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STATUTORY INSTRUMENTS

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**2014 No. 1613**

**MERCHANT SHIPPING**

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

<i>Made</i>	- - - -	<i>9th July 2014</i>
<i>Laid before Parliament</i>		<i>15th July 2014</i>
<i>Coming into force</i>	- -	<i>7th August 2014</i>

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972<sup>(1)</sup> in relation to measures relating to the safety of ships and the health and safety of persons on them<sup>(2)</sup> and in relation to measures relating to maritime transport<sup>(3)</sup>.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 85(1)(a) and (b), (3) and (5) to (7) and section 86(1) and (2) of the Merchant Shipping Act 1995<sup>(4)</sup> and by section 2(2) of the European Communities Act 1972.

In accordance with section 86(4) of the Merchant Shipping Act 1995 the Secretary of State has consulted the persons referred to in that section.

**PART 1**

**General matters**

**Citation and commencement**

**1.** (1) These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014.

(2) These Regulations come into force on 7th August 2014.

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(1) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and Part I of the Schedule to, the European Union (Amendment) Act 2008 (c.7). The Maritime Labour Convention is regarded as one of the EU treaties within the meaning of section 1(2) of the European Communities Act 1972 by virtue of the European Communities (Definition of Treaties) (Maritime Labour Convention) Order 2009 (S.I. 2009/1757, as amended by S.I. 2011/1043).

(2) S.I. 1993/595.

(3) S.I. 1994/757.

(4) 1995 c. 21. Sections 85 and 86 were amended by section 8 of the Merchant Shipping and Maritime Security Act 1997 (c.28), and are applied to hovercraft by article 4 of the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350) (sections 85 and 86 re-enact sections 21 and 22 of the Merchant Shipping Act 1979 (c.39), to which that article refers). There are other amendments which are not relevant to these Regulations.

## Interpretation

### 2. (1) In these Regulations—

“the Act” means the Merchant Shipping Act 1995<sup>(5)</sup>;

“Declaration of Maritime Labour Compliance” means, in relation to a ship, the Part 1 and Part 2 documents drawn up and issued in accordance with the MLC, in the forms corresponding to the relevant models given in Appendix A5-II of the MLC and having the contents, duration and validity specified in Regulation 5.1.3 and Standard A5.1.3 of the MLC;

“employee” means an individual who is employed under a contract of employment;

“fishing vessel” has the meaning given in section 313(1) of the Act;

“Maritime Labour Certificate” and “interim Maritime Labour Certificate” mean, in relation to a ship, a certificate of that name issued in accordance with the MLC, in a form corresponding to the relevant model given in Appendix A5-II of the MLC and having the contents, duration and validity specified in Regulation 5.1.3 and Standard A5.1.3 of the MLC;

“the MCA” means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

“the MLC” means the Maritime Labour Convention, which was adopted on 23rd February 2006 by the General Conference of the International Labour Organization<sup>(6)</sup>;

“Merchant Shipping Notice” means a notice described as such and issued by the MCA, and any reference to a particular Merchant Shipping Notice includes a reference to a Merchant Shipping Notice amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time;

“pleasure vessel” means—

(a) any vessel which at the time it is being used is—

(i) (aa) in the case of a vessel wholly owned by an individual or individuals, used only for the sport or pleasure of the owner or the immediate family or friends of the owner; or

(bb) in the case of a vessel owned by a body corporate, used only for sport or pleasure and on which the persons on board are employees or officers of the body corporate, or their immediate family or friends; and

(ii) on a voyage or excursion which is one for which the owner does not receive money for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion; or

(b) any vessel wholly owned by or on behalf of a members’ club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club,

where, in the case of any vessel referred to in paragraphs (a) or (b), no other payments are made by or on behalf of users of the vessel, other than by the owner; and in this definition “immediate family” means, in relation to an individual, the spouse or civil partner of the individual, and a relative of the individual or the individual’s spouse or civil partner; and “relative” means brother, sister, ancestor or lineal descendant;

“proper officer” has the meaning given in section 313(1) of the Act;

“relevant inspector” means any of the persons mentioned in section 258(1) of the Act;

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(5) 1995 c.21.

(6) Cm 7049.

“seafarer” means any person, including the master of a ship, who is employed or engaged or works in any capacity on board a ship and whose normal place of work is on board a ship;

“seafarer employment agreement” means a written agreement between a seafarer and another person in respect of the seafarer’s work on board a ship;

“sea-going” in relation to a United Kingdom ship means—

- (a) a ship which operates outside the waters specified as Category A, B, C and D waters in Merchant Shipping Notice 1837(M)(7);
- (b) a ship to which the Merchant Shipping (Survey and Certification) Regulations 1995(8) apply and in respect of which no exemption granted under regulation 2(2) of those Regulations applies;
- (c) a ship to which regulation 4 of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998(9) applies and which falls within the description given in paragraph (3) of that regulation; or
- (d) a high speed craft in respect of which a permit to operate outside waters of Categories A, B, C or D has been issued in accordance with regulation 8 of the Merchant Shipping (High Speed Craft) Regulations 2004(10);

“ship” includes hovercraft;

“shipowner” means—

- (a) in relation to a ship which has a valid Maritime Labour Certificate or interim Maritime Labour Certificate, the person identified as the shipowner on that Certificate;
- (b) in relation to any other ship, the owner of the ship or, if different, any other organisation or person such as the manager, or the bareboat charterer, that has assumed the responsibility for the operation of the ship from the owner;

“United Kingdom ship” means a ship which is—

- (a) a United Kingdom ship within the meaning of section 85(2) of the Act;
- (b) a Government ship within the meaning of section 308(4) of the Act which is ordinarily engaged in commercial maritime operations; or
- (c) a hovercraft registered under the Hovercraft Act 1968(11); and

“United Kingdom waters” has the meaning given in section 313(2) of the Act.

(2) In the application of these Regulations to a hovercraft, a reference to the master of a ship includes a reference to the captain of that hovercraft.

## Application

3. (1) Subject to paragraph (5) and regulations 37(1) and 44(2), the provisions specified in paragraph (2) apply to—

- (a) a sea-going United Kingdom ship wherever it may be; and
- (b) a sea-going ship which is not a United Kingdom ship, while that ship is in United Kingdom waters, if—

(7) Merchant Shipping Notice 1837(M) specifies which waters are Category A, B, C and D waters for the purposes of regulation 3(2)(a) of S.I. 1992/2356, as the notice which currently supersedes Merchant Shipping Notice M1504 pursuant to regulation 2 of those Regulations.

(8) S.I. 1995/1210, amended by S.I. 2004/302, S.I. 2005/2114 and S.I. 2010/1075; there are other amending instruments but none is relevant.

(9) S.I. 1998/2771, amended by S.I. 2002/1473; there is another amending instrument which is not relevant.

(10) S.I. 2004/302, amended by S.I. 2012/2636; there are other amending instruments but none is relevant.

(11) 1968 c.59.

- (i) the MLC has not come into force for the State whose flag the ship is entitled to fly; or
  - (ii) the MLC has come into force for the State whose flag the ship is entitled to fly, but the ship does not carry—
    - (aa) a Maritime Labour Certificate to which a Declaration of Maritime Labour Compliance is attached; or
    - (bb) an interim Maritime Labour Certificate.
- (2) The provisions referred to in paragraph (1) are as follows—
- (a) all of the provisions in Parts 2 to 10, other than those referred to in sub-paragraph (4)(b); and
  - (b) all of the provisions in Part 11, other than regulations 55 and 57.
- (3) Subject to paragraph (5) and regulation 46(4), the provisions specified in paragraph (4) apply to a sea-going ship which is not a United Kingdom ship, while that ship is in United Kingdom waters, if—
- (a) the MLC has come into force for the State whose flag the ship is entitled to fly; and
  - (b) the ship carries—
    - (i) a Maritime Labour Certificate to which a Declaration of Maritime Labour Compliance is attached; or
    - (ii) an interim Maritime Labour Certificate.
- (4) The provisions referred to in paragraph (3) are as follows—
- (a) regulations 26 and 49 and all of the provisions in Parts 3 and 11 (other than regulation 54); and
  - (b) the following provisions—
    - (i) regulation 6;
    - (ii) regulation 15;
    - (iii) regulation 18;
    - (iv) regulation 28;
    - (v) regulation 33;
    - (vi) regulation 41; and
    - (vii) regulation 46.
- (5) These Regulations do not apply to—
- (a) pleasure vessels;
  - (b) fishing vessels;
  - (c) ships of traditional build;
  - (d) warships or naval auxiliaries; or
  - (e) vessels which are not ordinarily engaged in commercial activities.

## PART 2

### Minimum age

#### **Seafarer to be of minimum age**

4. (1) A person under 16 years of age must not be employed, engaged or work on board a ship.

(2) A breach of paragraph (1) is an offence by the shipowner, the master of the ship and the employer of the person under the age of 16.

#### **Young persons on night duty**

5. (1) Subject to paragraph (2), a seafarer under 18 years of age must not be employed, engaged or work on board a ship at night.

(2) Paragraph (1) does not apply where—

- (a) the effective training of the seafarer, in accordance with established programmes and schedules, would be impaired by its application; or
- (b) the specific nature of the duty or of a recognised training programme requires that the seafarer performs duties at night and the work to be carried out is specified in Merchant Shipping Notice 1838(M) as not being detrimental to the health and well-being of seafarers under the age of 18.

(3) In this regulation, “night” means a period—

- (a) the duration of which is not less than nine consecutive hours; and
- (b) which starts no later than midnight and ends no earlier than 5 a.m. (local time).

(4) A breach of paragraph (1) is an offence by the shipowner, the master of the ship and the employer of the person under the age of 18.

#### **Part 2 requirements for non-United Kingdom ships with MLC documentation**

6. (1) A ship must not be operated in breach of the prohibitions in paragraphs 1 and 2 of Standard A1.1 (minimum age) of the MLC, subject to any exceptions made by the State whose flag the ship is entitled to fly in accordance with paragraph 3 of that Standard.

(2) A breach of paragraph (1) is an offence by the shipowner, the master of the ship and the employer of a seafarer under the age prescribed in Regulation 1.1 of the MLC or, in the case of night work, the age prescribed in paragraph 2 of Standard A1.1 of the MLC.

#### **Meaning of “employer” etc.**

7. In this Part—

“employer” means the person by whom a person under 16 years of age or, as the case may be, a seafarer under 18 years of age is employed or engaged in breach of regulation 4, 5 or 6;

“employed” means employed under a contract of employment; and

“engaged” means engaged under a contract, whether express or implied and (if it is express) whether oral or in writing, whereby the person or seafarer so engaged undertakes to do or perform personally any work or services for the employer, or another party to the contract, whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried out by the person or seafarer.

## **PART 3**

### **Recruitment and placement**

#### **Duty on shipowner in respect of recruitment and placement services**

8. (1) A shipowner must not use a recruitment and placement service to recruit a person as a seafarer to work on board a ship unless it is a service falling within paragraph (2).

- (2) A recruitment and placement service falls within this paragraph if it—
  - (a) is based—
    - (i) in the United Kingdom;
    - (ii) in a country which has ratified the MLC; or
    - (iii) in a country to which another country’s ratification of the MLC has been extended; or
  - (b) is based in another country and conforms to the requirements relating to recruitment and placement services referred to in paragraph 5 of Standard A1.4 of the MLC, whether or not those requirements are obligations under the law of the country in which it is based.
- (3) A breach of paragraph (1) is an offence by the shipowner.
- (4) In this regulation, “recruitment and placement service” means any person or organisation which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners.

## PART 4

### Seafarers’ employment agreements

#### **Duty to enter into seafarer employment agreement**

- 9. (1) A seafarer must have a seafarer employment agreement which complies with this regulation.
- (2) Subject to paragraph (4), if the seafarer is an employee but is not an employee of the shipowner—
  - (a) the employer of the seafarer must be a party to the seafarer employment agreement; and
  - (b) the seafarer employment agreement must include provision under which the shipowner guarantees to the seafarer the performance of the employer’s obligations under the agreement insofar as they relate to the matters specified in—
    - (i) paragraphs 5 to 11 of Part 1 of Schedule 1; and
    - (ii) Part 2 of Schedule 1.
- (3) Subject to paragraph (4), if the seafarer is not an employee or if the seafarer is an employee of the shipowner, the shipowner must be a party to the seafarer employment agreement.
- (4) Paragraphs (2)(b) and (3) do not apply if the parties to a seafarer employment agreement are—
  - (a) a seafarer who is on board the ship for the principal purpose of receiving training; and
  - (b) an approved training provider.
- (5) A breach of paragraphs (1) to (3) is an offence by the shipowner.
- (6) In this Part—
  - “approved training provider” means a person who provides or secures the provision of seafarer training pursuant to an agreement with the Secretary of State; and
  - “employer” means a person by whom the seafarer is employed under a contract of employment.

#### **Content of seafarer employment agreement**

- 10. (1) Subject to paragraph (2), a seafarer employment agreement must include provision about the following matters—

(a) if the seafarer is an employee of the shipowner or of any other person, the matters in Part 1 and Part 2 of Schedule 1;

(b) if the seafarer is not an employee, the matters in Part 1 and Part 3 of Schedule 1,

and where the seafarer employment agreement is one which falls within regulation 9(4), the name and address of the approved training provider must be set out in the agreement.

(2) Such provision may be achieved by way of reference to another document which includes provision about those matters.

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

(4) Prior to entering into a seafarer employment agreement, the shipowner or, in the case of an agreement falling within regulation 9(4), the approved training provider must take reasonable steps to satisfy itself with regard to the following requirements—

- (a) the seafarer must have had a sufficient opportunity to review and take advice on the terms and conditions of the agreement;
- (b) the seafarer must have received an explanation of the rights and responsibilities of the seafarer under the agreement; and
- (c) the seafarer must be entering into the agreement freely.

(5) Where a shipowner—

- (a) fails to take such reasonable steps; or
- (b) in relevant cases, fails to take reasonable steps to ensure that the approved training provider has complied with paragraph (4),

the shipowner commits an offence.

(6) A seafarer employment agreement must contain a declaration by the shipowner and the seafarer or, in the case of an agreement falling within regulation 9(4), by the approved training provider and the seafarer confirming that the requirements in paragraph (4)(a) to (c) have been met.

(7) A breach of paragraph (6) is an offence by the shipowner.

### **Minimum notice period**

**11.** (1) Subject to paragraph (3), the minimum period of notice which must be given before terminating a seafarer employment agreement is seven days or such longer period as may be specified in the agreement.

(2) The minimum period of notice which must be given by a seafarer before terminating a seafarer employment agreement must not be longer than the minimum period of notice which must be given by the shipowner or, as the case may be, the approved training provider.

(3) Nothing in this regulation prevents the earlier termination of a seafarer employment agreement without penalty where this is requested by the seafarer on compassionate grounds or where the seafarer is dismissed for reasons of gross misconduct.

### **Documents**

**12.** (1) As soon as is practicable after entering into a seafarer employment agreement, the shipowner must provide to the seafarer an original of the agreement signed by each party and a copy of any document referred to in that agreement.

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

(3) The shipowner must—

- (a) ensure that a copy of the seafarer employment agreement (and a copy of any document referred to in that agreement) for each seafarer on a ship is held on board; and

- (b) allow each seafarer to see the copy of the seafarer employment agreement to which the seafarer is a party (and a copy of any document referred to in that agreement) on request.
- (4) A breach of paragraph (3) is an offence by the shipowner.
- (5) Subject to paragraph (7), as soon as is practicable after a seafarer's work on board a ship comes to an end, the shipowner must provide to the seafarer a written record of the seafarer's work on that ship.
  - (6) For the purposes of paragraph (5), the record—
    - (a) must contain provision about the matters set out in Schedule 2;
    - (b) must not contain provision about the quality of the seafarer's work; and
    - (c) must not contain provision about the seafarer's wages.
  - (7) Paragraph (5) does not apply if regulation 25 of the Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations 1991(12) applies in respect of the seafarer.
  - (8) A breach of paragraph (5) or (6) is an offence by the shipowner.

#### **Foreign language seafarer employment agreement**

- 13. (1) This regulation applies where a seafarer has a seafarer employment agreement which is not in the English language.
  - (2) The shipowner must ensure that an English translation of the provisions of the seafarer employment agreement (including any provisions which are contained in another document referred to in the agreement) is held on board.
  - (3) A breach of paragraph (2) is an offence by the shipowner.

#### **Duty of master to produce seafarer employment agreement**

- 14. (1) The master of a ship must produce to the Secretary of State, the Registrar-General of Shipping and Seamen or the Commissioners for Her Majesty's Revenue and Customs (or any person acting on their behalf) on demand copies of any documentation held on board pursuant to regulations 12(3)(a) and 13(2).
  - (2) A breach of paragraph (1) is an offence by the master of the ship.

#### **Part 4 requirements for non-United Kingdom ships with MLC documentation**

- 15. (1) A ship must not be operated unless it complies with the requirements in—
  - (a) paragraph 1 of Standard A2.1 (seafarers' employment agreements) of the MLC; and
  - (b) paragraph 4 of Standard A2.1 of the MLC regarding the particulars to be contained in seafarers' employment agreements,
 whether or not the State whose flag the ship is entitled to fly has adopted any relevant laws or regulations.
  - (2) A breach of paragraph (1) (other than a breach of the requirement referred to in paragraph (3)) is an offence by the shipowner.
  - (3) A breach of the requirement in sub-paragraph 1(d) of Standard A2.1 of the MLC is an offence by the master of the ship.



## PART 5

### Wages

#### **Late payment of wages etc.**

**16.** (1) Subject to paragraph (2), if any amount in respect of wages or other remuneration payable to a seafarer under a seafarer employment agreement is not paid on the due date, interest must be paid on the unpaid amount at the rate of 20 per cent per annum from the date on which the amount was due until the date of payment.

(2) Paragraph (1) does not apply to the extent that the failure to make such payment on the required date was due to—

- (a) a mistake;
- (b) a reasonable dispute as to liability;
- (c) the act or default of the seafarer; or
- (d) any other cause not being the wrongful act or default of the persons liable to make the payment or of their servants or agents.

#### **Account of seafarer's wages etc.**

**17.** (1) The shipowner must ensure that an account of the seafarer's wages or other remuneration under a seafarer employment agreement is prepared and delivered to the seafarer—

- (a) periodically during the term of the seafarer employment agreement, at intervals not exceeding one month; and
- (b) within one month of the agreement terminating.

(2) Where the seafarer is an employee, such account must include the following information—

- (a) the name of the seafarer;
- (b) the date of birth of the seafarer (if known);
- (c) the number of the seafarer's current discharge book (if any);
- (d) the capacity in which the seafarer worked on board the ship;
- (e) the period covered by the account;
- (f) the amounts payable for the period covered by the account; and
- (g) the type and amount of any deductions made during the period covered by the account.

(3) Where, pursuant to paragraph (2), the account includes information of amounts which have been determined by reference to a currency exchange rate, the account must include details of the relevant exchange rate and any commission paid.

(4) Where the seafarer is not an employee, such account must include the following information—

- (a) payments due;
- (b) payments made (including any not falling within sub-paragraph (a)); and
- (c) any rates of exchange and any commissions paid which are relevant to those payments.

(5) A breach of paragraphs (1) to (4) is an offence by the shipowner.

#### **Part 5 requirements for non-United Kingdom ships with MLC documentation**

**18.** (1) A ship must not be operated unless the shipowner complies with the requirements in paragraph 2 of Standard A2.2 (wages).

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

## PART 6

### Repatriation

#### **Duty to repatriate seafarers**

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

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

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

#### **Place for return.**

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

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

- (a) the place at which the seafarer entered into the seafarer's employment agreement; or
- (b) the seafarer's country of residence.

#### **Scope of duty to repatriate**

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

- (a) the seafarer is repatriated in accordance with regulation 20;

- (b) the shipowner makes reasonable arrangements for repatriation which are unsuccessful because of the seafarer's unreasonable conduct;
- (c) the shipowner has used reasonable endeavours to contact the seafarer for a period of three months or more, but has been unable to make such contact;
- (d) the seafarer confirms in writing to the shipowner that repatriation is not required; or
- (e) the seafarer is dead.

### **Duty pending repatriation**

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

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

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

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

### **Prohibition on recovering costs from seafarer**

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

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

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

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

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

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

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

### **Seafarer property**

- 24.** (1) This regulation applies where—
- (a) a shipowner is under a duty under regulation 19 in respect of a seafarer; and
  - (b) property belonging to that seafarer has been left behind on board a ship.
- (2) The master of the ship must take charge of that property and enter a description of each item in the official log book.
- (3) A breach of paragraph (2) is an offence by the master of the ship.
- (4) Subject to paragraph (6), the master of the ship and the shipowner must ensure that reasonable care is taken of the property pending its delivery in accordance with paragraph (10).
- (5) A breach of paragraph (4) is an offence by the master of the ship and the shipowner.
- (6) The master of the ship may at any time—
- (a) sell any part of the property which is of a perishable or deteriorating nature; and
  - (b) destroy or otherwise dispose of any part of the property considered a potential risk to the health or safety of any person.
- (7) The proceeds of any sale under paragraph (6)(a) are the property of the seafarer and the master of the ship must ensure that details of the sale are entered in the official log book.
- (8) The master of the ship must ensure that details of any destruction or disposal under paragraph (6)(b) are entered in the official log book.
- (9) A breach of paragraphs (7) or (8) is an offence by the master of the ship.
- (10) Subject to paragraph (11), the shipowner must cause the property and a document containing the information entered in the log book pursuant to paragraphs (7) and (8) to be delivered to the seafarer or to the seafarer's next of kin.
- (11) The duty in paragraph (10) is discharged if the shipowner causes the delivery to be made to the last known address of the seafarer or the next of kin, as the case may be.
- (12) A breach of paragraph (10) is an offence by the shipowner.
- (13) The seafarer or the next of kin, as the case may be, must reimburse the shipowner for the reasonable delivery costs if demanded.

### **Duty to carry documents**

- 25.** (1) A shipowner must ensure that a copy of Part 6 of these Regulations and Marine Guidance Note 479(M) are held on board the ship and are available to seafarers.
- (2) Unless the shipowner reasonably considers that all of the seafarers on board the ship understand English sufficiently to understand the documents referred to in paragraph (1), the duty in paragraph (1) includes the duty to hold on board the ship and make available to seafarers such translated versions of those documents as are sufficient to ensure that all of the seafarers on board the ship can understand at least one version.
- (3) A breach of paragraphs (1) or (2) is an offence by the shipowner.
- (4) In this regulation "Marine Guidance Note 479(M)" means the note described as such and issued by the MCA in July 2014.

### **Financial security requirement applicable to all ships**

26. (1) A ship must not be operated unless—
- (a) in the case of a ship in a category described in regulation 3(1)(a) or (b), there is in force a contract of insurance or other financial security adequate to ensure that the shipowner will be able to meet any liabilities arising from the duties in regulations 19 and 22; or
  - (b) in the case of a ship in the category described in regulation 3(3), financial security is provided in accordance with paragraph 2 of Regulation 2.5 (repatriation) of the MLC.
- (2) A breach of paragraph (1) is an offence by the shipowner.

### **Secretary of State functions in the event of shipowner default**

27. (1) If a shipowner of a United Kingdom ship fails to make provision required under regulation 19 or 22, the Secretary of State must make the required provision (or secure that it is made) and may recover costs incurred from the shipowner as a civil debt.

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

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

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

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

- (5) The costs incurred by the seafarer which are referred to in paragraph (4)—
- (a) may not be recovered by the seafarer under paragraph (4) if they have been recovered by the Secretary of State under paragraph (1); and
  - (b) may not be recovered by the Secretary of State under paragraph (1) if they have been recovered by the seafarer under paragraph (4).

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

28. (1) A shipowner must make such provision as is necessary for the repatriation of a seafarer as soon as is practicable in the circumstances described in paragraph 1 of Standard A2.5 of the MLC, subject to any national provisions which have been adopted by the State whose flag the ship is entitled to fly pursuant to paragraph 2 of Standard A2.5.

- (2) A breach of paragraph (1) is an offence by the shipowner.
- (3) A shipowner must comply with –
- (a) the prohibitions in paragraph 3 of Standard A2.5, whether or not those prohibitions apply in the State whose flag the ship is entitled to fly; and
  - (b) the requirement in paragraph 9 of Standard A2.5, whether or not the State whose flag the ship is entitled to fly has imposed that requirement in its national laws or otherwise.
- (4) A breach of paragraph (3) is an offence by the shipowner.

## PART 7

### Crew accommodation

#### Crew accommodation requirements

**29.** (1) In this Part, “crew accommodation” means accommodation, including the construction, machinery, fittings and equipment of that accommodation, intended for or used by seafarers.

(2) Subject to regulations 30, 31 and 32, a ship must comply with the requirements relating to crew accommodation set out in Merchant Shipping Notice 1844 (M).

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

(4) The master of the ship, or an officer appointed by the master for that purpose, must, at intervals not exceeding 7 days and accompanied by at least one member of the crew, inspect the crew accommodation to ensure it is clean, decently habitable and maintained in a good state of repair.

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

(6) The master of the ship, or an officer appointed by the master for that purpose, must record the findings of inspections undertaken pursuant to paragraph (4) in the official log book of the ship specifying—

- (a) the time and date of the inspection;
- (b) the name and rank of each person making the inspection; and
- (c) particulars of any respect in which the crew accommodation was found by any of the persons making the inspection not to comply with these Regulations.

(7) A breach of paragraph (6) is an offence by the master of the ship.

#### Provision for certain older ships

**30.** (1) A ship the keel of which was laid or which was at a similar stage of construction before 11th July 1997—

- (a) as respects crew accommodation which has not been substantially reconstructed or altered on or after 11th July 1997, must comply with the requirements set out in Schedule 6 to the Merchant Shipping (Crew Accommodation) Regulations 1978(13), as if they had not been revoked;
- (b) as respects crew accommodation which has been substantially reconstructed or altered on or after 11th July 1997 but before the date on which these Regulations come into force, must comply with the requirements set out in the Merchant Shipping (Crew Accommodation) Regulations 1997(14).

(2) A ship the keel of which was laid or which was at a similar stage of construction on or after 11th July 1997 but before the date on which these Regulations come into force must, as respects crew accommodation which has not been substantially reconstructed or altered on or after the date on which these Regulations come into force, comply with the requirements set out in the Merchant Shipping (Crew Accommodation) Regulations 1997.

(3) In this regulation “similar stage of construction” means the stage at which—

- (a) construction identifiable with a specific ship begins; and
- (b) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

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(13) S.I. 1978/795, amended by S.I. 1979/491, S.I. 1984/41 and S.I. 1989/184 and revoked on 11 July 1997 by S.I. 1997/1508.

(14) S.I. 1997/1508.

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

### **Exemptions**

**31.** (1) The Secretary of State may exempt a ship from some or all of the requirements of regulation 29(2) where —

- (a) the exemption is expressly permitted by Standard A3.1 (accommodation and recreational facilities) of the MLC; and
- (b) the Secretary of State has fulfilled any obligation imposed on the competent authority by that Standard in respect of the exemption,

and in sub-paragraph (a), the reference to an exemption which is expressly permitted includes anything permitted in accordance with paragraph 6(a) or (d) of Standard A3.1 of the MLC or allowed in accordance with paragraph 9(g) of that Standard.

- (2) An exemption under this regulation—

- (a) must be given in writing;
- (b) may be granted on such terms as the Secretary of State may specify; and
- (c) may be altered or cancelled by the Secretary of State giving written notice to the shipowner.

(3) A breach of the terms of an exemption granted under paragraph (1) is an offence by the shipowner.

### **Approvals to allow substantial equivalences**

**32.** (1) In respect of a particular ship, or ships of a particular description, the Secretary of State may approve arrangements which, when taken together with the conditions to which the approval is subject, the Secretary of State considers are substantially equivalent to the requirements which are set out in Merchant Shipping Notice 1844(M).

- (2) An approval under this regulation—

- (a) must be given in writing; and
- (b) must specify the date on which it takes effect and the conditions (if any) on which it is given.

(3) Such an approval may be cancelled and the terms of an approval may be altered, in both cases by the Secretary of State giving written notice to the shipowner.

- (4) A breach of a condition on which such an approval is given is an offence by the shipowner.

### **Part 7 requirements for non-United Kingdom ships with MLC documentation**

**33.** (1) Subject to paragraph (2), a ship must not be operated unless it complies with the minimum standards for on-board accommodation and recreational facilities set out in paragraphs 6 to 17 of Standard A3.1 (accommodation and recreational facilities) of the MLC.

- (2) The requirement in paragraph (1) is subject to—

- (a) the application provision in paragraph 2 of Regulation 3.1 of the MLC; and
- (b) any permissions, exemptions or variations which have been granted or allowed by the State whose flag the ship is entitled to fly and which are permitted by the MLC provisions referred to in paragraph (1).

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

(4) The master of a ship must comply with the requirements in paragraph 18 of Standard A3.1 of the MLC with regard to—

- (a) frequent inspections; and
- (b) the recording of the results of such inspections and making those results available for review,

whether or not the State whose flag the ship is entitled to fly has imposed those requirements in its national laws or otherwise.

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

## PART 8

### Food and catering

#### **Provision of food and drinking water**

**34.** (1) The shipowner and the master of a ship must ensure that food and drinking water are provided on board the ship which—

- (a) are suitable in respect of quantity, quality and, in relation to food, nutritional value and variety, taking account of—
  - (i) the number of seafarers on board and the character, nature and duration of the voyage; and
  - (ii) the different religious requirements and cultural practices in relation to food of the seafarers on board;
- (b) do not contain anything which is likely to cause sickness or injury to health or which renders any food or drinking water unpalatable; and
- (c) are otherwise fit for consumption.

(2) The shipowner and master of a ship must ensure that food and drinking water provided in accordance with paragraph (1) are provided free of charge to all seafarers while they are on board.

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

#### **Organisation and equipment of the catering department**

**35.** (1) The shipowner and the master of a ship must ensure that—

- (a) food and drinking water which are provided for seafarers are stored and handled; and
- (b) the catering department is organised and equipped,

in accordance with the requirements set out in Merchant Shipping Notice 1845(M).

- (2) A breach of paragraph (1) is an offence by the shipowner and the master of the ship.

#### **Inspection of food and catering facilities**

**36.** (1) The master of a ship must ensure that, not less than once a week—

- (a) the supplies of food and drinking water on board are inspected to check compliance with regulation 34 and 35; and
- (b) the catering department and its equipment are inspected to check compliance with regulation 35.

(2) An inspection under paragraph (1) must be carried out by—

- (a) the master of the ship; or
- (b) a person authorised by the master,



together with a member of the catering staff.

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

(4) The master of the ship must ensure that the results of any inspection under paragraph (1) are recorded in the official logbook of the ship.

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

### **Requirement to carry a qualified ship's cook**

**37.** (1) This regulation does not apply to—

- (a) a ship which ordinarily operates with fewer than 10 seafarers on board; or
- (b) a ship which operates only within 60 miles of a safe haven and which does not operate to or from, or call at, a port in a country other than the United Kingdom,

and in this paragraph “safe haven” means a harbour or shelter of any kind which affords entry and protection from the weather.

(2) Subject to paragraph (3), a ship must not be operated unless a qualified ship's cook is on board.

(3) In circumstances of exceptional necessity the Secretary of State may grant an exemption from the requirement in paragraph (2)—

- (a) until the next port of call, or
- (b) for a period not exceeding one month,

but only if there is a person on board the ship who is trained or instructed in areas including food and personal hygiene and safe handling and storage of food in accordance with the relevant requirements in Merchant Shipping Notice 1846(M).

(4) An exemption under this regulation—

- (a) must be given in writing;
- (b) may be granted on such terms as the Secretary of State may specify; and
- (c) may be altered or cancelled by the Secretary of State giving written notice to the shipowner.

(5) The Secretary of State may approve as respects a particular ship, or as respects ships of a particular description, arrangements which, when taken together with the conditions to which the approval is subject, the Secretary of State considers are substantially equivalent to the requirement in paragraph (2).

(6) An approval under this regulation—

- (a) must be given in writing; and
- (b) must specify the date on which it takes effect and the conditions (if any) on which it is given.

(7) Such an approval may be cancelled and the terms of an approval may be altered, in both cases by the Secretary of State giving written notice to the shipowner.

(8) A breach of—

- (a) paragraph (2);
- (b) the terms of an exemption granted under paragraph (3); or
- (c) a condition on which an approval is given under paragraph (5),

is an offence by the shipowner and the master of the ship.

### **Certificate of competency as a ship's cook**

**38.** (1) On receipt of an application for a certificate of competency as a ship's cook and the appropriate fee (if any), the Secretary of State must, on being satisfied that the applicant is an eligible person, issue a certificate of competency to the applicant.

(2) Before the issue of any such certificate, the Secretary of State may require the applicant to produce such certificates of discharge and such other documentary evidence as may be necessary to establish to the satisfaction of the Secretary of State that the applicant is an eligible person.

(3) The provisions of sections 62 to 69 of the Act (disqualification of seamen and inquiries) apply in respect of a certificate of competency issued under paragraph (1) as if such a certificate were a certificate to which those sections apply.

(4) The provisions prescribed in the Merchant Shipping (Disqualification of Holder of Seaman's Certificates) Regulations 1997<sup>(15)</sup> apply in respect of a certificate of competency issued under paragraph (1) as if regulation 2 of those Regulations included a reference to such a certificate.

(5) For the purposes of any inquiry under section 63 of the Act and of any re-hearing of an inquiry under section 64 of the Act in relation to a certificate of competency issued under paragraph (1), the Merchant Shipping (Section 63 Inquiries) Rules 1997<sup>(16)</sup> apply as if the definition of "certificate holder" in rule 2(1) included a reference to the holder of a certificate of competency issued under paragraph (1).

(6) If an eligible person—

- (a) satisfies the Secretary of State that a certificate already issued to that person has been lost, destroyed or stolen; and
- (b) pays the appropriate fee (if any),

the Secretary of State must issue a copy of the certificate to that person.

(7) Any such copy must, before it is so issued, be certified as such by the Registrar General of Shipping and Seamen or, as the case may be, by such person as the Secretary of State may have directed to keep the record referred to in paragraph (8).

(8) A record of all certificates of competency issued under this regulation and of the suspension, cancellation or alteration of, and any other matters affecting, any such certificate must be kept, in such manner as the Secretary of State may require, by the Registrar General of Shipping and Seamen or by such other person as the Secretary of State may direct.

### **Recognition of existing certificates of competency**

**39.** (1) A certificate of competency—

- (a) issued under the Merchant Shipping (Certification of Ships' Cooks) Regulations 1981<sup>(17)</sup>;
- (b) treated as equivalent under regulation 8 of those Regulations; or
- (c) deemed under regulation 9 of those Regulations to be issued pursuant to section 43 of the Merchant Shipping Act 1970<sup>(18)</sup>,

which is in force and not suspended on the date when these Regulations come into force, has effect as if it were a certificate of competency as a ship's cook issued under regulation 38 of these Regulations.

(2) A certificate to which paragraph (1) applies remains valid for a period of 5 years beginning on the date on which these Regulations come into force unless it is suspended or cancelled in accordance with section 62 of the Act.

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<sup>(15)</sup> S.I. 1997/346, amended by S.I. 1997/2971. The Marine Safety Agency is now the Maritime and Coastguard Agency.

<sup>(16)</sup> S.I. 1997/347.

<sup>(17)</sup> S.I. 1981/1076.

<sup>(18)</sup> 1970 c.36. Section 43 was repealed by the Merchant Shipping Act 1995, section 314(1) and Schedule 12.

### **Training requirements for catering staff and other persons processing food in the galley**

- 40.** (1) The shipowner must ensure that—
- (a) every member of catering staff is properly trained or instructed for their position in accordance with the relevant requirements set out in Merchant Shipping Notice 1846(M); and
  - (b) any person processing food in the galley is properly trained or instructed in areas including food and personal hygiene and handling in accordance with the relevant requirements set out in Merchant Shipping Notice 1846(M).
- (2) A breach of paragraph (1) is an offence by the shipowner.

### **Part 8 requirements for non-United Kingdom ships with MLC documentation**

**41.** (1) A ship must not be operated unless it complies with paragraphs 1 and 2 of Regulation 3.2 (food and catering) of the MLC.

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

(3) The master of a ship must comply with the requirements in paragraph 7 of Standard A3.2 of the MLC with regard to –

- (a) frequent inspections; and
- (b) the documenting of such inspections,

whether or not the State whose flag the ship is entitled to fly has imposed those requirements in its national laws or otherwise.

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

(5) A ship must not be operated unless it meets the minimum standards set out in—

- (a) sub-paragraph 2(b) of Standard A3.2 of the MLC; and
- (b) sub-paragraph 2(c) of that Standard.

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

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

(8) Subject to any dispensation issued by the State whose flag the ship is entitled to fly in accordance with paragraph 6 of standard A3.2 of the MLC, a shipowner must comply with the requirements in paragraphs 3 and 4 of Standard A3.2 of the MLC.

(9) A breach of paragraph (8) is an offence by the shipowner.

### **Interpretation of Part 8**

**42.** In this Part—

“catering department” means the galley, mess rooms and any other areas on board intended or used for the storage or preparation of food for seafarers or the service of meals to seafarers;

“catering staff” means seafarers whose normal duties include the preparation and storage of food, the service of meals to seafarers on board the ship or other work in the galley or in areas where food is stored or handled;

“eligible person” means a seafarer who—

- (a) is 18 years of age or over;
- (b) has completed training in accordance with the requirements in Merchant Shipping Notice 1846(M); and
- (c) has served for not less than one month at sea;

“qualified ship’s cook” means a person who has been issued with a ship’s cook certificate which has not expired or been cancelled and which is not suspended; and

“ship’s cook certificate” means—

- (a) a certificate of competency as a ship’s cook which has been issued under regulation 38;
- (b) a certificate which under regulation 39 has effect as if it were a certificate of competency as a ship’s cook issued under regulation 38; or
- (c) a certificate which the Secretary of State has specified in Merchant Shipping Notice 1846(M) is equivalent to a certificate of competency as a ship’s cook issued under regulation 38.

## PART 9

### Medical care

#### **Shipowner duty to make provision for seafarer medical and other expenses**

**43.** (1) This regulation applies in relation to a seafarer who suffers sickness or injury falling within paragraph (2).

(2) Sickness or injury falls within this paragraph if it—

(a) first occurs during a period—

(i) which starts on the date on which that seafarer’s seafarer employment agreement commences and ends on the next date on which the shipowner’s duty to make provision for the repatriation of that seafarer under regulation 19 ends under regulation 21; or

(ii) which starts after a period referred to in sub-paragraph (i) but is caused by circumstances or events arising during that period; and

(b) does not first occur during a period of leave, other than shore leave.

(3) Subject to paragraphs (5) and (6), the shipowner must—

(a) ensure that the seafarer is provided with medical care on board, so far as is practicable; and

(b) meet any expenses falling within paragraph (4) which are reasonably incurred in connection with the seafarer’s sickness or injury.

(4) Expenses falling within this paragraph are—

(a) expenses of surgical, medical, dental or optical treatment (including the supply, repair or replacement of any appliance); and

(b) expenses for board and lodging.

(5) The duty to meet expenses referred to in paragraph (3)(b)—

(a) does not apply to expenses which are met by a public authority; and

(b) does not affect any duty on the shipowner under regulation 22 and does not apply in respect of any expenses met by the shipowner in accordance with that duty.

(6) Subject to paragraph (7), the duty to meet expenses referred to in paragraph (3)(b) is limited to expenses incurred during whichever of the following periods is the shorter—

(a) a period of 16 weeks beginning on the day on which the sickness or injury first occurs; or

(b) a period beginning on the day on which the sickness or injury first occurs and ending on the day on which a person authorised to issue seafarer medical certificates notifies the seafarer of a decision that—

- (i) the seafarer is not fit to carry out the duties which that seafarer is required to carry out under the terms of that seafarer's seafarer employment agreement, and
- (ii) the seafarer is unlikely to be fit to carry out duties of that nature in the future.

(7) If a person authorised to issue seafarer medical certificates has notified a seafarer of a decision in the terms described in paragraph (6)(b) and that or another such person subsequently notifies the seafarer that such a decision no longer applies in both or either respects, the duty to meet expenses referred to in paragraph (3)(b) is limited to expenses incurred during the period set out in paragraph (6)(a).

(8) The shipowner may recover from the seafarer as a civil debt any expenses it has met under the duty to meet expenses referred to in paragraph (3)(b) in connection with—

- (a) injury suffered otherwise than in the service of the ship;
- (b) injury or sickness arising from the wilful misconduct of the seafarer who is injured or sick; or
- (c) injury or sickness intentionally concealed by the seafarer prior to entering into the seafarer employment agreement.

(9) If any expenses are incurred by a seafarer to which the duty in paragraph (3) applies, the seafarer may (other than in the circumstances referred to in sub-paragraphs (a) to (c) of paragraph (8)) recover those expenses from the shipowner as a civil debt.

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

#### **Duty to carry a medical practitioner on ship**

**44.** (1) Subject to paragraph (2), a ship must not be operated unless a medical practitioner is carried on board the ship.

- (2) This regulation does not apply to a ship unless—
  - (a) it has 100 or more persons on board; and
  - (b) it is engaged on an international voyage lasting more than 72 hours.
- (3) A breach of paragraph (1) is an offence by the shipowner.

#### **Right to medical attention**

**45.** (1) When a ship is in a port of call, the shipowner must permit a seafarer to go ashore for medical attention of a kind which is not available on board the ship, where this is reasonably practicable.

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

#### **Part 9 requirements for non-United Kingdom ships with MLC documentation**

- 46.** (1) A seafarer must—
  - (a) be given access to prompt and adequate medical care whilst working on board the ship at no cost to the seafarer; and
  - (b) be permitted to visit a qualified medical doctor or dentist without delay in ports of call, where practicable.

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

(3) Subject to paragraph (4), a ship must not be operated unless it carries a qualified medical doctor who is responsible for providing medical care.

- (4) Paragraph (3) does not apply to a ship unless—

- (a) it has 100 or more persons on board; and
  - (b) it is engaged on an international voyage lasting more than 72 hours.
- (5) A breach of paragraph (3) is an offence by the shipowner.
- (6) In paragraph (3), “qualified medical doctor” means a person who is recognised as such by, and who (for the purposes of sub-paragraph 4(b) of Standard A4.1 (medical care on board ship and ashore) of the MLC) has the qualifications required by, the State whose flag the ship is entitled to fly.

### Interpretation of Part 9

47. In this Part —

“person authorised to issue seafarer medical certificates” means a person who has been authorised by or on behalf of the Secretary of State or another national maritime administration to issue medical certificates to seafarers for the purposes of Regulation 1.2 of the MLC (medical certificate) or Regulation I/9 of the STCW Convention;

“fully registered person” and “licence to practise” have the meanings given in section 55(1) of the Medical Act 1983<sup>(19)</sup>;

“medical practitioner” means—

- (a) in the case of a practitioner ordinarily resident in the United Kingdom, a fully registered person who—
  - (i) holds a licence to practise; or
  - (ii) meets the criteria specified in Merchant Shipping Notice 1841(M), being criteria which the Secretary of State considers appropriate having regard to the evidence of continuing professional development which such a practitioner must demonstrate in order to obtain a licence to practise; or
- (b) in the case of a practitioner not ordinarily resident in the United Kingdom, a person who meets the criteria specified in Merchant Shipping Notice 1841(M), being criteria which the Secretary of State considers appropriate having regard to the qualifications and other credentials which must be demonstrated by a person falling within paragraph (a); and

“the STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978<sup>(20)</sup>, as amended in 1995 by resolution 1 of the STCW Convention<sup>(21)</sup>, convened at the International Maritime Organization’s headquarters from 26th June to 7th July 1995.

## PART 10

### Shipowners’ liability

#### Shipowners’ liability for seafarer unemployment and losses following loss or foundering of ship

48. (1) This regulation applies in relation to a seafarer working on board a ship which founders or is lost.

(2) If the loss or foundering of the ship causes the seafarer to become unemployed, the shipowner must pay to the seafarer an amount equivalent to the wages which would otherwise have been payable

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<sup>(19)</sup> 1983 c.54. The definition of “fully registered person” was amended by S.I. 2000/3041, S.I. 2006/1914, S.I. 2007/3101 and S.I. 2008/1774. The definition of “licence to practise” was amended by S.I. 2002/3135.

<sup>(20)</sup> Cmnd 9266.

<sup>(21)</sup> Cmnd 3772.

under the seafarer employment agreement for every day on which the seafarer is unemployed in the two month period commencing on the day following the day on which the loss or foundering occurred.

(3) If the loss or foundering of the ship causes the seafarer to suffer injury or loss (other than the loss of wages referred to in paragraph (2)), the shipowner must pay compensation to the seafarer.

(4) In relation to loss other than personal injury or death, the duty in paragraph (3) is limited to the amount specified (if any) in the seafarer employment agreement.

(5) A seafarer may recover any sum due from the shipowner under paragraph (2) or (3) as a civil debt.

### **Financial security requirement applicable to all ships**

**49.** (1) A ship must not be operated unless the requirement in paragraph (2) is met.

(2) The requirement referred to in paragraph (1) is that there is in force in relation to the ship a contract of insurance (or other form of security) which provides financial assurance of an amount which the shipowner reasonably considers adequate to ensure that the shipowner will be able to meet any liabilities the shipowner may have, including liabilities under seafarer employment agreements, to provide compensation in the event of death or long term disability to seafarers arising from occupational injury, illness or hazard.

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

### **Shipowners' liability for wages following sickness or injury sustained by seafarer**

**50.** (1) Subject to paragraph (11), this regulation applies in relation to a seafarer who suffers sickness or injury which—

(a) first occurs during a period—

(i) which starts on the date on which the seafarer's seafarer employment agreement commences and ends on the next date on which the shipowner's duty to make provision for the repatriation of that seafarer under regulation 19 ends under regulation 21; or

(ii) which starts after a period referred to in sub-paragraph (i) but is caused by circumstances or events arising during that period;

(b) does not first occur during a period of leave, other than shore leave; and

(c) results in the seafarer's incapacity for work.

(2) If a seafarer falling within paragraph (1)(a)(i) does not receive the wages payable under the seafarer employment agreement in respect of the period specified in paragraph (3), the shipowner must pay to the seafarer a sum equal to the difference between—

(a) any sums received by the seafarer in respect of wages for that period under that agreement; and

(b) the wages which would have been payable to the seafarer under that agreement if the seafarer had remained fit for work throughout that period, and (where the agreement would otherwise have terminated during that period) if the agreement had continued on the same terms throughout that period.

(3) The period referred to in paragraph (2) is a period—

(a) starting on the date of the injury or the first day of the sickness; and

(b) ending on the date on which the duty to repatriate the seafarer under regulation 19 ends under regulation 21 (or, if such a duty does not arise, the date on which the seafarer leaves the ship).

(4) Subject to paragraphs (5) to (7), if a seafarer falling within paragraph (1) is incapable of work after the date on which the duty to repatriate the seafarer under regulation 19 ends under regulation 21 (or if such a duty does not arise, the date on which the seafarer leaves the ship), and the seafarer does not receive the basic wages payable under the seafarer employment agreement for the period starting on that date and ending on the date on which the seafarer is again fit for work, the shipowner must pay to the seafarer a sum equal to the difference between—

- (a) any sums received by the seafarer in respect of basic wages for that period under that agreement; and
- (b) the basic wages which would have been payable to the seafarer under that agreement if the seafarer had remained fit for work throughout that period, and (where the agreement would otherwise have terminated during that period) if the agreement had continued on the same terms throughout that period.

(5) The duty in paragraph (4) ends on the expiry of the period of 16 weeks commencing on the day following the date of the injury or the first day of the sickness referred to in paragraph (1).

(6) The duty in paragraph (4) is conditional upon the seafarer applying for all relevant social security benefits payable in consequence of—

- (a) the seafarer's incapacity for work; and
- (b) the sickness or injury which resulted in the incapacity for work,

under the laws of the United Kingdom or the laws or arrangements in the country to which the seafarer is repatriated.

(7) If the seafarer receives social security benefits of the kind described in paragraph (6) in respect of the period referred to in paragraph (5) or any part of that period—

- (a) the amount which the shipowner must pay to the seafarer under paragraph (4) is to be reduced by that amount; and
- (b) the shipowner may recover as a civil debt any payments already made to the seafarer to the extent that they exceed such reduced amounts.

(8) The seafarer must on request provide information to the shipowner as to the amounts received by the seafarer in social security benefits during the period referred to in paragraph (5).

(9) The sums payable to the seafarer under paragraphs (2) and (4) must be paid in the same manner and at the same frequency as wages are (or, as the case may be, were) payable under the seafarer employment agreement.

(10) The seafarer may recover any sum due from the shipowner under paragraph (2) or (4) as a civil debt.

(11) This regulation does not apply to a seafarer where—

- (a) the injury referred to in paragraph (1) was sustained while the seafarer was not at work;
- (b) the injury or sickness referred to in paragraph (1) was sustained or arose due to the seafarer's wilful misconduct; or
- (c) the sickness or incapacity for work existed at the time when the seafarer entered the seafarer employment agreement, and the seafarer deliberately concealed the sickness or incapacity from the shipowner.

### **Property left behind by sick or injured seafarer**

**51.** To the extent it would not otherwise apply, regulation 24(2), (4), (6) to (8), (10), (11) and (13) applies in respect of property left behind on board the ship by a seafarer falling within regulation 50(1).



### **Shipowners' liability in respect of burial or cremation of seafarer**

**52.** (1) Subject to paragraph (2), if a seafarer dies while—

- (a) on board a ship on which the seafarer works; or
- (b) on shore leave in a country other than the seafarer's country of residence,

the shipowner must meet any expenses reasonably incurred in connection with the seafarer's burial or cremation.

(2) The duty in paragraph (1) does not apply to expenses which are met by a public authority.

(3) Where the seafarer's personal representatives incur costs in meeting expenses which should be met by the shipowner under paragraph (1), whether by incurring such costs directly or by reimbursing another person who has incurred those costs, those representatives may recover those costs from the shipowner as a civil debt.

### **Interpretation of Part 10**

**53.** In this Part—

“basic wages” means the pay, however composed, for the seafarer's normal hours of work excluding overtime, bonuses, allowances, paid leave and other remuneration; and

“wages” means the pay, however composed, for the seafarer's normal hours of work including overtime, allowances, paid leave and other remuneration (but excluding bonuses).

## **PART 11**

### **Inspection and detention of ships**

#### **Inspection of United Kingdom ships and non-United Kingdom ships without MLC documentation**

**54.** (1) For the purpose of checking compliance with these Regulations, a relevant inspector (or, in the case of a United Kingdom ship, a proper officer) may at all reasonable times go on board a ship and inspect the ship, its equipment, any articles on it and any document carried on it.

(2) Section 258(1A), (3) and (5) of the Act<sup>(22)</sup> (powers to inspect ships and their equipment, etc.) apply in relation to paragraph (1) as if references in those subsections to “subsection (1) above” and “this section” were references to paragraph (1).

(3) Sections 259(1), (2), (5), (7) and (9) to (12) and 260(1) and (2) of the Act (powers of inspectors in relation to premises and ships, and supplementary provisions) apply in relation to the inspection of a ship to which this regulation applies for the purpose of checking compliance with these Regulations as if—

- (a) references in those sections to “this Act” were to these Regulations;
- (b) for section 259(1)(b) there were substituted a reference to any ship to which this regulation applies;
- (c) in section 259(2)(h)(iii) the words “or any instrument made under it” were omitted; and
- (d) in section 259(5) the reference to “subsections (2) and (4) above for the purposes of Chapter II of Part VI” were to “subsection (2) above”, and the reference to “those subsections” were to “that subsection”.

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(22) Subsection (1A) was inserted by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 1, paragraph 4.

(4) Any regulations made under section 259(8) or section 260(3) of the Act apply for the purposes of the provisions of those sections as applied by paragraphs (2) and (3) as they apply for the purposes of the Act.

(5) Sections 261 to 266 of the Act(23) (improvement notices and prohibition notices) apply for the purposes of these Regulations as if the meaning of “the relevant statutory provisions” in section 261(4) included these Regulations.

### **Inspection of non-United Kingdom ships with MLC documentation**

**55.** (1) A relevant inspector may—

- (a) review a ship’s Maritime Labour Certificate and Declaration of Maritime Labour Compliance or the ship’s interim Maritime Labour Certificate; and
- (b) where Standard A5.2.1 of the MLC (inspections in port) applies, carry out a more detailed inspection in accordance with that Standard.

(2) Where a relevant inspector has power to inspect a ship under paragraph (1)(b), regulation 54 applies to the relevant inspector as if—

- (a) in paragraphs (1) and (3), for the words “checking compliance with these Regulations” there were substituted “carrying out an inspection under regulation 55(1)(b)”; and
- (b) in paragraph (3), for the words “to which this regulation applies”, in both places where they appear, there were substituted “to which regulation 55(1)(b) applies”.

### **Detention of ships**

**56.** (1) Where a relevant inspector has clear grounds for believing that—

- (a) a ship does not comply with these Regulations; and
- (b) (i) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
  - (ii) the non-compliance represents a serious breach or the latest in a series of repeated breaches of these Regulations or the requirements of the MLC (including the rights of seafarers referred to in Articles III and IV of the MLC which are secured by it),

that ship is liable to be detained.

(2) Where a relevant inspector has clear grounds for believing that—

- (a) the shipowner has failed to make provision in connection with which the Secretary of State has incurred costs under regulation 27; and
- (b) the Secretary of State has requested reimbursement of those costs but has not been reimbursed,

every ship which is owned by the shipowner is liable to be detained.

(3) Where a ship is detained under this regulation and all of the grounds for detention have ceased to apply, a person having power to detain the ship must, at the request of the shipowner or the master of the ship, immediately release the ship—

- (a) if no proceedings for an offence under these Regulations are instituted within the period of seven days beginning with the day on which the ship is detained;

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(23) Section 261 was amended by the Merchant Shipping and Maritime Security Act 1997, Schedule 6, paragraph 16 and by S.I. 1998/2241 and S.I. 1998/2647. Section 264 was amended by the Arbitration Act 1996 (c. 23), Schedule 4, and by the Constitutional Reform Act 2005 (c. 4), Schedule 11; there are further amendments made by the Tribunals, Courts and Enforcement Act 2007 (c.15), section 50 and Schedule 10 which have yet to be brought into force.

- (b) if proceedings for an offence under these Regulations, having been instituted within that period, are concluded without the shipowner or master of the ship being convicted;
  - (c) if either—
    - (i) the sum of £30,000 is paid to the Secretary of State by way of security; or
    - (ii) security which, in the opinion of the Secretary of State, is satisfactory and is for an amount not less than £30,000 is given to the Secretary of State,by or on behalf of the shipowner or the master of the ship;
  - (d) where the shipowner or the master of the ship is convicted of an offence under these Regulations, if any costs or expenses ordered to be paid by that person, and any fine imposed on that person, have been paid; or
  - (e) if the release is ordered by a court or tribunal referred to in article 292 of the United Nations Convention on the Law of the Sea<sup>(24)</sup>, and any bond or other financial security ordered by such court or tribunal is posted.
- (4) The Secretary of State must repay any sum paid in pursuance of paragraph (3)(c) or release any security so given—
- (a) if no proceedings for an offence under these Regulations are instituted within the period of seven days beginning with the day on which the sum is paid or the security is given; or
  - (b) if proceedings for such an offence, having been instituted within that period, are concluded without the shipowner or the master of the ship being convicted.
- (5) Where a sum has been paid, or security has been given, by any person in pursuance of paragraph (3)(c) and the shipowner or the master of the ship is convicted of an offence under these Regulations, the sum so paid or the amount made available under the security must be applied as follows—
- (a) first in payment of any costs or expenses ordered by the court to be paid by the shipowner or the master of the ship; and
  - (b) next in payment of any fine imposed by the court,
- and any balance must be repaid to the first-mentioned person.
- (6) Section 145 of the Act (interpretation of references in section 144 to the institution of proceedings or their conclusion without conviction) applies for the purposes of paragraphs (3) and (4) as if—
- (a) references to the owner of a ship were to the shipowner under these Regulations; and
  - (b) references to an offence under section 131 were references to an offence under these Regulations.

#### **Failure to repatriate - detention of non-United Kingdom ships with MLC documentation at request of foreign State**

57. (1) Subject to paragraph (2), a ship is liable to be detained if the Secretary of State receives a request from the consul, diplomatic representative or appropriate maritime authorities of another State which has ratified the MLC that the ship be detained pursuant to paragraph 6 of Standard A2.5 of the MLC (power for States to detain or request detention of ships in connection with a shipowner defaulting in its duty to repatriate a seafarer).

(2) A ship may not be detained under this regulation unless the Secretary of State receives satisfactory evidence that—

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(24) Cmnd. 8941.

- (a) the State has incurred costs pursuant to paragraph 5 of Standard A2.5 (repatriation) of the MLC in connection with a failure of the shipowner to comply with its legal duties concerning repatriation; and
  - (b) a request for reimbursement has been made but those costs have not been reimbursed.
- (3) Where a ship is detained under this regulation and the Secretary of State receives—
- (a) satisfactory evidence that the costs referred to in paragraph (2) have been reimbursed; or
  - (b) a request from the consul, diplomatic representative or appropriate maritime authorities of the relevant State that the ship be released from detention,
- a person having power to detain the ship must immediately release the ship.

### **Supplementary provisions as respects detention of ships**

**58.** (1) The power under regulation 56 or regulation 57 to detain a ship may be exercised as regards a United Kingdom ship wherever it may be, but as regards a ship which is not a United Kingdom ship may only be exercised if the ship in question is—

- (a) in a port or shipyard in the United Kingdom; or
- (b) at an offshore terminal in United Kingdom waters.

(2) A person having powers to detain a ship may permit a ship which is liable to be detained under regulation 56 or regulation 57 to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(3) Section 284 of the Act<sup>(25)</sup> (enforcing detention of a ship) applies where a ship is liable to be detained under this regulation as if—

- (a) references to the owner of a ship were to the shipowner under these Regulations;
- (b) references to detention of a ship under the Act were references to detention of the ship in question under these Regulations; and
- (c) subsection (7) were omitted.

(4) Where a ship is liable to be detained under regulation 56 or regulation 57, the person detaining the ship must serve on the master of the ship a detention notice which—

- (a) states the grounds for the detention; and
- (b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(5) Where a ship other than a United Kingdom ship is detained, the Secretary of State must immediately inform the consul or diplomatic representative of the State whose flag the ship is entitled to fly, or the appropriate maritime authorities of that State, and invite them to send a representative to attend the ship.

## **PART 12**

### **Offences and penalties**

#### **Penalties**

**59.** (1) Subject to paragraphs (2) to (5), offences under these Regulations are punishable on summary conviction by a fine not exceeding level 5 on the standard scale.

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(25) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997, section 9 and Schedule 1.

(2) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 4 on the standard scale—

- (a) regulation 10(3) and (7);
- (b) regulation 12(4);
- (c) regulation 15(2), but only in relation to an offence consisting of a breach of regulation 15(1)(b);
- (d) regulation 36(3);
- (e) regulation 45(2); and
- (f) regulation 46(2).

(3) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 3 on the standard scale—

- (a) regulation 12(8);
- (b) regulation 13(3);
- (c) regulation 24(5), (9) and (12);
- (d) regulation 25(3);
- (e) regulation 28(4), but only in relation to an offence consisting of a breach of regulation 28(3)(b);
- (f) regulation 29(5);
- (g) regulation 33(5), but only in relation to an offence consisting of a breach of regulation 33(4)(a);
- (h) regulation 36(5); and
- (i) regulation 41(4), but only in relation to an offence consisting of a breach of regulation 41(3)(b).

(4) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 2 on the standard scale—

- (a) regulation 17(5);
- (b) regulation 18(2);
- (c) regulation 24(3);
- (d) regulation 29(7); and
- (e) regulation 33(5), but only in relation to an offence consisting of a breach of regulation 33(4)(b).

(5) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 5 on the standard scale or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or to both—

- (a) regulation 29(3);
- (b) regulation 30(4);
- (c) regulation 31(3);
- (d) regulation 32(4);
- (e) regulation 33(3);
- (f) regulation 37(8);
- (g) regulation 41(9); and
- (h) regulation 49(3).

## **Defence**

**60.** In any proceedings for an offence under these Regulations (other than an offence under regulation 10(5)) it is a defence for the person charged to show that all reasonable steps had been taken by that person to ensure compliance with the provision concerned.

## **PART 13**

### **Review**

#### **Review**

- 61.** (1) The Secretary of State must from time to time—
- (a) carry out a review of these Regulations;
  - (b) set out the conclusions of the review in a report; and
  - (c) publish the report.
- (2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the MLC is implemented in other member States.
- (3) The report must in particular—
- (a) set out the objectives intended to be achieved by these Regulations;
  - (b) assess the extent to which those objectives are achieved; and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) The first report under this regulation must be published before the end of the period of five years beginning with the day on which these Regulations come into force.
- (5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.

Signed by authority of the Secretary of State for Transport

9th July 2014

*Stephen Hammond*  
Parliamentary Under Secretary of State  
Department for Transport

## SCHEDULE 1

Regulation 10(1)

### Provision to be included in a Seafarer Employment Agreement

#### PART 1

##### Provision to be included in all agreements

1. The full name, birthplace and date of birth (or age at the time of entering into the agreement) of the seafarer.
2. The name and address of the shipowner.
3. The place where the agreement is entered into.
4. The date on which the agreement is entered into.
5. The capacity in which the seafarer is to work.
6. If the agreement has been made for a definite period, the termination date.
7. If the agreement has been made for an indefinite period, the period of notice of termination required and the circumstances in which such notice may be given.
8. If the agreement has been made for a particular voyage, the destination port and the period following arrival after which the agreement terminates.
9. The health and social security protection benefits to be provided to the seafarer under the agreement.
10. The maximum period of service on board following which the seafarer is entitled to repatriation (which must not exceed a period of 12 months less the number of days statutory paid leave to which the seafarer is entitled).
11. The seafarer's entitlement to repatriation (including the mode of transport and destination of repatriation).
12. The circumstances in which the seafarer is required to meet or reimburse the shipowner for the costs of repatriation.
13. The maximum sum which the shipowner will pay to the seafarer in respect of compensation for any loss of personal property arising from the loss or foundering of the ship.
14. Details of any collective bargaining agreement which is incorporated (in whole or in part) into the agreement or is otherwise relevant to it.

#### PART 2

##### Provision to be included where seafarer is an employee

1. The wages (either the amount or the formula to be used in determining them).
2. The manner in which wages must be paid, including payment dates (the first of which must be no more than one month after the date on which the agreement is entered into, with all subsequent dates being no more than one month apart) and the circumstances (if any) in which wages may or must be paid in a different currency.
3. The hours of work.
4. The paid leave (either the amount or the formula to be used in determining it).

5. Any pension arrangements, including any entitlement to participate in a pension scheme.
6. The grievance and disciplinary procedures.

## PART 3

### Provision to be included where seafarer is not an employee

1. The remuneration (either the amount or the formula to be used in determining it).
2. The manner in which the remuneration must be paid, including payment dates (the first of which must be no more than one month after the date on which the agreement is entered into, with all subsequent dates being no more than one month apart) and the circumstances (if any) in which the remuneration may or must be paid in a different currency.

## SCHEDULE 2

Regulation 12(6)

### Provision to be included in a written record of work on a ship

1. Name, port of registry, gross or register tonnage and official number of the ship.
2. Description of voyage.
3. Capacity in which seafarer worked on the ship.
4. Date on which seafarer started work on the ship.
5. Date and location of seafarer's discharge from the ship.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement the following provisions relating to seafarers' working conditions and entitlements:

- (a) those parts of the Maritime Labour Convention, 2006 (Cm 7049) ("the MLC") referred to below and their related mandatory Standards;
- (b) the corresponding parts of the Agreement set out in the Annex to Council [Directive 2009/13/EC](#) ("the 2009 Directive") of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006 (O.J. L124, 20.5.2009, p. 30); and
- (c) clauses 6 and 11 of the Agreement set out in the Annex to Council [Directive 1999/63/EC](#) ("the 1999 Directive") concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST) (O.J. L167, 2.7.1999, p. 33), as amended by Article 2(3) of the 2009 Directive.



With some exceptions (including pleasure vessels and fishing vessels) the Regulations apply to sea-going United Kingdom ships, wherever they are, and to sea-going non-United Kingdom ships whilst in United Kingdom waters (*regulation 3*).

Part 2 implements Regulation 1.1 of the MLC (Minimum age). Persons under the age of 16 must not work as seafarers and, with some exceptions, seafarers under the age of 18 must not work on ships at night (*regulations 4 and 5*). Separate provision is made in respect of non-United Kingdom ships with MLC documentation (*regulation 6*).

Part 3 implements part of Regulation 1.4 of the MLC (Recruitment and placement) and applies to all ships within the scope of the Regulations. When recruiting seafarers, a shipowner must only use a recruitment and placement service which is (a) based in a country which has ratified the MLC or (b) based in another country and compliant with the MLC standards (irrespective of whether it is required to be so under the domestic law of that country).

Part 4 implements Regulation 2.1 of the MLC (Seafarers' employment agreements). Every seafarer is required to have a seafarer employment agreement (a "SEA") with another person in respect of their work on a ship and the SEA must contain certain specified provisions (*regulations 9 and 10*). *Regulations 11 to 14* make related provision. Separate provision is made in respect of non-United Kingdom ships with MLC documentation (*regulation 15*).

Part 5 implements Regulation 2.2 of the MLC (Wages). Provision is made for the payment of interest on wages or other remuneration due to a seafarer which are not paid on time (*regulation 16*). Seafarers are entitled to receive an account of the wages or other remuneration due to them, at intervals not exceeding one month (and also following the termination of a SEA) (*regulation 17*). Separate provision is made in relation to non-United Kingdom ships with MLC documentation (*regulation 18*).

Part 6 implements Regulation 2.5 of the MLC (Repatriation). In the cases specified, a shipowner must make provision for the repatriation of a seafarer (*regulations 19 to 21*) and the shipowner is required to make provision for that seafarer's relief and maintenance pending repatriation (*regulation 22*). A seafarer must not be required to pay towards the costs of such repatriation or relief and maintenance, other than in cases of serious misconduct (*regulation 23*). *Regulation 24* makes provision with respect to seafarer property left behind on a ship. *Regulation 25* requires that a copy of Part 6 of these Regulations and certain specified guidance is held on board ships and made available to seafarers. Where a shipowner fails to make provision for the repatriation of seafarers, or for their relief and maintenance pending repatriation, the Secretary of State is required to make such provision in the case of United Kingdom ships (and *may* do so in relation to non-United Kingdom ships) (*regulation 27*). Separate provision with regard to the repatriation of seafarers is made in respect of non-United Kingdom ships with MLC documentation (*regulation 28*).

*Regulation 26*, which applies to all ships within the scope of these Regulations, requires a contract of insurance or other security, adequate to ensure that the shipowner will be able to meet any liabilities arising from the duty to repatriate under regulations 19 and 21, to be in place.

Part 7 implements Regulation 3.1 of the MLC (Accommodation and recreational facilities). Ships are required to comply with the requirements relating to crew accommodation set out in Merchant Shipping Notice 1844 (M) and there are related inspection requirements (*regulation 29*). Provision is made to allow the Secretary of State to exempt ships from certain requirements in that Notice and to approve requirements which are substantially equivalent (*regulations 31 and 32*). Ships which were built before the coming into force of these Regulations (and whose crew accommodation has not been substantially reconstructed or altered after that date) are subject to requirements in earlier legislation (*regulation 30*). Separate provision is made with respect to non-United Kingdom ships with MLC documentation (*regulation 33*).

Part 8 implements Regulation 3.2 of the MLC (Food and catering). Provision is made in relation to the quantity and quality of food and drinking water provided for seafarers on board a ship and such food and water must be provided free of charge (*regulation 34*). Provision is made

in relation to the storage and handling of food and drinking water provided for seafarers and the organisation and equipment of catering departments on board ships, with related inspection requirements (*regulations 35 and 36*). Certain ships are required to carry a qualified ship's cook (*regulation 37*). Provision is made to allow the Secretary of State to exempt ships from that requirement and to approve requirements which are substantially equivalent (*regulation 37*). Related provision is made in relation to the issue of certificates of competency as a ship's cook and the recognition of existing certificates of competency (*regulations 38 and 39*). *Regulation 40* imposes requirements in relation to the training of catering staff and other persons processing food in the galley of a ship. Separate provision is made in relation to food and catering on board non-United Kingdom ships with MLC documentation (*regulation 41*).

Part 9 implements Regulation 4.1 of the MLC (Medical care on board ship and ashore). In specified circumstances, a seafarer who is sick or injured is entitled to medical care on board ship and, for a maximum period of 16 weeks, to certain expenses arising from such sickness or injury (*regulation 43*). Certain ships are required to carry a medical practitioner (as defined – see *regulation 47*) (*regulation 44*). In the circumstances specified, a seafarer is entitled to seek medical attention onshore when the ship is in a port of call (*regulation 45*). Separate provision is made in respect of non-United Kingdom ships with MLC documentation (*regulation 46*).

Part 10 implements Regulation 4.2 of the MLC (Shipowners' liability). Other than *regulation 49* (which applies to all ships within the scope of the Regulations), Part 10 applies to United Kingdom ships and to non-United Kingdom ships without MLC documentation only. A seafarer who has become unemployed when the ship on which they work founders or is lost is entitled to receive a sum equivalent to the wages which would have been payable during the period specified and to compensation for other injury or loss (*regulation 48*). A seafarer who suffers sickness or injury in the circumstances specified is entitled to any unpaid wages (as defined – see *regulation 53*) for a specified period (*regulation 50*). A seafarer who remains incapable of work after that period is entitled to receive any basic wages (also defined in *regulation 53*) payable under the SEA for a 16 week period (less the amount of any social security benefits received in respect of that period). Provision is made in respect of property left behind on a ship by such a seafarer (*regulation 51*). Provision is made in respect of expenses incurred in connection with the burial or cremation of a seafarer who dies on board a ship or whilst on shore leave in a country other than their country of residence (*regulation 52*).

Shipowners are required to ensure that a contract of insurance (or other security) is in force which adequately covers potential liabilities towards seafarers (*regulation 49*).

Part 11 confers powers to allow the inspection and detention of ships where breaches of these Regulations have occurred. Provision is made for the detention of a non-United Kingdom ship with MLC documentation at the request of a foreign State where a shipowner has defaulted in its duty to repatriate a seafarer (*regulation 57*).

Criminal penalties are attached to many of the requirements in the Regulations. Part 12 specifies the mode of trial and the maximum penalty level applicable to each offence (*regulation 59*) and provides a "reasonable steps" defence for all offences (except an offence under *regulation 10(5)*) (*regulation 60*).

Part 13 contains a provision requiring the Secretary of State to review the Regulations and to publish a report of that review within five years of their coming into force (and within every five years after that). Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the relevant provisions or to amend them.

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Nine full impact assessments of the effect that this instrument will have on the costs of business and the voluntary sector are published with the Explanatory Memorandum alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).