
STATUTORY INSTRUMENTS

2014 No. 1613

**The Merchant Shipping (Maritime Labour Convention)
(Minimum Requirements for Seafarers etc.) Regulations 2014**

PART 6

Repatriation

Duty to repatriate seafarers

19.—(1) Subject to regulation 21, a shipowner must make such provision as is necessary for repatriation of a seafarer as soon as is practicable in the following cases—

- (a) where the seafarer employment agreement expires;
- (b) where the seafarer employment agreement is terminated by the shipowner;
- (c) where the seafarer employment agreement is terminated by the seafarer in accordance with the terms of the agreement;
- (d) where the seafarer is no longer able to carry out the seafarer's duties under the seafarer's employment agreement or cannot be expected to carry them out in the specific circumstances, including in the following circumstances—
 - (i) the seafarer has an illness, injury or medical condition which requires their repatriation when found medically fit to travel;
 - (ii) shipwreck;
 - (iii) the shipowner is not able to fulfil its legal or contractual obligations to the seafarer following insolvency, the sale of the ship or a change in the ship's registration; or
 - (iv) the ship is bound for a war zone to which the seafarer does not consent to go;
- (e) where the seafarer has completed the maximum period of service on board following which the seafarer is entitled to repatriation in accordance with the seafarer employment agreement; and
- (f) where the seafarer employment agreement is terminated pursuant to an order of a court or tribunal.

(2) A breach of paragraph (1) is an offence by the shipowner.

Place for return.

20.—(1) Where there is a duty on a shipowner to provide for the repatriation of a seafarer under regulation 19, a seafarer is entitled to repatriation to the destination provided for in the seafarer employment agreement, or such other place as may subsequently be agreed with the shipowner.

(2) If the seafarer employment agreement does not identify a destination, and there has been no agreement between the seafarer and the shipowner as to the destination, the seafarer is entitled to repatriation to the seafarer's choice of the following destinations—

- (a) the place at which the seafarer entered into the seafarer's employment agreement; or

- (b) the seafarer's country of residence.

Scope of duty to repatriate

21. Where there is a duty on a shipowner to provide for the repatriation of a seafarer under regulation 19, that duty ends when—

- (a) the seafarer is repatriated in accordance with regulation 20;
- (b) the shipowner makes reasonable arrangements for repatriation which are unsuccessful because of the seafarer's unreasonable conduct;
- (c) [^{F1}except where the seafarer is held captive as a result of piracy or armed robbery against a ship,] the shipowner has used reasonable endeavours to contact the seafarer for a period of three months or more, but has been unable to make such contact;
- (d) the seafarer confirms in writing to the shipowner that repatriation is not required; or
- (e) the seafarer is dead.

Textual Amendments

- F1** Words in reg. 21(c) inserted (26.12.2020) by *The Merchant Shipping (Maritime Labour Convention and Work in Fishing Convention) (Amendment) Regulations 2020 (S.I. 2020/1166)*, regs. 1, **2(4)**

Duty pending repatriation

22.—(1) A shipowner to which a duty in regulation 19 applies must make such provision as is necessary for the seafarer's relief and maintenance pending repatriation.

(2) The shipowner must have regard to the seafarer's personal circumstances and requirements when determining what provision is required under paragraph (1).

(3) Without prejudice to the generality of paragraph (1) the provision for relief and maintenance must include—

- (a) food;
 - (b) clothing;
 - (c) accommodation;
 - (d) toiletries and other personal necessities;
 - (e) surgical, medical, dental or optical treatment (including the repair or replacement of any appliance) for any condition requiring immediate care; and
 - (f) in cases where legal aid is unavailable or insufficient, reasonable costs for the defence of the seafarer in any criminal proceedings in respect of any act or omission within the scope of the seafarer's employment, being proceedings where neither the shipowner nor an agent of the shipowner is the complainant.
- (4) The duty in paragraph (1) ends when the duty in regulation 19 ends.
- (5) A breach of paragraph (1) is an offence by the shipowner.

Prohibition on recovering costs from seafarer

23.—(1) Subject to paragraph (2), a shipowner must not enter into an agreement with a seafarer under which the seafarer must make payment in respect of either—

- (a) repatriation costs; or
- (b) relief and maintenance costs.

(2) A seafarer employment agreement may provide that the seafarer must reimburse repatriation costs where the agreement is terminated because of the seafarer's serious misconduct.

(3) If a seafarer employment agreement contains provision described in paragraph (2) and that obligation arises, a deduction equivalent to those costs may be made from the wages due to the seafarer under that agreement.

(4) If a seafarer employment agreement does not contain provision such as that described in paragraph (2), the shipowner may only recover the costs described in paragraph (1) (or damages in respect of such costs) where the agreement is terminated because of the seafarer's serious misconduct.

(5) A breach of paragraph (1) is an offence by the shipowner.

(6) An agreement is void to the extent it provides that a seafarer must make a payment to the shipowner in respect of either repatriation costs or relief and maintenance costs in breach of paragraph (1).

Seafarer property

24.—(1) This regulation applies where—

- (a) a shipowner is under a duty under regulation 19 in respect of a seafarer; and
- (b) property belonging to that seafarer has been left behind on board a ship.

(2) The master of the ship must take charge of that property and enter a description of each item in the official log book.

(3) A breach of paragraph (2) is an offence by the master of the ship.

(4) Subject to paragraph (6), the master of the ship and the shipowner must ensure that reasonable care is taken of the property pending its delivery in accordance with paragraph (10).

(5) A breach of paragraph (4) is an offence by the master of the ship and the shipowner.

(6) The master of the ship may at any time—

- (a) sell any part of the property which is of a perishable or deteriorating nature; and
- (b) destroy or otherwise dispose of any part of the property considered a potential risk to the health or safety of any person.

(7) The proceeds of any sale under paragraph (6)(a) are the property of the seafarer and the master of the ship must ensure that details of the sale are entered in the official log book.

(8) The master of the ship must ensure that details of any destruction or disposal under paragraph (6)(b) are entered in the official log book.

(9) A breach of paragraphs (7) or (8) is an offence by the master of the ship.

(10) Subject to paragraph (11), the shipowner must cause the property and a document containing the information entered in the log book pursuant to paragraphs (7) and (8) to be delivered to the seafarer or to the seafarer's next of kin.

(11) The duty in paragraph (10) is discharged if the shipowner causes the delivery to be made to the last known address of the seafarer or the next of kin, as the case may be.

(12) A breach of paragraph (10) is an offence by the shipowner.

(13) The seafarer or the next of kin, as the case may be, must reimburse the shipowner for the reasonable delivery costs if demanded.

Duty to carry documents

25.—(1) A shipowner must ensure that a copy of Part 6 of these Regulations and Marine Guidance Note 479(M) are held on board the ship and are available to seafarers.

(2) Unless the shipowner reasonably considers that all of the seafarers on board the ship understand English sufficiently to understand the documents referred to in paragraph (1), the duty in paragraph (1) includes the duty to hold on board the ship and make available to seafarers such translated versions of those documents as are sufficient to ensure that all of the seafarers on board the ship can understand at least one version.

(3) A breach of paragraphs (1) or (2) is an offence by the shipowner.

(4) In this regulation “Marine Guidance Note 479(M)” means the note described as such and issued by the MCA in July 2014.

Financial security requirement applicable to all ships

26.—(1) A ship must not be operated unless—

- (a) in the case of a ship in a category described in regulation 3(1)(a) or (b), there is in force a contract of insurance or other financial security adequate to ensure that the shipowner will be able to meet any liabilities arising from the duties in regulations 19 and 22; or
- (b) in the case of a ship in the category described in regulation 3(3), financial security is provided in accordance with paragraph 2 of Regulation 2.5 (repatriation) of the MLC.

(2) A breach of paragraph (1) is an offence by the shipowner.

Secretary of State functions in the event of shipowner default

27.—^[F2](1) The Secretary of State must make any provision which the shipowner of a United Kingdom ship is required to make under regulation 19 or 22 (repatriation and duty pending repatriation) (or secure that it is made) if—

- (a) the shipowner fails to make the required provision; and
- (b) the seafarer in relation to whom the shipowner has failed to make such provision is not entitled to receive financial assistance under an abandonment security.

(1A) The Secretary of State may make any provision which the shipowner of a United Kingdom ship is required to make under regulation 19 or 22 (or secure that it is made) if—

- (a) the shipowner fails to make the required provision; and
- (b) the seafarer in relation to whom the shipowner has failed to make such provision is entitled to receive financial assistance under an abandonment security.

(1B) Where the Secretary of State makes provision under paragraph (1) or (1A), the Secretary of State may recover costs incurred from the shipowner as a civil debt.]

(2) If a shipowner of a ship which is not a United Kingdom ship fails to make provision required under regulation 19 or 22, the Secretary of State may make the required provision (or secure that it is made) and may recover costs incurred from the shipowner as a civil debt.

(3) Subject to paragraph (5), the costs which the Secretary of State may recover under paragraph ^[F3](1B) and (2) include—

- (a) costs incurred by the Secretary of State in making the required provision (or securing that it is made); and
- (b) costs incurred by the Secretary of State in reimbursing another person (including a State which has made provision pursuant to paragraph 5 of Standard ^[F4]A2.5.1] (repatriation) of the MLC) for having made the required provision (or having secured its provision), whether or not the Secretary of State has requested or required them to do so.

(4) Subject to paragraph (5), if a shipowner of a United Kingdom ship fails to make provision required under regulation 19 or 22 and the seafarer incurs costs in making the required provision or securing that it is made, the seafarer may recover such costs from the shipowner as a civil debt.

(5) The costs incurred by the seafarer which are referred to in paragraph (4)—

- (a) may not be recovered by the seafarer under paragraph (4) if they have been recovered by the Secretary of State under paragraph [F5(1B)]; and
- (b) may not be recovered by the Secretary of State under paragraph [F6(1B)] if they have been recovered by the seafarer under paragraph (4).

Textual Amendments

- F2** Reg. 27(1)-(1B) substituted for reg. 27(1) (12.7.2018) by *The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667)*, regs. 1, **2(4)(a)**
- F3** Word in reg. 27(3) substituted (12.7.2018) by *The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667)*, regs. 1, **2(4)(b)**
- F4** Word in reg. 27(3)(b) substituted (12.7.2018) by *The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667)*, regs. 1, **2(4)(c)**
- F5** Word in reg. 27(5)(a) substituted (12.7.2018) by *The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667)*, regs. 1, **2(4)(d)**
- F6** Word in reg. 27(5)(b) substituted (12.7.2018) by *The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667)*, regs. 1, **2(4)(d)**

Part 6 requirements for non-United Kingdom ships with MLC documentation

28.—(1) A shipowner must make such provision as is necessary for the repatriation of a seafarer as soon as is practicable in the circumstances described in paragraph 1 of Standard [F7A2.5.1] of the MLC, subject to any national provisions which have been adopted by the State whose flag the ship is entitled to fly pursuant to paragraph 2 of Standard [F7A2.5.1].

(2) A breach of paragraph (1) is an offence by the shipowner.

(3) A shipowner must comply with –

- (a) the prohibitions in paragraph 3 of Standard [F8A2.5.1], whether or not those prohibitions apply in the State whose flag the ship is entitled to fly; and
- (b) the requirement in paragraph 9 of Standard [F9A2.5.1], whether or not the State whose flag the ship is entitled to fly has imposed that requirement in its national laws or otherwise.

(4) A breach of paragraph (3) is an offence by the shipowner.

Textual Amendments

- F7** Word in reg. 28(1) substituted (12.7.2018) by *The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667)*, regs. 1, **2(5)**
- F8** Word in reg. 28(3)(a) substituted (12.7.2018) by *The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667)*, regs. 1, **2(5)**

Changes to legislation: There are currently no known outstanding effects for the The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014, PART 6. (See end of Document for details)

F9 Word in reg. 28(3)(b) substituted (12.7.2018) by The Merchant Shipping (Maritime Labour Convention) (Compulsory Financial Security) (Amendment) Regulations 2018 (S.I. 2018/667), regs. 1, 2(5)

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014, PART 6.