss of right, to wages in certain circumstances**

- (1) Where a United Kingdom ship is wrecked or lost a seaman whose employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed shall, subject to the following provisions of this section, be entitled

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to wages at the rate payable under the agreement at the date of the wreck or loss for every day on which he is unemployed in the two months following that date.

- (2) Where a United Kingdom ship is sold while outside the United Kingdom or ceases to be a United Kingdom ship and a seaman's employment in the ship is thereby terminated before the date contemplated in the agreement under which he is so employed, then, unless it is otherwise provided in the agreement, he shall, subject to the following provisions of this section, be entitled to wages at the rate payable under the agreement at the date on which his employment is terminated for every day on which he is unemployed in the two months following that date.
- (3) A seaman shall not be entitled to wages by virtue of subsection (1) or (2) above for a day on which he was unemployed, if it is shown—
  - (a) that the unemployment was not due to the wreck or loss of the ship or, as the case may be, the termination of his employment on the sale of the ship or its ceasing to be a United Kingdom ship; or
  - (b) that the seaman was able to obtain suitable employment for that day but unreasonably refused or failed to take it.
- (4) This section shall apply to a master as it does to a seaman.

### **39 Protection of certain rights and remedies**

- (1) A seaman's lien, his remedies for the recovery of his wages, his right to wages in case of the wreck or loss of his ship, and any right he may have or obtain in the nature of salvage shall not be capable of being renounced by any agreement.
- (2) Subsection (1) above does not affect such of the terms of any agreement made with the seamen belonging to a ship which, in accordance with the agreement, is to be employed on salvage service, as provide for the remuneration to be paid to them for salvage services rendered by that ship.

### **40 Claims against seaman's wages for maintenance, etc. of dependants**

- (1) Where, during a seaman's employment in a ship, expenses are incurred by a responsible authority for the benefit of any dependant of his and the expenses are of a kind specified in regulations under this section and such further conditions, if any, as may be so specified are satisfied, the authority may by notice in writing complying with the regulations require the persons employing the seaman—
  - (a) to retain for a period specified in the notice such proportion of his net wages as may be so specified; and
  - (b) to give to the responsible authority as soon as may be notice in writing of the seaman's discharge from the ship;and the persons employing the seaman shall comply with the notice (subject to subsection (3) below) and give notice in writing of its contents to the seaman.
- (2) For the purposes of this section—
  - (a) the following persons, and no others, shall be taken to be a seaman's dependants, that is to say, his spouse and any person under the age of 19 whom he is liable, for the purposes of any enactment in any part of the United Kingdom, to maintain or in respect of whom he is liable under any such enactment to make contributions to a local authority; and

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- (b) expenses incurred for the benefit of any person include (in addition to any payments made to him or on his behalf) expenses incurred for providing him with accommodation or care or for exercising supervision over him;  
but no expenses shall be specified in regulations under this section unless they are such that a magistrates' court has power under any enactment in force in any part of the United Kingdom to order the making of payments in respect thereof.
- (3) Not more than the following proportion of a seaman's net wages shall be retained under subsection (1) above (whether in pursuance of one or more notices)—
- (a) one-half if the notice or notices relate to one dependant only;
  - (b) two-thirds if the notice or notices relate to two or more dependants.
- (4) Where a responsible authority have served a notice under this section on the persons employing a seaman a magistrates' court may, on the application of the authority, make an order for the payment to the authority of such sum, not exceeding the proportion of the seaman's wages which those persons were required by virtue of this section to retain, as the court, having regard to the expenses incurred by the authority and the seaman's means, thinks fit.
- (5) Any sums paid out of a seaman's wages in pursuance of an order under this section shall be deemed to be paid to him in respect of his wages; and the service, on the persons who employed the seaman, of such an order or of an order dismissing an application for such an order shall terminate the period for which they were required to retain the wages.
- (6) An application for an order under this section for the payment of any sum by the persons who employed a seaman shall be deemed, for the purposes of any proceedings, to be an application for an order against the seaman; but the order, when served on those persons, shall have effect as an order against them and may be enforced accordingly.
- (7) Parts I and III of the Maintenance Orders Act 1950 shall have effect as if an order under this section were included among those referred to in sections 4(1) and (2), 9(1) and (2), and 12(1) and (2) of that Act; and any sum payable by any persons under an order made under this section in any part of the United Kingdom may, in any other part of the United Kingdom, be recovered from them as a debt due to the authority on whose application the order was made.
- (8) Any notice or order under this section may be served by registered post or recorded delivery service.
- (9) The Secretary of State may make regulations specifying—
- (a) the expenses in respect of which a notice may be served by a responsible authority under subsection (1) above;
  - (b) any conditions that must be satisfied if such a notice is to be served;
  - (c) the period that may be specified in such a notice (being a period beginning with the service of the notice and ending a specified number of days after the seaman's discharge from his ship);
  - (d) the form of such a notice and the information to be contained therein; and
  - (e) the amounts to be deducted from a seaman's wages in computing his net wages for the purposes of this section;
- and the amounts specified under paragraph (e) above may include amounts allotted by allotment notes issued under section 36.

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- (10) In this section “responsible authority” means the Secretary of State, the Department of Health and Social Services for Northern Ireland, a Health and Social Services Board acting on behalf of that Department, or (except in Northern Ireland) any local authority.
- (11) In the application of subsection (2)(a) above to Northern Ireland, for the reference to a local authority there shall be substituted a reference to a Health and Social Services Board and in subsection (10) above and this subsection “Health and Social Services Board” means such a Board established under the Health and Personal Social Services (Northern Ireland) Order 1972.
- (12) In this section “magistrates' court”—
- (a) in relation to Scotland, means the sheriff court, and
  - (b) in relation to Northern Ireland, means a court of summary jurisdiction.

#### **41 Remedies of master for remuneration, disbursements and liabilities**

The master of a ship shall have the same lien for his remuneration, and all disbursements or liabilities properly made or incurred by him on account of the ship, as a seaman has for his wages.