

1972 No. 1700

MERCHANT SHIPPING**MASTERS AND SEAMEN****The Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972***Made* - - - 9th November 1972*Laid before Parliament* 17th November 1972*Coming into Operation* 1st January 1973

The Secretary of State, after consulting with the organisations referred to in section 99(2) of the Merchant Shipping Act 1970(a), in exercise of powers conferred by section 9 of that Act and now vested in him (b), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Seamen's Wages and Accounts) Regulations 1972 and shall come into operation on 1st January 1973.

(2) In these Regulations—

“the Act” means the Merchant Shipping Act 1970;

“seaman” does not include a person serving in a fishing vessel; and

“ship” means a ship registered in the United Kingdom but does not include a fishing vessel.

(3) The Interpretation Act 1889(c) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Manner in which wages are to be paid

2.—(1) Subject to paragraph (2) of this regulation, the wages due to a seaman under a crew agreement shall be paid in cash.

(2) If the seaman has so agreed, the whole or part of the wages due to him may be paid by means of a cheque, money order or directly to a bank or giro account.

Accounts of seamen's wages

3.—(1) The account of wages to be delivered to a seaman under section 8(1) and (4) of the Act shall contain the particulars prescribed in the Schedule to these Regulations and shall indicate which amounts (if any) stated in the account are estimated amounts.

(2) The further account of wages to be delivered to a seaman under section 8(3) and (4) of the Act shall—

(a) 1970 c. 36.

(b) See the Secretary of State for Trade and Industry Order 1970 (S. I. 1970/1537 (1970 III, p. 5293)).

(c) 52 & 53 Vict. c. 63,

- (a) contain the same particulars as are required to be contained in an account of wages to be delivered to a seaman under section 8(1) and (4) of the Act adjusted in such manner as the circumstances may require;
- (b) indicate which amounts stated in the account are adjusted amounts;
- (c) state the amount of wages already paid to the seaman; and
- (d) state the balance of wages remaining to be paid to the seaman.

Deductions from wages

4.—(1) The deductions specified in regulation 5 are hereby authorised to be made from the wages due to a seaman under a crew agreement.

(2) The deductions authorised by this regulation—

- (a) shall be without prejudice to any dispute relating to the amount payable to a seaman under the crew agreement and, subject to the provisions of the Act, to the rights and obligations, whether of the employer or of the seaman, under the agreement or otherwise; and
- (b) shall be in addition to any deduction authorised by any provision of the Act (except section 9) or of any other enactment.

5. The deductions referred to in regulation 4(1) are—

- (a) deductions of any amount payable by the seaman to his employer in respect of—
 - (i) canteen bills;
 - (ii) goods supplied;
 - (iii) radio or telephone calls;
 - (iv) postage expenses;
 - (v) cash advances;
 - (vi) allotments;
- (b) contributions by the seaman to a fund or in respect of membership of a body declared by regulations under section 11(3) of the Act to be a fund or body to which section 11 applies (a).
- (c) Subject to regulations 6, 7, and 8, a deduction of an amount being the actual expense or pecuniary loss incurred or sustained by the employer in consequence of the seaman's absence or absences without leave, where the employer is satisfied on reasonable grounds that such absence is a breach of the seaman's obligations under the crew agreement;
- (d) subject to regulations 6 and 8 and to any additional limitations imposed by the crew agreement, a deduction of an amount being the actual expense or pecuniary loss incurred or sustained by the employer, where the employer is satisfied on reasonable grounds that the expense or loss was caused by a breach or breaches of the seaman's obligations under the crew agreement not falling within paragraph (c) of this regulation.

6. The amount which may be deducted from a seaman's wages in respect of any number of breaches of his obligations under the crew agreement—

- (a) by virtue of regulation 5(c), shall not exceed £50; and
- (b) by virtue of regulation 5(d) shall not exceed £50.

7. No deduction shall be made by virtue of regulation 5(c) if the seaman satisfies the master—

(a) *see* S.I. 1972/1699 (1972 III, p. 4968).

(a) that his absence was due to an accident or mistake or some other cause beyond his control; and

(b) that he took all reasonable precautions to avoid being absent.

8.—(1) A deduction shall not be made by virtue of regulation 5(c) or (d) unless the provisions of paragraph (2) or paragraph (3) of this regulation have been complied with.

(2) Where it is possible for him to give a notice of deduction complying with paragraph (4) of this regulation not less than 24 hours before the seaman's wages fall due to be paid, the seaman's employer or the master on his behalf shall give to the seaman—

(a) a notice of deduction complying with paragraph (4) of this regulation; and

(b) an opportunity to make representations about the deduction to the employer or to the master.

(3) Where it is not possible for him to give a notice of deduction complying with paragraph (4) of this regulation not less than 24 hours before the seaman's wages fall due to be paid, the seaman's employer or the master on his behalf shall—

(a) if it is possible to do so before the seaman's wages fall due to be paid, give to the seaman—

(i) a notice of deduction complying with paragraph (4) of this regulation; and

(ii) an opportunity to make representations about the deduction to the employer or to the master; or

(b) if the seaman has not been given such notice and opportunity, send to the seaman by registered post at his last known address a notice of deduction complying with paragraph (4) of this regulation.

(4) A notice of deduction shall state that the employer is satisfied on reasonable grounds that there has been a breach or breaches, as the case may be, of the seaman's obligations under the crew agreement and that, subject to the provisions of regulations 4 to 7, the deduction specified in the notice appears to the employer to be authorised to be made from the wages due to the seaman under the crew agreement; and such notice shall also—

(i) identify each provision of the crew agreement of which the employer is satisfied on reasonable grounds that there has been a breach and in respect of which he intends to make a deduction;

(ii) state the grounds upon which the employer is satisfied that each such breach has taken place;

(iii) specify, with sufficient particulars to show how it is calculated, the amount of the actual expense or pecuniary loss incurred or sustained by the employer in respect of each such breach or, if that amount exceeds £50, with sufficient particulars to show that it exceeds £50; and

(iv) specify the total amount of the deduction proposed to be made.

Michael Heseltine,

Minister for Aerospace and Shipping,
Department of Trade and Industry.

9th November 1972.

THE SCHEDULE

ACCOUNTS OF SEAMEN'S WAGES
(Regulation 3)

Particulars to be shown in the account of wages to be delivered to a seaman under section 8(1) and (4) of the Act

Particulars of the seaman and of the ship

1. Name of the seaman and—
 - (a) the number of his current discharge book (if any);
 - (b) his reference number in the crew agreement;
 - (c) his income tax code;
 - (d) his national insurance number; and the dates on which his national insurance contributions commenced and ceased.
2. Name of the ship and its official number.

Particulars of employment

3. Capacity in which the seaman was employed.
4. Dates when employment commenced and ceased and total period of employment in which wages were earned, showing separately the dates of the beginning and end of any period in which wages were not earned.

Allotments

5. Sums payable under each allotment note, date when the first payment was due, the intervals between payments, and the total of all such sums.

Gross wages

6. Total amount of gross wages earned, with, shown separately and with sufficient detail to indicate how each amount is calculated, the total amounts in respect of—
 - (a) the wages at the rate specified in the crew agreement;
 - (b) increase in wages;
 - (c) overtime;
 - (d) leave pay;
 - (e) subsistence;
 - (f) any other earnings during the period of employment.

Deductions

7. Deductions authorised by regulations 4 and 5, specifying the nature of the deduction and showing the total amount in respect of each deduction.
8. Fines deducted pursuant to section 38 of the Act.
9. Deductions authorised by enactments other than the Act, specifying the nature of the deduction and showing the total amount in respect of each deduction.
10. Total of amounts deducted from gross wages.

Net Wages

11. Total amount of net wages.

Special retentions

12. Amount of net wages retained pursuant to a notice (relating to a claim for

maintenance etc. of the seaman's dependants) under section 183 of the Merchant Shipping Act 1894(a) (having effect as set out in Schedule 5 to the Ministry of Social Security Act 1966(b)) or under section 17 of the Act, stating by whom any such notice was served.

Balance payable

13. Balance of wages.
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EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations apply to seamen employed under crew agreements, as defined in section 1(2) of the Merchant Shipping Act 1970, in ships registered in the United Kingdom other than fishing vessels. The Regulations deal with the manner of payment of wages and the form and contents of accounts of wages. They also specify the deductions which are authorised to be made from the seaman's wages and the conditions which are to be observed before deductions relating to breaches of the crew agreement may be made.

These Regulations supersede existing provisions.

(a) 57 & 58 Vict. c. 60,

(b) 1966 c.20,

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