



Merchant Shipping Act 1906

1906 CHAPTER 48

PART IV

PROVISIONS AS TO RELIEF AND REPATRIATION OF DISTRESSED SEAMEN, AND SEAMEN LEFT BEHIND ABROAD

28 Dealing with wages and effects of a seaman who is left behind

- (1) If a seaman belonging to any British ship is left behind out of the British Islands, the master of the ship shall subject to the provisions of this section—
 - (a) as soon as may be, enter in the official log-book a statement of the effects left on board by the seaman and of the amount due to the seaman on account of wages at the time when he was left behind ; and
 - (b) on the termination of the voyage during which the seaman was left behind, furnish to the proper officer within forty-eight hours after the arrival of the ship at the port at which the voyage terminates, accounts in a form approved by the Board of Trade, one (in this section referred to as the delivery account) of the effects and wages, and the other (in this section referred to as the reimbursement account) of any expenses caused to the master or owner of the ship by the absence of the seaman in cases where the absence is due to desertion, neglect to join his ship, or any other conduct constituting an offence under section two hundred and twenty-one of the principal Act. The master shall, if required by the proper officer, furnish such vouchers as may be reasonably required to verify the accounts.
- (2) The master of the ship shall deliver to the proper officer the effects of the seaman as shown in the delivery account, and subject to any deductions allowed under this section, the amount due on account of wages as shown in that account, and the officer shall give to the master a receipt, in a form approved by the Board of Trade, for any effects or amount so delivered.
- (3) The master of the ship shall be entitled to be reimbursed out of the wages or effects any sums shown in the reimbursement account which appear to the proper officer or, in case of an appeal under this section, to a court of summary jurisdiction to be properly

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chargeable, and for that purpose the officer, or, if necessary, in the case of an appeal, the Board of Trade, shall allow those sums to be deducted from the amount due on account of wages shown in the delivery account, and, so far as that amount is not sufficient, to be repaid to the master out of the effects.

The proper officer, before allowing any sums to be deducted or repaid under this provision, may require such evidence as he thinks fit as to the sums being properly chargeable to be given by the master of the ship, either by statutory declaration or otherwise.

Where the master of a ship whose voyage terminates in the United Kingdom is aggrieved by the decision of the proper officer - as to the sums to be allowed as properly chargeable on his reimbursement account, and the amount in dispute exceeds ten pounds, he may appeal from the decision of the proper officer to a court of summary jurisdiction.

- (4) Where during the voyage of a ship two or more seamen have been left behind, the delivery and reimbursement accounts furnished as respects each seaman may at the option of the master of the ship be dealt with, as between him and the proper officer, collectively instead of individually, and in that case the master of the ship shall be entitled to be reimbursed out of the total amount of the wages and effects of the seamen left behind the total of the amounts allowed under this section as properly chargeable on the reimbursement accounts, and shall be required to deliver to the proper officer on account of wages only the sum by which the total of the amounts shown on the delivery accounts to be due on account of wages exceeds the total of the amounts allowed as properly chargeable on the reimbursement accounts.
- (5) The proper officer shall (subject to any repayment made under this section) remit the effects, and any amount received by him on account of wages under this section, at such time and in such manner as the Board of Trade require, and shall render such accounts in respect thereof as the Board direct.
- (6) In this section the expression "effects" includes the proceeds of any sale of the effects if these effects are sold under this section, and the effects shall be sold by the proper officer in such manner as he thinks fit when they are delivered to him, unless the Board of Trade direct to the contrary, and, if not so sold, shall be sold by the Board as and when they think fit unless they are delivered to the seaman.
- (7) The master shall be under no liability for any loss of effects or for any damage to the effects if he proves to the proper officer that the loss or damage occurred without his neglect or privity after the seaman left the ship.
- (8) The Board of Trade shall not be under any liability with respect to anything done under this section, except that, if after the wages or effects of a seaman have been dealt with under this section, any legal proceedings are taken in respect of those wages or effects, or involving the forfeiture of those wages or effects, or of any sum out of the wages, by the seaman against the master or owner of the ship, or by the master or owner of the ship against the seaman, the Board shall, if notice is given to them of the proceedings, and a reasonable opportunity afforded to them of appealing, comply with any order of the court made as respects the wages or effects, so far as they can do so out of the wages and effects remitted to them in respect of the voyage of the ship, and, so far as those wages and effects are not required for reimbursing any expenses incurred by or on behalf of the Crown, or incurred by the Government of a foreign country and repaid to that Government by or on behalf of the Crown, as expenses of a distressed seaman on behalf of the seaman.

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The Board shall be entitled to appear and be heard in any such proceedings by any of their officers, and for the purpose of this section notice to any superintendent shall be deemed to be notice to the Board.

The Board may, if and so far as they think fit, meet any claim made by a seaman against the master or owner of the ship in respect of any wages or effects dealt with under this section, although legal proceedings are not actually taken in respect thereof: Provided that they have given notice to the master or owner of the ship, and the master or owner has not given written notice of objection within ten days of the notice being given.

For the purposes of this subsection, any legal proceedings taken or any claim made by a person in whose favour an allotment note has been made, or who claims reimbursement of expenses on behalf of any union or parish under section one hundred and eighty-two of the principal Act, shall be treated as proceedings taken or a claim made by the seaman.

- (9) Any sums remitted under this section or arising from the sale of effects under this section shall be paid into the Exchequer, and any sums payable by the Board of Trade under this section shall be paid out of moneys provided by Parliament.
- (10) If the master of a ship fails without reasonable cause to comply with this section, he shall (without prejudice to any other liability) for each offence be liable on summary conviction to a fine not exceeding twenty pounds, and, if he delivers a false account or makes a false statement or representation for the purposes of this section, he shall in respect of each offence be guilty of a misdemeanor.
- (11) The proper officer for the purpose of this section shall be—
- (i) at a port in the United Kingdom, a superintendent;
 - (ii) at a port in a British possession, a superintendent, or, in the absence of any such superintendent, the chief officer of customs at or near the port;
 - (iii) at a port elsewhere, the consular officer at the port.
- (12) This section shall not apply in the case of an absent seaman—
- (a) Where the master of the ship satisfies the proper officer that none of the effects of the seaman have to his knowledge been left on board the ship, and that he has paid all wages due to the seaman; or
 - (b) where the amount of wages earned by the seaman (after taking into account any deductions made in respect of allotments or advances for which provision is made by the agreement with the crew) appears from the agreement to be less than five pounds, and the master does not exercise his option to deal with the delivery and reimbursement accounts collectively; or
 - (c) where the master of the ship satisfies the proper officer that the net amount due to the seaman on account of wages (after taking into account any deductions lawfully made in respect of allotments, advances, or otherwise) is less than three pounds, and the master does not exercise his option to deal with the delivery and reimbursement accounts collectively; or
 - (d) where the question of the forfeiture of the wages and effects of the seaman has been dealt with in legal proceedings lawfully instituted before the termination of the voyage, or within forty-eight hours of the arrival of the ship at the port at which the voyage terminates.