STATUTORY INSTRUMENTS

1972 No. 1805

MERCHANT SHIPPING

MASTERS AND SEAMEN

The Merchant Shipping (Repatriation) Regulations 1972

Made - - -	*27th November* 1972
Laid before Parliament	*4th December* 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 sections 9(*d*), 62 and 68(2) and (5) 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 (Repatriation) Regulations 1972 and shall come into operation on 1st January 1973.

(2) In these Regulations—

"the Act" means the Merchant Shipping Act 1970;

"employer", in relation to a seaman, means the person who last employed him as a seaman before he was left behind or shipwrecked;

"master" means (except in regulations 9, 10, 11 and 21(3)) the master of the ship in which a seaman was last employed immediately before he was left behind or shipwrecked;

"seaman" (except in regulations 12 and 14 to 17) includes the master of a ship;

"ship" means a ship (including a fishing vessel) registered in the United Kingdom; and

"time for payment" means the time at which the wages due to a seaman under a crew agreement would have become payable to the seaman in accordance with the provisions of the crew agreement—

(*a*) if the seaman had continued to be employed under the agreement and neither the employer nor the seaman had given notice to terminate the seaman's employment; and

(*b*) where the agreement relates to more than one ship, as if it related only to the ship from which the seaman was left behind or shipwrecked;

and, in the case of a crew agreement relating to a fishing vessel which provides that the whole of the wages due to a seaman shall not be payable at one time, means the time when the final payment would be made.

(**a**) 1970 c. 36.

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

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

Application

2. These Regulations apply to—

(*a*) any seaman employed in a ship registered in the United Kingdom who is left behind in any country outside the United Kingdom or is taken to such a country on being shipwrecked;

(*b*) any seaman who became so employed under an agreement entered into outside the United Kingdom and who is left behind in the United Kingdom or is taken to the United Kingdom on being shipwrecked.

Return of seamen left behind and of shipwrecked seamen

3.—(1) The employer of a seaman to whom these Regulations apply shall—

(*a*) as soon as practicable after the seaman is left behind or, in the case of a shipwrecked seaman, as soon as practicable after he is brought ashore; or

(*b*) if for any reason the seaman is not available for return at the time he is left behind or brought ashore after being shipwrecked (as the case may be), when he presents himself either to his employer, his employer's agent, a superintendent or a proper officer and asks to be returned;

make such provision as is necessary for his return to a place ascertained under regulation 7.

(2) The employer shall continue the provision referred to in paragraph (1) of this regulation until the seaman is returned as therein mentioned or until he—

(*a*) being fit and able to undertake employment in a ship, fails to comply with a reasonable request made of him by his employer that he should enter into an agreement for employment in any ship (including any such ship as is mentioned in regulation 9(1)(*a*)) in which he is, in accordance with provision made by his employer, to be carried in the course of his return; or

(*b*) without reasonable cause, fails to comply with any other reasonable arrangement made for him by his employer in relation to the provision for his return.

(3) In deciding whether the seaman is to be returned by land, sea or air (or by which combination of any of those means), his employer shall have regard to all the circumstances including the personal circumstances of the seaman and of any requirement special to him.

Relief and maintenance of seamen left behind and of shipwrecked seamen

4.—(1) The employer of a seaman to whom these Regulations apply shall—

(*a*) from the time when the seaman is left behind, or in the case of a shipwrecked seaman, from the time when he is brought ashore; or

(**a**) 52 & 53 Vict. c. 63.

(*b*) if, within 48 hours from that time, his employer did not know or could not reasonably have known the whereabouts of the seaman, from the time when he informs his employer, his employer's agent, a superintendent or a proper officer of his whereabouts and asks to be returned;

make provision for the seaman's food and lodging and such other relief and maintenance as is necessary having regard to the personal circumstances of the seaman and of any requirement special to him.

(2) The employer shall continue the provision referred to in paragraph (1) of this regulation until the seaman is returned to a place ascertained under regulation 7 or until the employer is no longer required to continue the provision for his return in accordance with regulation 3 by reason of any provision of that regulation.

(3) Without prejudice to the generality of paragraph (1) of this regulation, the provision for relief and maintenance to be made in accordance with that paragraph shall include—

(*a*) clothing;

(*b*) toilet and other personal necessaries;

(*c*) surgical or medical treatment and such dental or optical treatment (including the repair or replacement of any appliance) as cannot be postponed without impairing efficiency; and

(*d*) sufficient money to meet any minor ancillary expenses necessarily incurred or likely to be so incurred by the seaman for his relief and maintenance.

(4) The provisions to be made by an employer in accordance with the foregoing paragraphs of this regulation shall include—

(*a*) the repayment of expenses incurred in bringing a shipwrecked seaman ashore and maintaining him until he is brought ashore; and

(*b*) the payment of the expenses of the burial or cremation of a seaman who dies before he can be returned to a place ascertained under regulation 7.

Other provisions relating to seamen left behind and shipwrecked seamen

5.—(1) Except where, if the seaman has been discharged from his ship, notice of his discharge has been given to a superintendent or proper officer in accordance with regulations made under section 3 of the Act (**a**), the employer of a seaman to whom these Regulations apply shall, within 48 hours after the seaman is left behind or it has come to his notice that the seaman has been brought ashore after being shipwrecked (as the case may be), or if it is not practicable within that time, as soon as practicable thereafter, make provision to ensure that the superintendent or proper officer for the place where the seaman is left behind or brought ashore is informed of the particulars specified in paragraph (2) of this regulation.

(2) The particulars referred to in paragraph (1) of this regulation are—

(*a*) the name of the seaman;

(a) *See* S.I. 1972/918, 919 (1972 II, pp. 2892, 2902).

(*b*) his home address as stated in the list of crew;

(*c*) the name and address of his next of kin as stated in the list of crew;

(*d*) in the case of a seaman left behind—

(i) the name of the ship from which he was left behind;

(ii) the date on which he was left behind;

(iii) the place where he was left behind and, if known to the employer, the present whereabouts of the seaman;

(iv) the reason (if known to the employer) for his being left behind;

(v) the name and address of the employer and the name and address of the employer's agent, if any, at or nearest to the place where the seaman was left behind;

(*e*) in the case of a shipwrecked seaman—

(i) the name of the ship from which he was shipwrecked;

(ii) the dates on which he was shipwrecked and on which he was brought ashore;

(iii) the place where he was brought ashore and (if known to the employer) the name and address of the person by whom he was brought ashore and the present whereabouts of the seaman;

(iv) the name and address of the employer and the name and address of the employer's agent, if any, at or nearest to the place where the seaman was brought ashore.

(3) The master shall make entries, in relation to any seaman left behind, recording—

(*a*) both in the official log book and in the list of crew, the date on which and the place at which the seaman was left behind and the reason (if known to the master) for his being left behind; and

(*b*) in the official log book, any provision which he has made on the employer's behalf to ensure that the superintendent or proper officer is informed of the matters referred to in paragraph (1) of this regulation.

6.—(1) The employer shall ensure that the superintendent or proper officer specified in paragraph (2) of this regulation is kept informed of the arrangements he has made (including any changes in those arrangements) in pursuance of his obligation to make provision for the seaman's return, relief and maintenance specified in regulations 3 and 4.

(2) The superintendent or proper officer referred to in paragraph (1) of this regulation is the superintendent or proper officer for the place where the seaman is at the time any of the arrangements mentioned in that paragraph are made.

Place for return

7. A seaman who is to be returned in pursuance of these Regulations shall be returned—

(*a*) in the case of a seaman who is resident in the United Kingdom, either to his home in the United Kingdom or to the place where the Merchant Navy Establishment Administration Office at which he is registered is situated, whichever is nearer to the place at which he first arrives in the United Kingdom; or

(*b*) in the case of a seaman who is not resident in the United Kingdom, to a place in the country in which he is resident being—

(i) if he joined the ship from which he was left behind or shipwrecked in that country, the place where he joined the ship; or

(ii) if he did not join the ship in that country, the place in that country at which he was engaged to join the ship; or

(*c*) to any other place which may be agreed between the seaman and his employer.

Provision for a seaman's return, relief and maintenance by superintendents and proper officers

8.—(1) Where it appears to a superintendent or proper officer for any place where a seaman is, that the seaman's employer has failed to make or to continue to make any or sufficient provision with respect to any matter for which he is required to make provision for that seaman under regulation 3 or 4, the superintendent or proper officer shall make that provision.

(2) Where a citizen of the United Kingdom and colonies is found in distress in any country outside the United Kingdom within 3 months after ceasing to be employed in ships registered in, or belonging to the government of, such a country, the proper officer for the place where that person is found shall, as soon as practicable after he is found, make—

(*a*) the like provision to ensure that he is returned to a place ascertained under regulation 7 as the employer of a seaman to whom these Regulations apply is required to make under regulation 3; and

(*b*) the like provision for his relief and maintenance until his return as the employer of such a seaman is required to make under regulation 4.

Conveyance orders and directions

9.—(1) Where a superintendent or proper officer is requested by an employer who is under an obligation under regulation 3 to make provision for a seaman's return, he shall or, where he is himself under an obligation under regulation 8 to make provision for the return of a seaman or of a citizen of the United Kingdom and colonies, he may, subject to paragraph (2) of this regulation—

(*a*) by means of a conveyance order in writing require the master of a ship (which, where the order is made at the request of the employer, shall be specified by the employer) to convey the seaman or the citizen of the United Kingdom and colonies, as the case may be, from any place specified in the order to such other place so specified as lies on a reasonable route between the place specified in the order and the place ascertained under regulation 7 to which he is to be returned; and

(*b*) give to the master of that ship such directions as may be necessary for the purpose of that requirement;

and more than one such order may be made in the course of the seaman's return.

(2) A master shall not be required under paragraph (1) of this regulation to convey a person in his ship or to obey any direction given for the purpose of the requirement—

(*a*) if his ship is a fishing vessel;

(*b*) if any provision of an enactment or instrument would be infringed by reason of that person being conveyed in the ship in addition to the other persons carried in the ship;

(*c*) if his ship would be required to go to any place to which it would not otherwise go in the course of the voyage then being undertaken or about to be undertaken;

(*d*) if, by reason of compliance with such requirement or direction, his ship would be unreasonably delayed; or

(*e*) if the master has other reasonable cause for objecting to the requirement or direction, as the case may be.

10. A master shall make entries in the official log book recording the particulars of any requirement made of him under regulation 9 and of any directions given to him by a superintendent or proper officer for the purpose of that requirement.

11.—(1) A master of a ship in which a person is conveyed in accordance with regulation 9 shall be entitled to payment for the conveyance at a rate not exceeding £1 per day for every day (including part of a day) on which that person is on board the ship; and payment shall be made to him or to his order by the person specified in paragraph (2) of this regulation upon presentation both of the conveyance order and of an account showing the total amount claimed and how that amount is calculated.

(2) The person by whom payment is to be made to the master in accordance with paragraph (1) of this regulation is the seaman's employer or, where the conveyance is required by a superintendent or proper officer in pursuance of his obligation under regulation 8, the Secretary of State.

Wages and accounts of wages of seamen left behind etc.

12. The wages due under a crew agreement to a seaman who is left behind in any country on being discharged from his ship—

(*a*) in the case of a seaman employed in a ship other than a fishing vessel, shall be paid and accounts thereof shall be delivered in accordance with sections 7 and 8 of the Act; and

(*b*) in the case of a seaman employed in a fishing vessel, shall be paid and accounts thereof shall be delivered or made out and made available in accordance with sections 7 and 8 of the Act (as set out in Part II of Schedule 2 to the Act) and with regulations made under section 8 (as so set out)(**a**).

(**a**) *See* S.I. 1972/1701 (1972 III, p. 4975).

13. The wages due under an agreement other than a crew agreement to a seaman to whom these Regulations apply shall be dealt with under the provisions of the agreement under which he is employed.

14.—(1) The wages in respect of his employment in a ship other than a fishing vessel due under a crew agreement—

(*a*) to a seaman to whom these Regulations apply; and

(*b*) to a seaman who leaves his ship in the United Kingdom otherwise than on being discharged therefrom;

shall be dealt with in accordance with the provisions of paragraph (2) of this regulation.

(2) The provisions of sections 7 and 8 of the Act shall have effect, in relation to any wages referred to in paragraph (1) of this regulation as if, for the references in subsections (1) and (2) of section 7 and in subsection (2) of section 8 to the time of discharge there were substituted references to the time ascertained under regulation 16 and there were omitted subsections (3) to (6) of section 7 and subsections (4) and (5) of section 8.

15.—(1) The wages in respect of his employment in a fishing vessel under a crew agreement due—

(*a*) to a seaman to whom these Regulations apply; and

(*b*) to a seaman who leaves the fishing vessel in the United Kingdom otherwise than on being discharged therefrom;

shall be dealt with in accordance with the provisions of paragraph (2) of this regulation.

(2) (*a*) Any wages referred to in paragraph (1) of this regulation shall be paid to the seaman at the time for payment; and

(*b*) the provisions of section 8 (as set out in Part II of Schedule 2 to the Act) shall have effect in relation to any wages referred to in paragraph (1) of this regulation as if, for the references in subsections (1) and (2) to a time prescribed by regulations under that section, there were substituted a reference to the time ascertained under regulation 16 and there were omitted subsection (3), the reference in subsection (4) to the time at which any account required by that section is to be delivered and also subsection (5).

16. The time referred to in regulations 14 and 15 as that for which references are to be substituted in place of references to the time of discharge or in place of references to a time prescribed by regulations under section 8 (as set out in Part II of Schedule 2 to the Act), as the case may be, is—

(*a*) in the case of a seaman to whom these Regulations apply, and of a seaman who leaves his ship in the United Kingdom otherwise than on being discharged therefrom and whose employer is in pursuance of regulations 3 and 7 under an obligation to return him to a country other than the United Kingdom—

(i) where the seaman has been returned by his employer to a place ascertained under regulation 7 before the time for payment, a time not later than 14 days after the time for payment or 28 days after the seaman is so returned, whichever shall be the earlier;

(ii) where the seaman has not been so returned before the end of the period of 3 months beginning when he was left behind or shipwrecked, and his employer is making provision for his return to such a place, a time not later than 14 days after his return but not before the time for payment;

(iii) where the seaman has not been returned before the end of the period of 3 months beginning when he was left behind nor before the end of the period of 3 months beginning with the time for payment, a time not later than 14 days after the end of whichever of those periods shall last expire;

(*b*) where the seaman leaves the ship in the United Kingdom otherwise than on being discharged therefrom, and his employer is not pursuant to regulations 3 and 7 under an obligation to return him to a country other than the United Kingdom, a time not later than 14 days after he leaves the ship.

17. Where the wages cannot be paid to the seaman in accordance with regulations 14 to 16 and the seaman is not known to be dead, then, notwithstanding anything contained in sections 7 and 8 of the Act or those regulations the wages shall be paid and accounts thereof delivered to the person named in the list of crew as the seaman's next of kin, as soon as is practicable after the expiration of 4 months from the time for payment.

Other records and accounts

18.—(1) The employer of a seaman to whom these Regulations apply, a superintendent and a proper officer shall keep records of all expenses incurred and sums paid by him in the discharge of his obligation under these Regulations.

(2) Where, in respect of any expense incurred or sum paid by him in discharge of his obligations under these Regulations, the employer of a seaman makes a deduction authorised by regulations made under section 9(*a*) of the Act to be made from the wages due to a seaman under a crew agreement, the employer shall render an account of all such expenses and sums to the seaman or, if the seaman's wages are payable by virtue of regulation 17 to his next of kin as named in the list of crew, to that next of kin.

Property of seamen left behind and of shipwrecked seamen

19.—(1) Subject to paragraph (2) of this regulation, this regulation applies to any property (including money) left on board a ship by a seaman to whom these Regulations apply.

(2) In the case of any such property left on board a ship by a seaman who has been shipwrecked—

(*a*) if the ship is lost, this regulation shall have no effect; and

(*b*) if the ship is not lost, but, as a result of the shipwreck, no person is master of the ship, this regulation shall have effect as if the duties and powers thereby imposed on the master were instead imposed on the employer and paragraph (3)(*b*) and paragraph (5)(*a*) were omitted.

(3) The master shall—

(*a*) take charge of that property; and

(*b*) enter in the official log book—

(i) a list of all the property so taken into his charge;

(ii) in the case of the sale under paragraph (4)(*a*) of this regulation of any part of the property, a description of each article sold and the sum received for it;

(iii) in the case of the destruction or disposal of any part of the property under paragraph (4)(*b*) of this regulation, a description of each article destroyed or disposed of and the name of any person to whom disposal was made.

(4) The master may at any time—

(*a*) sell, by public auction or otherwise, any part of the property which is of a perishable or deteriorating nature; and the proceeds of sale shall form part of the property; and

(*b*) destroy or otherwise dispose of any part of the property which, in his opinion, endangers or is likely to endanger the health or safety of any person on board the ship.

(5) Subject to paragraph (6) of this regulation—

(*a*) the master shall, when directed by the employer, cause the property to be delivered to the employer at an address in the country to which the seaman is to be returned in accordance with regulation 7; and

(*b*) the employer shall deliver the property—

(i) to the seaman at his last known address; or

(ii) if the seaman's wages are payable by virtue of regulation 17 to his next of kin as named in the list of crew, to that next of kin at the address stated in the list of crew;

and the expense of such delivery by the employer shall be borne by the person to whom the property is delivered.

(6) If the seaman so requests, the master shall cause the seaman's property to be delivered to him at an address stated by the seaman; and any expense incurred in so delivering the property shall be borne by the seaman.

(7) The employer, when delivering the property to the seaman or his next of kin in accordance with paragraph (5)(*b*) of this regulation, or the master when causing the seaman's property to be delivered to the seaman in accordance with paragraph (6) of this regulation, shall deliver to the seaman or his next of kin, as the case may be, a record of all the property delivered and—

(*a*) where any property has been sold under paragraph (4)(*a*) of this regulation, a description of each article sold and the sum received for it; and

(*b*) where any property has been destroyed or disposed of under paragraph (4)(*b*) of this regulation, a description of each such article.

Official log book entries

20. All entries in the official log book required to be made by the master under regulations 5(3), 10 and 19(3)(*b*) shall be signed by the master and by a member of the crew.

Offences

21.—(1) A master who fails to comply with an obligation imposed on him by or under paragraph (3)(*a*), (5)(*a*), (6) or (7) of regulation 19 shall be guilty of an offence and shall be punishable on summary conviction with a fine not exceeding £100.

(2) A master who fails to comply with an obligation imposed on him by or under regulation 5(3), 10 or 19(3)(*b*) shall be guilty of an offence and shall be punishable on summary conviction with a fine not exceeding £20.

(3) A master who fails to comply with a requirement made of him by a conveyance order under regulation 9(1)(*a*) or with a direction given to him under regulation 9(1)(*b*) for the purpose of that requirement shall be guilty of an offence and shall be punishable on summary conviction with a fine not exceeding £100.

(4) An employer who fails to comply with an obligation imposed on him by or under regulation 3(1), 4(1), 5(1), 6(1) or 18 or paragraph (5)(*b*) or (7) of regulation 19 shall be guilty of an offence and shall be punishable on summary conviction with a fine not exceeding £100.

(5) An employer who fails to comply with—

(*a*) section 8 of the Act having effect as modified by regulation 14(2); or

(*b*) section 8 (as set out in Part II of Schedule 2 to the Act) having effect as modified by regulation 15(2)(*b*);

shall be guilty of an offence and shall be punishable on summary conviction with a fine not exceeding £20.

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

27th November 1972.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations require the employer of a seaman (including a seaman employed in a fishing vessel) referred to in regulation 2, who has been left behind or shipwrecked, to make the provision described in regulation 3 for his return to a place ascertained under regulation 7 and the provision described in regulation 4 for his relief and maintenance until his return. Regulation 8 requires a superintendent or a proper officer (defined in section 97 of the Merchant Shipping Act 1970) to make these provisions for a seaman in default of his employer and also requires a proper officer to make them for a citizen of the United Kingdom and colonies who is found in distress in a country outside the United Kingdom after being employed in ships registered in, or belonging to the government of, such a country.

Regulations 12 to 17 deal with the wages of a seaman who has been shipwrecked or left behind and regulation 18 with any property of his left on board ship.

Sections 62 to 64 of the Merchant Shipping Act 1970 and these Regulations supersede existing provisions.

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