STATUTORY INSTRUMENTS

2024 No. 1015

MERCHANT SHIPPING

TERMS AND CONDITIONS OF EMPLOYMENT

HARBOURS, DOCKS, PIERS AND FERRIES

The Seafarers' Wages Regulations 2024

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The Secretary of State makes these Regulations in exercise of the powers conferred by sections 3(2), (5) and (6)(a), 4(6) to (8)(a), 9(1), (4) and (5), 10(4), 11(7), 17(2) and 18(3) of the Seafarers' Wages Act 2023(**a**) ("the Act").

In accordance with section 4(9) of the Act, the Secretary of State in making these Regulations has sought to secure that a non-qualifying seafarer(**b**) is for the purposes of section 4 remunerated at a rate equal to the national minimum wage equivalent(**c**) 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(**d**).

PART 1

Preliminary

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Seafarers' Wages Regulations 2024 and come into force on 1st December 2024.

(**a**) 2023 c. 8.
(**b**) See section 2 of the Act for the meaning of "non-qualifying seafarer".
(**c**) See section 4(6) of the Act for the meaning of "national minimum wage equivalent".
(**d**) See section 1(3) of the National Minimum Wage Act 1998 (c. 39) for the meaning of "national minimum wage".

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

"the Act" means the Seafarers' Wages Act 2023;

"basic hours" has the meaning given in regulation 35(8);

"basic payments" has the meaning given in regulation 20;

"basic rate" means the hourly rate determined in accordance with regulation 18;

"basic reductions" has the meaning given in regulation 20;

"basic remuneration" has the meaning given in regulation 18;

"calculation year" has the meaning given in regulation 36;

"employer", in relation to a seafarer, means the person by whom the seafarer is (or, where the employment has ceased, was) employed;

"employment", in relation to a seafarer, means employment under the seafarer's contract and "employed" is to be construed accordingly;

"excess hours" has the meaning given in regulation 40(3);

"hours" includes a fraction of an hour;

"hours of UK work" has the meaning given in regulation 19;

"national minimum wage equivalent" means the applicable hourly rate specified in regulation 14;

"pay reference period" has the meaning given in regulation 13;

"performance bonus" has the meaning given in regulation 35(9);

"refusal of access notification" means a communication from a harbour authority(**a**) to an operator(**b**) containing the information required by regulation 12(6);

"relevant service" means a service to which the Act applies;

"salaried hours work" has the meaning given in regulation 35;

"salary premium" has the meaning given in regulation 35(10);

"seafarer" means a non-qualifying seafarer within the meaning of the Act;

"surcharge notification" means a communication from a harbour authority to an operator containing the information required by regulation 6(5);

"time work" has the meaning given in regulation 44;

"total hours of work" has the meaning given in regulation 18;

"total reductions" has the meaning given in regulation 26(1);

(**a**) See section 18(1) of the Act for the meanings of "harbour" and "harbour authority". In relation to England, Wales and Scotland, these terms have the same meanings as in the Harbours Act 1964 (c. 40). In relation to Northern Ireland, these terms have the same meanings as in the Harbours Act (Northern Ireland) 1970 (c. 1).

(**b**) See section 19 of the Act for the meaning of "operator".

"UK additional payments" has the meaning given in regulation 21;

"UK additional rate" means any hourly rate which is specific to a seafarer's hours of UK work determined in accordance with regulation 19;

"UK additional reductions" has the meaning given in regulation 21;

"UK additional remuneration" has the meaning given in regulation 19;

"unmeasured work" has the meaning given in regulation 50.

Relevant year

3. The first relevant year begins on 1st December 2024(**a**).

Harbour and harbour authority

4.—(1) Where there is more than one harbour authority in respect of a harbour, the harbour authority in respect of the harbour for the purposes of the Act and these Regulations is the harbour authority responsible for the berth at which ships(**b**) providing the relevant service dock.

(2) In this regulation, "berth" means any berth, dock, wharf, quay, pier, jetty or similar structure at which sea-going ships can ship or unship goods or embark or disembark passengers.

PART 2

Declarations, surcharges and refusal of access

Declarations

5.—(1) A harbour authority which is required to request an equivalence declaration(**c**) must do so within the period of 28 days beginning with the day specified in paragraph (2).

(2) For the purposes of paragraph (1), the day specified is whichever is the later of—

(a) the day on which the harbour authority has reasonable grounds to believe that ships providing a relevant service will enter, or have entered, its harbour on at least 120 occasions during a relevant year;

(b) the 1st of January before the relevant year to which the request relates.

(3) A request for an equivalence declaration must include the date on which it is sent.

(4) An operator providing a declaration in response to a request by a harbour authority to provide an equivalence declaration must provide that declaration—

(a) within the period of three months beginning with the date of the request from the harbour authority, and

(b) in the form prescribed in Schedule 1.

(**a**) "Relevant year" is defined in section 3(6) of the Act as being the period of 12 months beginning with a date specified in regulations and each successive period of 12 months.
(**b**) See section 1(4) of the Act for the meaning of "ship".
(**c**) See section 3(2) of the Act for the meaning of "equivalence declaration".

Notification of the imposition of a surcharge

6.—(1) A harbour authority which imposes a surcharge(**a**) must send a surcharge notification to the operator of the service within the period of 14 days beginning with the day on which the duty to impose the surcharge arises.

(2) A surcharge notification must be in writing and may be given—

(a) by delivering or sending it to or leaving it at—

(i) the operator's registered office,

(ii) the operator's principal place of business, or

(iii) another address specified by the operator as their address for service, or

(b) where paragraph (3) applies, by sending the surcharge notification to the operator using email.

(3) This paragraph applies where an operator has notified the harbour authority of an email address at which the operator will accept notifications under these Regulations.

(4) Where a surcharge notification is to be given to an operator whose address cannot be ascertained after reasonable inquiry it may be given by handing it to the master of a ship operating the service.

(5) A surcharge notification must include—

(a) the amount of each surcharge to which the notification relates,

(b) the date on which the duty to impose each surcharge arose,

(c) how payment may be made to the harbour authority,

(d) the payment deadline, and

(e) the date on which the surcharge notification is sent.

(6) The harbour authority must send a copy of the surcharge notification to the Secretary of State within the period of 7 days beginning with the day on which the surcharge notification is given to the operator.

(7) The copy of the surcharge notification must be sent to the Secretary of State by email, to the email address specified for that purpose on the gov.uk website.

(8) In this regulation, "payment deadline" means the last day within the period specified in regulation 8 (period for payment of surcharges).

Tariff of surcharges

7. A harbour authority which imposes a surcharge must impose a surcharge according to the tariff(**b**) prescribed in Schedule 2.

Period for payment of surcharges

8. An operator must pay each surcharge to which the surcharge notification relates within the period of 60 days beginning with the day after the day on which the surcharge notification was given.

(**a**) See section 9 of the Act for the meaning of "surcharge". Sections 6 to 8 set out the circumstances in which a harbour authority must impose a surcharge.

(**b**) Section 9(1) of the Act provides that the amount of a surcharge is to be determined by a tariff of surcharges specified in regulations.

Publication of surcharges

9.—(1) The Secretary of State must publish on the gov.uk website the information in paragraph (2).

(2) For each surcharge which is notified to the Secretary of State the information referred to in paragraph (1) is—

(a) the amount of the surcharge,

(b) the date on which the duty to impose the surcharge arose,

(c) the harbour authority which imposed the surcharge, and

(d) the operator of the service on which it was imposed.

(3) The information must be published within a reasonable time after it is notified to the Secretary of State.

Time limit for objections to surcharges

10.—(1) Paragraph (2) applies to an objection by an operator who is an interested party(**a**) and on whom a surcharge has been imposed.

(2) An objection under this paragraph must be received by the Secretary of State within the period of 28 days beginning with the day on which the operator receives the surcharge notification.

(3) Paragraph (4) applies to an objection to a surcharge by an interested party other than the operator on whom the surcharge has been imposed.

(4) An objection under this paragraph must be received by the Secretary of State within the period of 28 days beginning with the day on which information about the surcharge is published by the Secretary of State pursuant to regulation 9 (publication of surcharges).

(5) The Secretary of State may extend the time limits in this regulation if satisfied that there are good reasons for doing so.

Notification of non-payment of surcharge to the Secretary of State

11.—(1) Paragraph (2) applies where—

(a) a surcharge has been imposed by a harbour authority,

(b) a surcharge notification relating to the surcharge has been sent to the operator of the service, and

(c) the surcharge has not been paid in the manner required by the surcharge notification pursuant to regulation 6(5)(c) (notification of the imposition of a surcharge).

(2) The harbour authority must send a notification containing the information in paragraph (4) to the Secretary of State within the period of 5 days beginning with the day 50 days after the day on which the surcharge notification was given.

(3) A notification under this regulation must be sent by email, to the email address specified for that purpose on the gov.uk website.

(4) A notification must include—

(a) the name of the operator to whom the surcharge notification has been given;

(b) the date and time from which ships providing the service to which the surcharge relates are to be refused access to the harbour until the surcharge is paid.

(**a**) See section 10(5) of the Act for the definition of "interested party".

Notification of refusal of access

12.—(1) Paragraph (2) applies where—

(a) a surcharge has been imposed by a harbour authority,

(b) a surcharge notification relating to the surcharge has been given to the operator of the service, and

(c) the surcharge has not been paid in the manner required by the surcharge notification pursuant to regulation 6(5)(c) (notification of the imposition of a surcharge).

(2) The harbour authority must send a refusal of access notification to the operator within the period of 5 days beginning with the day 45 days after the day on which the surcharge notification was given.

(3) A refusal of access notification must be in writing and may be given—

(a) by delivering or sending it to or leaving it at—

(i) the operator's registered office,

(ii) the operator's principal place of business, or

(iii) another address specified by the operator as their address for service, or

(b) where paragraph (4) applies, by sending the refusal of access notification to the operator using email.

(4) This paragraph applies where an operator has notified the harbour authority of an email address at which the operator will accept notifications under these Regulations.

(5) Where a refusal of access notification is to be given to an operator whose address cannot be ascertained after reasonable inquiry it may be given by handing it to the master of a ship operating the service.

(6) A refusal of access notification must include—

(a) the date of the relevant surcharge notification,

(b) the amount of each surcharge in the relevant surcharge notification which has not been paid, and

(c) the date and time from which ships providing the service to which the surcharges relate are to be refused access to the harbour until the surcharges are paid.

(7) In this regulation, "relevant surcharge notification" means the surcharge notification referred to in paragraph (1)(b).

PART 3

Pay reference period and national minimum wage equivalent

Pay reference period

13. A pay reference period is a month, or in the case of a seafarer who is paid wages by reference to a period shorter than a month, that period.

The national minimum wage equivalent

14.—(1) The hourly rate for the purposes of the national minimum wage equivalent is—

(a) £11.44 for a seafarer who is aged 21 years or over;

(b) £8.60 for a seafarer who is aged 18 years or over (but is not yet aged 21 years);

(c) £6.40 for a seafarer who is aged under 18 years;

(d) £6.40 for a seafarer to whom the apprenticeship rate applies, as determined in accordance with regulation 16 (determining whether the apprenticeship rate applies).

(2) If the rate in paragraph (1)(d) applies to a seafarer, the rates in paragraph (1)(a) to (c) of this regulation do not apply to that seafarer.

Determining the applicable national minimum wage equivalent

15. The national minimum wage equivalent applicable to a seafarer as respects their hours of UK work in a pay reference period is the rate which would apply to the seafarer on the first day of that period.

Determining whether the apprenticeship rate applies

16.—(1) The apprenticeship rate applies to a seafarer—

(a) who is employed under a contract of apprenticeship, apprenticeship agreement (within the meaning of section 32 of the Apprenticeships, Skills, Children and Learning Act 2009(**a**)) or approved English apprenticeship agreement (within the meaning of section A1(3) of that Act(**b**)), or is treated as employed under a contract of apprenticeship, and

(b) who is within the first 12 months after the commencement of that employment or under 19 years of age.

(2) A seafarer is treated as employed under a contract of apprenticeship if the seafarer is engaged—

(a) in England, under Government arrangements known as Apprenticeships (Intermediate, Advanced, Higher and Degree Levels),

(b) in Scotland, under Government arrangements known as Modern Apprenticeships,

(c) in Northern Ireland, under Government arrangements known as Apprenticeships NI, or

(d) in Wales, under Government arrangements known as Foundation Apprenticeships, Apprenticeships, Higher Apprenticeships or Degree Apprenticeships.

(3) In paragraph (1)(b), a seafarer does not commence employment with an employer where that seafarer has previously been employed by another employer and the continuity of employment is preserved between the two employments by or under any enactment.

(4) In this regulation, "Government arrangements" means—

(a) in England, arrangements made by the Secretary of State under section 2 of the Employment and Training Act 1973(**c**) or section 17B of the Jobseekers Act 1995(**d**);

(b) in Wales, arrangements made by the Secretary of State or the Welsh Ministers under section 2 of the Employment and Training Act 1973, by the Secretary of State under section 17B of the Jobseekers Act 1995 or by the Welsh Ministers under sections 31 to 33 of the Learning and Skills Act 2000(**e**);

(c) in Scotland, arrangements made by the Secretary of State or the Scottish Ministers under section 2 of the Employment and Training Act 1973 or by Scottish Enterprise or

(**a**) 2009 c. 22.
(**b**) 2009 c. 22; section A1(3) was inserted by the Deregulation Act 2015 (c. 20), section 3 and Schedule 1, Part 1, paragraph 1. It was subsequently amended by the Enterprise Act 2016 (c. 12), section 22 and Schedule 4, paragraph 4 and the Technical and Further Education Act 2017 (c. 19), section 1(5) and Schedule 1, paragraph 9.
(**c**) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25; subsections (3A) and (3B) were inserted by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47; subsections (4) and (6) were repealed by the Employment Act 1989 (c. 38), section 29(4) and Schedule 7, Part 1.
(**d**) 1995 c. 18; section 17B was inserted by the Welfare Reform Act 2009 (c. 24), section 1.
(**e**) 2000 c. 21; sections 31 - 33 were amended by S.I. 2005/3238, Schedule 1, paragraphs 51 - 53 and sections 31 and 32 were amended by the Learning and Skills (Wales) Measure 2009, nawm 1, Schedule, paragraphs 4 and 5 and by the Additional Learning Needs and Education Tribunal (Wales) Act 2018, anaw 2, section 50.

Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990(**a**);

(d) in Northern Ireland, arrangements made by the Department for Employment and Learning under section 1 of the Employment and Training Act (Northern Ireland) 1950(**b**).

PART 4

Calculation of the hourly rate

Calculation to determine whether the national minimum wage equivalent has been paid

17. In order to determine whether a seafarer has been paid at a rate which is at least equal to the national minimum wage equivalent, the seafarer's remuneration for their hours of UK work is to be calculated by adding the basic rate, and the UK additional rate, applicable to them.

Calculation to determine the basic rate

18. A seafarer's basic rate in a payment reference period is determined by the calculation—

basic remuneration / total hours of work

where—

"basic remuneration" is the basic remuneration in the pay reference period determined in accordance with Part 5;

"total hours of work" are the total hours of work in the pay reference period determined in accordance with Chapters 4 to 7 of Part 6.

Calculation to determine the UK additional rate

19. Any UK additional rate in a payment reference period is determined by the calculation—

UK additional remuneration / hours of UK work

where—

"UK additional remuneration" is any UK additional remuneration in the pay reference period determined in accordance with Part 5;

"hours of UK work" are any hours of UK work(**c**) in the pay reference period determined in accordance with Chapters 4 and 8 of Part 6.

(**a**) 1990 c. 35 (S.); subsection (3)(d) of section 2 was inserted and subsection (4) was amended, by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 47; subsection (4)(a) was amended by the Equality Act 2010 (c. 15), Schedule 26, Part 1, paragraph 20; subsection (6) was amended by S.I. 1999/1820.

(**b**) 1950 c. 29 (N.I.); the powers of the Department under section 1 were extended by S.I. 1974/2144 (N.I. 7), Article 7; subsections (1) to (1C) were substituted for subsections (1) to (1A) by S.I. 1988/1087 (N.I. 10); subsections (2) and (3) were amended by S.I. 1990/1200 (N.I. 8), Article 5; section 1(1A)(d) was amended by the Employment Act (Northern Ireland) 2010 c. 12 (N.I.), Schedule 1, paragraph 1.

(**c**) "UK Work" is defined in section 4(10) of the Act as work which is carried out in the United Kingdom or its territorial waters. "Territorial waters" are to be construed in accordance with the definition of "territorial sea" in section 1 of the Territorial Sea Act 1987 (c. 49).

PART 5

Remuneration for the purposes of the national minimum wage equivalent

Chapter 1

Basic and additional remuneration in a pay reference period

Basic remuneration in a pay reference period

20. In regulation 18, the basic remuneration in the pay reference period is determined by the calculation—

basic payments - basic reductions

where—

"basic payments" are the payments from the employer to the seafarer which form part of a seafarer's basic remuneration as respects the pay reference period, determined in accordance with Chapter 2;

"basic reductions" are the reductions which reduce a seafarer's basic remuneration determined in accordance with Chapter 3.

UK additional remuneration in a pay reference period

21. In regulation 19, any UK additional remuneration in the pay reference period is determined by the calculation—

UK additional payments - UK additional reductions

where—

"UK additional payments" are any payments from the employer to the seafarer as respects the pay reference period which form part of a seafarer's UK additional remuneration, determined in accordance with Chapter 2;

"UK additional reductions" are any reductions which reduce the seafarer's additional remuneration, determined in accordance with Chapter 3.

Chapter 2

Payments from the employer to the seafarer

Payments as respects the pay reference period

22.—(1) The following payments, except as provided in regulation 25, are to be treated as payments by the employer to the seafarer as respects the pay reference period—

(a) subject to paragraph (2), payments paid by the employer to the seafarer in the pay reference period;

(b) payments paid by the employer to the seafarer in the following pay reference period as respects the pay reference period (whether as respects work or not);

(c) where a seafarer's contract terminates then as respects the seafarer's final pay reference period, payments paid by the employer to the seafarer in the period of a month beginning with the day after that on which the contract was terminated.

(2) Payments paid by the employer to the seafarer in the pay reference period as respects a previous pay reference period are not to be treated as payments as respects the pay reference period in which they are paid.

Payments which form part of a seafarer's UK additional remuneration

23. Payments which fall within regulation 22 form part of a seafarer's UK additional remuneration where they are—

(a) only attributable to hours of UK work, and

(b) would not be paid to the seafarer if the hours of work were not hours of UK work.

Payments which form part of a seafarer's basic remuneration

24. Payments which fall within regulation 22 which do not form part of a seafarer's UK additional remuneration form part of a seafarer's basic remuneration.

Payments and benefits in kind which do not form part of a seafarer's remuneration

25. The following payments and benefits in kind do not form part of a seafarer's basic or UK additional remuneration—

(a) payments by way of an advance under an agreement for a loan or by way of an advance of wages;

(b) payment of a pension, allowance or gratuity in connection with the seafarer's retirement or as compensation for loss of office;

(c) payment of an award made by a court or tribunal or a payment to settle proceedings which have been or might be brought before a court or tribunal, other than the payment of an amount due under the seafarer's contract;

(d) payments referable to the seafarer's redundancy;

(e) payment of an award for a suggestion made by the seafarer under a scheme established by the employer or operator to reward suggestions made by seafarers;

(f) benefits in kind provided to the seafarer, whether or not a monetary value is attached to the benefit;

(g) a voucher, stamp or similar document capable of being exchanged for money, goods or services (or for any combination of those things);

(h) payments as respects hours which are not, or not treated as—

(i) hours of time work in accordance with regulation 49, or

(ii) hours of unmeasured work in accordance with regulation 55;

(i) payments, in the context of salaried hours work, attributable to the hours to be reduced under regulation 39 (absences from work) whether directly or by reason of regulation 42(3) (where the seafarer works excess hours);

(j) payments paid by the employer to the seafarer as respects hours of time work or unmeasured work in the pay reference period—

(i) if there is a lower rate per hour which could be payable under the contract as respects that work (including if the work was done at a different time or in different circumstances), and

(ii) to the extent that such payments exceed the lowest rate;

(k) payments paid by the employer to the seafarer attributable to a particular aspect of the working arrangements or to working or personal circumstances that are not consolidated into the seafarer's standard pay unless—

(i) the payments fall within regulation 23 (UK additional remuneration);

(ii) the payments are attributable to the performance of the seafarer in carrying out the work;

(l) payments paid by the employer or operator to the seafarer as respects the seafarer's expenditure in connection with the employment;

(m) payments paid by the employer or operator to the seafarer representing amounts paid by customers by way of a service charge, tip, gratuity or cover charge;

(n) payments paid by the employer or operator to the seafarer as respects travelling expenses that are allowed as deductions from earnings under section 338 of the Income Tax (Earnings and Pensions) Act 2003(**a**);

(o) payment of a salary premium, unless the payment falls within regulation 23 (UK additional remuneration).

Chapter 3

Reductions

Determining the total reductions which reduce a seafarer's remuneration

26.—(1) "Total reductions" are the total reductions in the pay reference period, determined by adding together all of the payments or deductions treated as reductions in that period in accordance with this Chapter.

(2) To the extent that any payment or deduction is required to be treated as a reduction by virtue of more than one provision in this Chapter, it is to be counted only once.

Determining the reductions which reduce a seafarer's basic remuneration

27. In regulation 20, the reductions which reduce the seafarer's basic remuneration in the pay reference period are determined by the calculation—

total reductions x (total hours of work / (total hours of work + hours of UK work)).

Determining the reductions which reduce a seafarer's UK additional remuneration

28. In regulation 21, the reductions which reduce the seafarer's UK additional remuneration in the pay reference period are determined by the calculation—

total reductions x (hours of UK work / (total hours of work + hours of UK work)).

Deductions or payments for the employer's or operator's own use and benefit

29.—(1) Deductions made by the employer in the pay reference period, or payments due from the seafarer to the employer or operator in the pay reference period, for the employer's or operator's own use and benefit are treated as reductions except as specified in paragraph (2).

(2) The following deductions and payments are not treated as reductions—

(a) deductions, or payments, in respect of the seafarer's conduct, or any other event, where the seafarer (whether together with another seafarer or not) is contractually liable;

(**a**) 2003 c. 1.

(b) deductions, or payments, on account of an advance under an agreement for a loan or an advance of wages;

(c) deductions, or payments, as respects an accidental overpayment of wages made by the employer to the seafarer;

(d) deductions, or payments, as respects the purchase by the seafarer of shares, other securities or share options, or of a share in a partnership;

(e) payments as respects the purchase by the seafarer of goods or services from the employer or operator, unless—

(i) the purchase is made in order to comply with a requirement imposed by the employer or operator in connection with the seafarer's employment, and

(ii) the payment is not met, or not intended to be met, by a payment paid to the seafarer by the employer or operator.

Deductions or payments as respects a seafarer's expenditure or living accommodation

30.—(1) The following deductions are to be treated as reductions if the deduction is made by the employer in the pay reference period—

(a) deductions as respects the seafarer's expenditure in connection with the employment;

(b) deductions as respects the provision of living accommodation by the employer or operator to the seafarer.

(2) The following payments are to be treated as reductions if the payment is paid by or due from the seafarer in the pay reference period—

(a) payments to the employer as respects the seafarer's expenditure in connection with the employment;

(b) payments to the employer as respects the provision of living accommodation by the employer or operator to the seafarer;

(c) payments to any other person on account of such expenditure or provision.

(3) The payments referred to in paragraph (2) are not to be treated as reductions if the expenditure is met, or intended to be met, by a payment paid to the seafarer by the employer or operator.

PART 6

Hours worked for the purposes of the national minimum wage equivalent

Chapter 4

Determining the hours of work

Total hours of work for determining the basic rate

31. In regulation 18 (calculation to determine the basic rate), the total hours of work in the pay reference period are the hours worked or treated as worked by the seafarer in the pay reference period as determined—

(a) for salaried hours work, in accordance with Chapter 5;

(b) for time work, in accordance with Chapter 6;

(c) for unmeasured work, in accordance with Chapter 7.

Hours of work for determining the UK additional rate

32. In regulation 19 (calculation to determine the UK additional rate), the hours of UK work in the pay reference period are the hours worked or treated as worked by the seafarer in the pay reference period as determined in accordance with Chapter 8.

Hours spent training

33.—(1) In this Part, references to "training" include hours when the seafarer is—

(a) attending at a place other than the seafarer's normal place of work, when the seafarer would otherwise be working, for the purpose of receiving training that has been approved by the employer or operator;

(b) travelling, when the seafarer would otherwise be working, between a place of work and a place where the seafarer receives such training;

(c) receiving such training at the seafarer's normal place of work.

(2) In paragraph (1), hours when the seafarer would "otherwise be working" include any hours when the seafarer is attending at a place or travelling where it is uncertain whether the seafarer would otherwise be working because the seafarer's hours of work vary either as to their length or in respect of the time at which they are performed.

Hours spent travelling

34. In this Part, references to "travelling" include hours when the seafarer is—

(a) in the course of a journey by a mode of transport or is making a journey on foot;

(b) waiting at a place of departure to begin a journey by a mode of transport;

(c) waiting at a place of departure for a journey to re-commence either by the same or another mode of transport, except for any time the seafarer spends taking a rest break;

(d) waiting at the end of a journey for the purpose of carrying out duties, or to receive training, except for any time the seafarer spends taking a rest break.

Chapter 5

Salaried hours work

The meaning of salaried hours work

35.—(1) "Salaried hours work" is work which is done under a seafarer's contract and which meets the conditions in paragraphs (2) to (5) of this regulation.

(2) The first condition is that the seafarer is entitled under their contract to be paid—

(a) an annual salary, or

(b) an annual salary and one or both of—

(i) a performance bonus, and

(ii) a salary premium.

(3) The second condition is that the seafarer is entitled under their contract to be paid that salary or salary and performance bonus or salary premium (or all three) in respect of their basic hours (as defined in paragraph (8)).

(4) The third condition is that the seafarer is not entitled under their contract to a payment in respect of the basic hours other than—

(a) an annual salary, or

(b) an annual salary and one or both of—

(i) a performance bonus, and

(ii) a salary premium.

(5) The fourth condition is that the seafarer is entitled under their contract to be paid, where practicable and regardless of the number of hours actually worked in a particular week, month or other period, in instalments which—

(a) are equal and occur not more often than weekly and not less often than monthly, or

(b) occur monthly and vary but have the result that the seafarer is entitled to be paid an equal amount in each quarter.

(6) Circumstances where it may not be practicable to pay a seafarer by equal instalments, or by and equal amount in each quarter, include where—

(a) a performance bonus is awarded;

(b) a salary premium is paid;

(c) the annual salary is varied;

(d) a payment is made in respect of hours in addition to basic hours;

(e) the employment starts or terminates during a week, month or other period provided for in paragraph (5)(a) with the result that the seafarer is paid a proportionate amount of their annual salary for that week, month or other period.

(7) Work may be salaried hours work whether or not—

(a) all the basic hours are working hours;

(b) the seafarer works hours in excess of the basic hours (whether the seafarer is entitled to be paid for those excess hours or not);

(c) the annual salary may be reduced due to an absence from work.

(8) "Basic hours" are a number of hours in a year specified in or ascertained in accordance with a seafarer's contract.

(9) A "performance bonus" is a payment paid to a seafarer on merit attributable to the quality or amount of work done in the course of more than one pay reference period.

(10) A "salary premium" is—

(a) an amount of pay which is—

(i) in addition to the annual salary;

(ii) an increase in the rate of pay for particular working hours,

(b) in respect of the basic hours, and

(c) attributable to working—

(i) at a particular time of the day;

(ii) on a particular day;

(iii) at a particular location;

(iv) in a particular working environment;

(v) within a particular geographical area;

(vi) on a particular task;

(vii) subject to a particular responsibility.

The meaning of calculation year

36.—(1) In this Chapter, "calculation year" has the meaning given in the following paragraphs.

(2) For a seafarer whose annual salary is payable monthly then—

(a) if the seafarer commenced the employment on the first day of a month, the calculation year is—

(i) the year beginning with that day;

(ii) in each subsequent year, a year beginning on an anniversary of that day;

(b) if the seafarer commenced the employment on any other day of a month, the calculation year is—

(i) the period beginning with that day and ending with the day before the first anniversary of the first day of the next month;

(ii) in each subsequent year, a year beginning on an anniversary of the first day of that month.

(3) For a seafarer whose annual salary is payable other than monthly the calculation year is—

(a) the year beginning with the first day of the employment;

(b) in each subsequent year, a year beginning on an anniversary of that day.

Determining the basic hours in the calculation year

37.—(1) In this Chapter, the basic hours in a calculation year are determined in accordance with the following paragraphs.

(2) The basic hours in the calculation year are the basic hours ascertained in accordance with the contract at the start of the calculation year, unless there is a variation to the basic hours which takes effect in the calculation year.

(3) Where a variation to the basic hours takes effect in the calculation year, the basic hours in the calculation year are determined by adding together—

(a) the proportion of basic hours in the calculation year in the period starting before the day during which the variation takes effect, and

(b) the proportion of basic hours in the calculation year in the period after the day during which the variation takes effect until the end of the calculation year.

(4) If more than one contractual variation takes effect in the calculation year, the "basic hours in the calculation year" are determined by adding together—

(a) the proportion of basic hours in the calculation year in the period starting before the day during which the first variation takes effect, and

(b) for each variation, the proportion of basic hours in the calculation year in the period after the day during which the variation takes effect and before the day during which the next variation takes effect or, in the case of the final variation, the end of the calculation year.

(5) The proportion of basic hours in the calculation year for each of the periods in paragraphs (3) and (4) is calculated using the formula—

(D / 365) x H

where—

"D"means the number of days in the period;

"H"means the basic hours in the calculation year which have effect in that period.

Determining total hours of salaried hours work in a pay reference period

38.—(1) The total hours of salaried hours work in a pay reference period are to be calculated in accordance with the following paragraphs.

(2) Where the pay reference period is a week, the total hours of salaried hours work in that period are the basic hours divided by 52.

(3) Where the pay reference period is two weeks, the total hours of salaried hours work in that period are the basic hours divided by 26.

(4) Where the pay reference period is four weeks, the total hours of salaried hours work in that period are the basic hours divided by 13.

(5) Where the pay reference period is a month, the total hours of salaried hours work in that period are the basic hours divided by 12.

(6) Where the pay reference period is any other period, the total hours of salaried hours work in that period are the basic hours divided by the figure obtained by dividing 365 by the number of days in the pay reference period.

(7) The basic hours are to be ascertained in accordance with the seafarer's contract on the first day of the pay reference period in question unless paragraphs (8) or (9) apply.

(8) The total hours of salaried hours work in a pay reference period are to be ascertained in accordance with regulations 40 to 42 (excess hours) if the seafarer—

(a) during or before the payment reference period, works hours in excess of the basic hours in the calculation year, and

(b) is not entitled to be paid more than an annual salary, a performance bonus and a salary premium for those excess hours.

(9) The total hours of salaried hours work in a pay reference period are to be determined in accordance with regulation 43 (hours of salaried hours work if employment terminates or contract varied) if—

(a) the employment terminates before the end of the calculation year, or

(b) the contract is varied before the end of the calculation year so that it is no longer a contract for salaried hours work.

Absences from work to be reduced from the total hours of salaried hours work in a pay reference period

39.—(1) The hours a seafarer is absent from work are to be subtracted from the total hours of salaried hours work in a pay reference period if all of the following conditions are met—

(a) the employer is entitled under the seafarer's contract to reduce the annual salary due to the absence;

(b) the employer pays the seafarer less than the normal proportion of annual salary in the pay reference period as a result of the absence.

(2) The hours during which a seafarer takes industrial action are to be subtracted from the total hours of salaried hours work in a pay reference period if an annual salary was payable for those hours, or would have been payable but for the industrial action.

Determining whether a seafarer works excess hours

40.—(1) For the purposes of this regulation and regulations 38(8) and 42, a seafarer works excess hours if all of the following hours added together exceed the basic hours in a calculation year—

(a) hours worked which form part of the basic hours in the calculation year;

(b) hours when the seafarer was absent from work which form part of the basic hours in the calculation year;

(c) hours worked in the calculation year which do not form part of the basic hours in the calculation year in respect of which the seafarer had no entitlement under their contract to a payment other than annual salary or annual salary and a performance bonus or salary premium (or all three);

(d) hours treated as worked in accordance with regulation 41 to the extent that such hours consist of hours in respect of which the seafarer had no entitlement under their contract to a payment other than annual salary or annual salary and a performance bonus or salary premium (or all three).

(2) Hours during which the seafarer was taking part in industrial action are not to be included in sub-paragraphs (a) to (d).

(3) In this Chapter references to "excess hours" are to be construed in accordance with paragraphs (1) and (2).

Hours treated as worked for the purpose of determining whether a seafarer works excess hours

41.—(1) The hours listed in paragraph (2) are treated as worked—

(a) for the purposes of regulation 40(1)(d) and accordingly for the purposes of determining whether the seafarer works excess hours; and

(b) for the purposes of determining the number of hours of salaried hours work in that year in accordance with regulation 42 where the seafarer works excess hours.

(2) The hours referred to in paragraph (1) are—

(a) hours a seafarer spends training when the seafarer would otherwise be working;

(b) hours a seafarer is available at or near a place of work for the purposes of working, unless the seafarer is at home;

(c) hours a seafarer spends travelling for the purposes of working, when the seafarer would otherwise be working, unless the travelling is between—

(i) the seafarer's home, or a place where the seafarer is temporarily residing other than for the purposes of working, and

(ii) a place of work or a place where an assignment is carried out.

(3) In paragraph (2)(b), hours when a seafarer is available only includes hours when the seafarer is awake for the purposes of working, even if a seafarer is required to sleep at or near a place of work and the employer or operator provides suitable facilities for sleeping.

(4) In paragraph (2)(c), hours treated as hours when the seafarer would otherwise be working include—

(a) hours when the seafarer is travelling for the purpose of carrying out assignments to be carried out at different places between which the seafarer is obliged to travel, and which are not places occupied by the employer or operator;

(b) hours when the seafarer is travelling where it is uncertain whether the seafarer would otherwise be working because the seafarer's hours of work vary either as to their length or in respect of the time at which they are performed.

Determining total hours of salaried hours work if a seafarer works excess hours

42.—(1) Paragraph (2) applies to the first pay reference period in a calculation year during which—

(a) a seafarer has, during the calculation year to date, worked all of their basic hours for that calculation year, and

(b) begins to work excess hours.

(2) Where this paragraph applies, the total hours of salaried hours work in the pay reference period are calculated by adding together all of the following hours—

(a) the proportion of basic hours attributable to the part of the pay reference period starting before the day during which the seafarer worked excess hours;

(b) the proportion of basic hours attributable to the part of the pay reference period starting on the day during which the seafarer worked excess hours;

(c) the number of hours actually worked in the pay reference period starting on the day during which the seafarer worked excess hours;

(d) the number of hours treated as worked, in accordance with regulation 41, in the pay reference period starting on the day during which the seafarer worked excess hours.

(3) In paragraph (2)(a) and (b), each proportion of basic hours in the pay reference period is calculated using the formula—

(D/365) x H

where—

"D" means the number of days in the part of the pay reference period referred to in paragraph (2)(a) or (b);

"H" means the basic hours in the calculation year.

(4) Reductions from the basic hours in the calculation year for absences, in accordance with regulation 39 (absences from work), must only be made from the proportion of basic hours determined under paragraph (2)(a).

(5) For each pay reference period in the calculation year after the pay reference period referred to in paragraph (1), the total hours of salaried hours work are calculated by adding together all of the following hours—

(a) the number of hours of salaried hours work in the pay reference period determined in accordance with regulation 38(2) to (6) (determining hours of salaried hours work);

(b) the number of hours actually worked in the pay reference period;

(c) the number of hours treated as worked in the pay reference period in accordance with regulation 41.

(6) Regulation 39 (absences from work) does not apply to the calculation in paragraph (5)(a).

Total hours of salaried hours work if the employment terminates or contract is varied

43.—(1) Where the employment terminates before the end of a calculation year the total hours of salaried hours work in the final pay reference period are calculated in accordance with the following paragraphs.

(2) Where the seafarer does not work excess hours, the total hours of salaried hours work in the final pay reference period are the sum of the following—

(a) the number of hours of salaried hours work in the pay reference period calculated in accordance with regulation 38(2) to (6) (determining hours of salaried hours work), and

(b) the number of hours (if any) by which A exceeds B where—

"A" is the number of hours determined in accordance with regulation 41, and

"B" is the total of the number of hours of salaried hours work determined in accordance with regulation 38(2) to (6) in respect of all pay reference periods (including the final pay reference period) since the beginning of the calculation year.

(3) Where the seafarer works excess hours, the total hours of salaried hours work in the final pay reference period are the sum of the following—

(a) the number of hours determined in accordance with regulation 42, and

(b) the number of hours of salaried hours work calculated in accordance with regulation 38(2) to (6) for the period beginning on the day following the last day of the final pay reference period and ending at the end of the calculation year as if—

(i) it was a single pay reference period (containing that number of days), and

(ii) the seafarer had remained employed until the end of the calculation year without any absences.

(4) If a contract for salaried hours work is varied with the effect that it is no longer a contract for salaried hours work, this regulation is to apply as if the employment of the seafarer had been terminated and the last day of the seafarer's final pay reference period had fallen on the day before the day on which the variation took effect.

Chapter 6

Time work

The meaning of time work

44. Time work is work, other than salaried hours work, in respect of which a seafarer is entitled under their contract to be paid by reference to the time worked by the seafarer.

Determining total hours of time work in a pay reference period

45. The total hours of time work in a pay reference period are the total number of hours of time work worked by the seafarer or treated under this Chapter as hours of time work in that period.

Time work where seafarer is available at or near a place of work

46.—(1) Time work includes hours when a seafarer is available, and required to be available, at or near a place of work for the purposes of working unless the seafarer is at home.

(2) In paragraph (1), hours when a seafarer is "available" only includes hours when the seafarer is awake for the purposes of working, even if a seafarer by arrangement sleeps at or near a place of work and the employer or operator provides suitable facilities for sleeping.

Training treated as hours of time work

47. The hours a seafarer spends training, when the seafarer would otherwise be doing time work, are treated as hours of time work.

Travelling treated as hours of time work

48.—(1) The hours when a seafarer is travelling for the purposes of time work, where the seafarer would otherwise be working, are treated as hours of time work unless the travelling is between—

(a) the seafarer's home, or a place where the seafarer is temporarily residing other than for the purposes of working, and

(b) a place of work or a place where an assignment is carried out.

(2) In paragraph (1), hours treated as hours when the seafarer would "otherwise be working" include—

(a) hours when the seafarer is travelling for the purpose of carrying out assignments to be carried out at different places between which the seafarer is obliged to travel, and which are not places occupied by the employer or operator;

(b) hours when the seafarer is travelling where it is uncertain whether the seafarer would otherwise be working because the seafarer's hours of work vary either as to their length or in respect of the time at which they are performed.

Hours not treated as time work

49.—(1) The hours a seafarer is absent from work are not treated as hours of time work, except as specified in regulations 46 to 48.

(2) The hours a seafarer spends taking part in industrial action are not hours of time work.

(3) The hours a seafarer spends taking a rest break are not hours of time work.

(4) A seafarer is not to be treated as taking a rest break during hours which, in accordance with regulation 48 (travelling treated as hours of time work), are treated as hours of time work.

Chapter 7

Unmeasured work

The meaning of unmeasured work

50. Unmeasured work is any other work that is not time work or salaried hours work.

Determining total hours of unmeasured work in a pay reference period

51. The total hours of unmeasured work in a pay reference period are the total number of hours of unmeasured work worked or treated under this Chapter as hours of unmeasured work in that period.

Unmeasured work where seafarer is available at or near a place of work

52.—(1) Unmeasured work includes hours when a seafarer is available, and required to be available, at or near a place of work for the purposes of working unless the seafarer is at home.

(2) In paragraph (1), hours when a seafarer is "available" only includes hours when the seafarer is awake for the purposes of working, even if a seafarer by arrangement sleeps at or near a place of work and the employer or operator provides suitable facilities for sleeping.

Training treated as hours of unmeasured work

53. The hours when a seafarer is training, where the seafarer would otherwise be doing unmeasured work, are to be treated as hours of unmeasured work.

Travelling treated as hours of unmeasured work

54.—(1) The hours when a seafarer is travelling for the purposes of unmeasured work, where the seafarer would otherwise be working, are to be treated as hours of unmeasured work unless the travelling is between—

(a) the seafarer's home, or a place where the seafarer is temporarily residing other than for the purposes of working, and

(b) a place of work or a place where an assignment is carried out.

(2) In paragraph (1), hours treated as hours when the seafarer would "otherwise be working" include—

(a) hours when the seafarer is travelling for the purpose of carrying out assignments to be carried out at different places between which the seafarer is obliged to travel, and which are not places occupied by the employer or operator;

(b) hours when the seafarer is travelling where it is uncertain whether the seafarer would otherwise be working because the seafarer's hours of work vary either as to their length or in respect of the time at which they are performed.

Hours not treated as unmeasured work

55.—(1) The hours a seafarer is absent from work are not treated as hours of unmeasured work, except as specified in regulations 52 to 54.

(2) The hours a seafarer spends taking part in industrial action are not hours of unmeasured work.

(3) The hours a seafarer spends taking a rest break are not hours of unmeasured work.

(4) A seafarer is not to be treated as taking a rest break during hours which, in accordance with regulation 54 (travelling treated as hours of unmeasured work), are treated as hours of unmeasured work.

Chapter 8

Hours of UK work

Determining hours of UK work in a pay reference period

56. The hours of UK work in a pay reference period are the total number of hours of UK work in relation to a relevant service which are worked by the seafarer or treated under this Chapter as hours of UK work in that period.

Hours of UK work where seafarer is available at or near place of work

57.—(1) Hours of UK work includes hours when a seafarer is available, and required to be available, at or near a place of work for the purposes of doing UK work(**a**) unless the seafarer is at home.

(2) In paragraph (1), hours when a seafarer is "available" only includes hours when the seafarer is awake for the purposes of working, even if a seafarer by arrangement sleeps at or near a place of work and the employer or operator provides suitable facilities for sleeping.

(**a**) "UK work" is defined in section 4(10) of the Act as work which is carried out in the United Kingdom or its territorial waters. "Territorial waters" are to be construed in accordance with the definition of "territorial sea" in section 1 of the Territorial Sea Act 1987 (c. 49).

Training treated as hours of UK work

58. The hours a seafarer spends training, when the seafarer would otherwise be doing UK work, are treated as hours of UK work.

Travelling treated as hours of UK work

59.—(1) The hours when a seafarer is travelling for the purposes of UK work, where the seafarer would otherwise be doing UK work, are treated as hours of UK work unless the travelling is between—

(a) the seafarer's home, or a place where the seafarer is temporarily residing other than for the purposes of working, and

(b) a place of work or a place where an assignment is carried out.

(2) In paragraph (1), hours treated as hours when the seafarer would "otherwise be doing UK work" include—

(a) hours when the seafarer is travelling for the purpose of carrying out assignments in respect of the relevant service to be carried out at different places between which the seafarer is obliged to travel, and which are not places occupied by the employer or operator;

(b) hours when the seafarer is travelling where it is uncertain whether the seafarer would otherwise be doing UK work because the seafarer's hours of work vary either as to their length or in respect of the time at which they are performed.

Hours not treated as hours of UK work

60.—(1) The hours a seafarer is absent from work are not treated as hours of UK work, except as specified in regulations 57 to 59.

(2) The hours a seafarer spends taking part in industrial action are not hours of UK work.

(3) The hours a seafarer spends taking a rest break are not hours of UK work.

(4) A seafarer is not to be treated as taking a rest break during hours which, in accordance with regulation 59 (travelling treated as hours of UK work), are treated as hours of UK work.

PART 7

Review

Review

61.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations, and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(**a**) requires that a report published under this regulation must, in particular—

(**a**) 2015 c. 26.

(a) set out the objectives intended to be achieved by the regulatory provision contained in these regulations,

(b) assess the extent to which those objectives are achieved,

(c) assess whether those objectives remain appropriate, and

(d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, "regulatory provision" has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

Michael Kane
Parliamentary Under Secretary of State
Department for Transport

7th October 2024

SCHEDULES

SCHEDULE 1

Regulation 5

National Minimum Wage Equivalence Declaration Form

Form [***]

Place outside of the United Kingdom that the service calls at:

A declaration is to be made pursuant to one only of section 4(2) OR section 4(3) OR section 4(4) OR section 4(5) of the Seafarers' Wages Act 2023 ("the Act").

Section 4(2) Declaration

Period to which this declaration applies:

__ _____ 20___ to __ _____ 20___

Please tick the statement which applies:

□ On behalf of the operator of the service, I declare that during the period to which this declaration applies all non-qualifying seafarers, as defined in the Act, who will work on ships which will provide the service will be paid, in respect of their UK work in relation to the service, a rate equivalent to the UK national minimum wage in accordance with the Seafarers' Wages Regulations 2024.

□ On behalf of the operator of the service, I declare that during the period to which this declaration applies, there will be no non-qualifying seafarers, as defined in the Act, working on ships providing the service.

Section 4(3) Declaration

Period to which this declaration applies:

__ _____ 20___ to 20__

Please tick the statement which applies:

□ On behalf of the operator of the service, I declare that during the period to which this declaration applies all non-qualifying seafarers, as defined in the Act, working on ships providing the service will be paid, in respect of their UK work in relation to the service, a rate equivalent to the UK national minimum wage in accordance with the Seafarers' Wages Regulations 2024.

□ On behalf of the operator of the service, I declare that during the period to which this declaration applies, there will be no non-qualifying seafarers, as defined in the Act, working on ships providing the service.

Section 4(4) Declaration

Period to which this part of this declaration applies:

__ _____ 20___ to __ _____ 20___

Please tick the statement which applies:

□ On behalf of the operator of the service, I declare that during the period to which this part of this declaration applies all non-qualifying seafarers, as defined in the Act, who worked on ships which provided the service were paid, in respect of their UK work in relation to the service, a rate equivalent to the UK national minimum wage in accordance with the Seafarers' Wages Regulations 2024.

□ On behalf of the operator of the service, I declare that during the period to which this part of this declaration applies, there were no non-qualifying seafarers, as defined in the Act, working on ships which provided the service

and

Period to which this part of this declaration applies:

__ _____ 20___ to __ _____ 20___

Please tick the statement which applies:

□ On behalf of the operator of the service, I declare that during the period to which this declaration applies all non-qualifying seafarers, as defined in the Act, working on ships providing the service will be paid, in respect of their UK work in relation to the service, a rate equivalent to the UK national minimum wage in accordance with the Seafarers' Wages Regulations 2024.
□ On behalf of the operator of the service, I declare that during the period to which this declaration applies, there will be no non-qualifying seafarers, as defined in the Act, working on ships providing the service.

Section 4(5) Declaration

Period to which this declaration applies:
__ _____ 20___ to __ _____ 20___
Please tick the statement which applies:
□ On behalf of the operator of the service, I declare that during the period to which this declaration applies all non-qualifying seafarers, as defined in the Act, who worked on ships which provided the service were paid, in respect of their UK work in relation to the service, a rate equivalent to the UK national minimum wage in accordance with the Seafarers' Wages Regulations 2024.
□ On behalf of the operator of the service, I declare that during the period to which this declaration applies, there were no non-qualifying seafarers, as defined in the Act, working on ships which provided the service.

Note that, pursuant to section 5 of the Seafarers' Wages Act 2023, it may be a criminal offence to operate the service inconsistently with this declaration. It may also be a criminal offence to provide a false or misleading declaration in so far as it concerns the operation of the service before the declaration was provided.

Name of person making this declaration on behalf of the operator, and capacity in which they are making this declaration:
Signature:
Date:

SCHEDULE 2

Regulation 7

Tariff of Surcharges

1.—(1) The rate of surcharge to be imposed per entry to the harbour by a ship providing the service to which the surcharge relates is to be calculated according to the tonnage of the ship as follows—

(2) in respect of a ship of Class A—

(a) 5p per tonne up to a maximum of 50,000 tonnes; plus

(b) 1p per tonne in excess of 50,000 tonnes; and

(3) in respect of a ship of Class B—

(a) 10p per tonne up to a maximum of 50,000 tonnes; plus

(b) 2p per tonne in excess of 50,000 tonnes.

2. For purposes of this Schedule—

(a) a ship's tonnage shall be its gross tonnage assessed in accordance with the International Convention on Tonnage Measurement of Ships 1969 and entered on its International Tonnage Certificate (1969) or, if this certificate is not available for any reason, the ship's gross registered tonnage or, in the case of an unregistered ship or a ship measured only by length, the tonnage reckoned in accordance with the Thames Measurement adopted by Lloyds Register;

(b) a ship of Class A is a ship certified to carry 12 or fewer passengers;

(c) a ship of Class B is a ship certified to carry more than 12 passengers.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the Seafarers' Wages Act 2023 (c. 8) which makes provision in relation to the remuneration of seafarers who do not qualify for the national minimum wage.

The Act requires harbour authorities to ask the operator of a service which enters a UK harbour 120 times or more in a relevant year for a national minimum wage equivalence declaration ("declaration"). The declaration must state either that seafarers on the service who do not qualify for the UK national minimum wage ("NMW") are being paid at least an equivalent rate to the UK NMW while working in the UK or its territorial waters or that there are no such non-qualifying seafarers. The Act requires that harbour authorities must impose surcharges when operators fail to provide a declaration or where they operate a service inconsistently with a declaration. Subject to certain exceptions, the Act requires harbour authorities to refuse ships providing a service access to their harbour if they impose a surcharge and it is not paid.

The date on which the relevant year begins is provided in regulation 3.

Part 2 sets out the procedural requirements for harbour authorities to carry out their duties under the Act. Regulation 5 sets out the periods within which harbour authorities must request, and operators provide, declarations, and other procedural requirements for declarations.

Regulation 6 makes provision as to the period within which harbour authorities must notify operators about surcharges which have been imposed and the manner and form of that notification. It requires harbour authorities to provide copies of notifications of surcharges to the Secretary of State and regulation 9 requires the Secretary of State to publish information on surcharges which have been imposed. Regulation 7 provides that surcharges must be imposed according to the tariff prescribed in Schedule 2. Regulation 8 provides for the period within which surcharges must be paid and regulation 10 sets out the time limits for making objections to surcharges to the Secretary of State.

Where a surcharge is not paid harbour authorities must inform the Secretary of State (regulation 11) and regulation 12 makes provision for the communication of refusal of access.

Part 3 makes provision for the hourly rates of the NMW equivalent.

Regulation 13 defines the concept of a pay reference period. Regulation 16 sets out how to determine whether the apprenticeship rate applies to a seafarer.

Parts 4 to 6 set out how a seafarer's remuneration and hourly rates of pay are to be calculated.

Part 4 sets out the calculations to determine whether the NMW equivalent has been paid. Regulation 17 provides that the basic rate is added to the additional rate to determine the hourly rate at which the seafarer is treated as remunerated. If the hourly rate is less than the applicable rate of the NMW equivalent in the pay reference period, the seafarer has not been paid the NMW equivalent. Regulation 18 provides that the basic rate is determined by dividing the basic remuneration in the pay reference period by the total hours of work in the pay reference period. Regulation 19 provides that the additional rate is determined by dividing the additional remuneration in the pay reference period by the hours of UK work in the pay reference period.

Chapter 1 of Part 5 sets out how to determine the basic and additional remuneration for the purposes of the calculations in Part 4. The payments paid by the employer to the seafarer as

respects the pay reference period, which form part of the basic and additional remuneration, are set out in Chapter 2. Regulation 24 provides which payments form part of a seafarer's basic remuneration and regulation 23 which form part of additional remuneration. The reductions which are to be subtracted from the payments to determine the basic and additional remuneration are set out in Chapter 3. Regulations 26 to 28 provide for the apportionment of reductions between basic and additional remuneration. Regulations 29 and 30 set out the circumstances in which deductions or payments for the employer's or operator's own use and benefit, deductions or payments as respects a seafarer's expenditure, and deductions or payments as respects living accommodation, are to be treated as reductions.

Part 6 sets out how to determine the hours of work for the purposes of the calculations in Part 4. The hours of work for determining the basic rate are the hours of salaried hours work (Chapter 5), time work (Chapter 6), or unmeasured work (Chapter 7) worked or treated as worked by the seafarer in the pay reference period. Chapter 8 sets out how to determine the hours of UK work in a pay reference period for the purpose of determining the additional rate in Part 4.

A full impact assessment of the effect that the Act and secondary legislation would have on the costs of business, the voluntary sector and the public sector was undertaken prior to the passing of the Act. That impact assessment was updated prior to the making of these Regulations and is available from the Department for Transport, 33 Horseferry Road, London, SW1P 4DR and is published with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.

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