



# Seafarers Wages Act 2023

## 2023 CHAPTER 8

### *National minimum wage equivalence declarations*

#### **3 Request for declaration**

- (1) Subsection (2) applies where a harbour authority has reasonable grounds to believe that ships providing a service to which this Act applies will enter, or have entered, its harbour on at least 120 occasions during a relevant year.
- (2) The harbour authority must, within such period as is determined by regulations, request that the operator of the service provide the authority with a national minimum wage equivalence declaration (in the rest of this Act, an “equivalence declaration”) in respect of the service for the relevant year.
- (3) The duty under subsection (2) is subject to any direction given by the Secretary of State under section 16(1)(a).
- (4) A harbour authority which fails to comply with subsection (2) is guilty of an offence and liable on summary conviction—
  - (a) in England and Wales, to a fine, or
  - (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (5) Regulations may make provision—
  - (a) as to the period within which equivalence declarations are to be provided;
  - (b) as to the form of equivalence declarations;
  - (c) as to the manner in which equivalence declarations are to be provided.
- (6) In this Act, “relevant year” means—
  - (a) the period of 12 months beginning with a date specified in regulations, and
  - (b) each successive period of 12 months.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Seafarers Wages Act 2023, Cross Heading: National minimum wage equivalence declarations. (See end of Document for details)*

#### Commencement Information

II S. 3 in force at Royal Assent for specified purposes, see [s. 20\(2\)\(a\)](#)

#### 4 Nature of declaration

- (1) An equivalence declaration in respect of a service for a relevant year is a declaration within any of subsections (2) to (5).
- (2) A declaration is within this subsection if it is provided before the beginning of the relevant year and it is to the effect that—
  - (a) in the relevant year there will be no non-qualifying seafarers working on ships providing the service, or
  - (b) in the relevant year non-qualifying seafarers working on ships providing the service will be remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent.
- (3) A declaration is within this subsection if it is provided during the relevant year and it is to the effect that—
  - (a) in what remains of the relevant year there will be no non-qualifying seafarers working on ships providing the service, or
  - (b) in what remains of the relevant year non-qualifying seafarers working on ships providing the service will be remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent.
- (4) A declaration is within this subsection if it is provided during the relevant year and it is to the effect that—
  - (a) in so much of the relevant year as has already occurred—
    - (i) there have been no non-qualifying seafarers working on ships providing the service, or
    - (ii) non-qualifying seafarers working on ships providing the service have been remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent, and
  - (b) in what remains of the relevant year—
    - (i) there will be no non-qualifying seafarers working on ships providing the service, or
    - (ii) non-qualifying seafarers working on ships providing the service will be remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent.
- (5) A declaration is within this subsection if it is provided after the end of the relevant year and it is to the effect that—
  - (a) in the relevant year there were no non-qualifying seafarers working on ships providing the service, or
  - (b) in the relevant year non-qualifying seafarers working on ships providing the service were remunerated in respect of their UK work in relation to the service at a rate that is equal to or exceeds the national minimum wage equivalent.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Seafarers Wages Act 2023, Cross Heading: National minimum wage equivalence declarations. (See end of Document for details)*

- (6) For the purposes of this Act, the national minimum wage equivalent is an hourly rate specified in regulations.
- (7) Regulations may make provision for determining for the purposes of this Act—
  - (a) the hourly rate at which a non-qualifying seafarer is remunerated in any period in respect of any work, and
  - (b) whether, or the extent to which, a non-qualifying seafarer’s work in relation to a service to which this Act applies is UK work.
- (8) Regulations under subsection (7)(a) may in particular make—
  - (a) any provision referred to in section 2(2) to (6) of the National Minimum Wage Act 1998;
  - (b) provision relating to currency conversion.
- (9) The Secretary of State must in making regulations under this section seek to secure that a non-qualifying seafarer is for the purposes of this section remunerated at a rate equal to the national minimum wage equivalent only if their remuneration is in all the circumstances broadly equivalent to the remuneration they would receive if they qualified for the national minimum wage.
- (10) In this Act, “UK work” means work which is carried out in the United Kingdom or its territorial waters.

#### Commencement Information

**I2** S. 4 in force at Royal Assent for specified purposes, see [s. 20\(2\)\(a\)](#)

PROSPECTIVE

## 5 Offence of operating service inconsistently with declaration

- (1) The operator of a service to which this Act applies is guilty of an offence if—
  - (a) the operator provides a harbour authority with an equivalence declaration in respect of the service for a relevant year, and
  - (b) subsection (2), (3) or (4) applies.
- (2) This subsection applies if the equivalence declaration is provided before the beginning of the relevant year and—
  - (a) the service is operated inconsistently with the declaration at the beginning of the relevant year, or
  - (b) at any later time during the relevant year the service starts to be operated inconsistently with the declaration and the operator fails to notify the harbour authority within four weeks of—
    - (i) the fact that the service has started to be so operated, and
    - (ii) the time when it started to be so operated.
- (3) This subsection applies if the equivalence declaration is provided during the relevant year and—
  - (a) at the time the declaration is provided the service is being operated inconsistently with the declaration, or

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- (b) at any later time during the relevant year the service starts to be operated inconsistently with the declaration and the operator fails to notify the harbour authority within four weeks of—
  - (i) the fact that the service has started to be so operated, and
  - (ii) the time when it started to be so operated.
- (4) This subsection applies if the equivalence declaration is provided during or after the end of the relevant year and it is false or misleading in so far as it concerns the operation of the service before the declaration was provided.
- (5) A person guilty of an offence under this section is liable on summary conviction—
  - (a) in England and Wales, to a fine, or
  - (b) in Scotland and Northern Ireland, to a fine not exceeding level 5 on the standard scale.

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**Commencement Information**

**I3** S. 5 not in force at Royal Assent, see [s. 20](#)

**Status:**

This version of this cross heading contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Seafarers Wages Act 2023, Cross Heading: National minimum wage equivalence declarations.