

1972 No. 918

MERCHANT SHIPPING
MASTERS AND SEAMEN
The Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations 1972

Made - - - - - 20th June 1972

Laid before Parliament 29th June 1972

Coming into Operation 1st January 1973

The Secretary of State, after consulting with the organisations referred to in section 99(2) of the Merchant Shipping Act 1970(a), in exercise of his powers under sections 1(5) and (7), 2, 3, 68(2) and (5) and 69 of that Act and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations 1972 and shall come into operation on 1st January 1973.

(2) In these Regulations—

“the Act” means the Merchant Shipping Act 1970;

“coastal voyage” means a voyage between places in the British Islands (including the Republic of Ireland) or from and returning to such a place during which, in either case, no call is made at any place outside those islands;

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

references to the gross or to the register tonnage of a ship are, in the case of a ship having alternative gross or alternative register tonnages, references to the larger of its gross tonnages or to the larger of its register tonnages, as the case may be.

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

(a) 1970 c. 36.

(b) 1889 c. 63.

PART I

ENGAGEMENT OF SEAMEN

Interpretation of Part I

2. In this Part of these Regulations “the appropriate superintendent or proper officer” means a superintendent or proper officer for the place at which a crew agreement, or an agreement with any person added to those contained in a crew agreement, is or is to be made.

Exemptions from requirements of section 1 (crew agreements)

3. The requirements of section 1 of the Act relating to crew agreements shall not apply to—

- (a) the following descriptions of ships and voyages:—
 - (i) a ship belonging to a general lighthouse authority;
 - (ii) a ship of less than 80 register tons engaged solely on coastal voyages;
 - (iii) a pleasure yacht which is—
 - (a) engaged on a coastal voyage; or
 - (b) engaged on any other voyage, provided that not more than 4 members of the crew receive wages for their employment;
 - (iv) a coastal voyage by any ship solely for the purpose of trials of the ship, its machinery or equipment;
- (b) the following descriptions of seamen:—
 - (i) a person employed in a ship solely in connection with the construction, alteration, repair or testing of the ship, its machinery or equipment, and not engaged in the navigation of the ship;
 - (ii) a person employed in a ship solely to provide goods, personal services or entertainment on board, who is employed by a person other than the owner or the persons employing the master and who is not a member of the medical or catering staff in the ship;
 - (iii) a member of the naval, military or air forces of the Crown or of any service administered by the Defence Council, when acting as such a member.

Notice of intention to employ a seaman under a crew agreement

4.—(1) Except in the circumstances specified in paragraph (4) of this regulation, any person, before employing a seaman under a crew agreement, shall give prior notice to the appropriate superintendent or proper officer.

(2) A notice under this regulation shall be given before the period of 24 hours ending with the time when the crew agreement is made or the agreement is added, as the case may be; provided that, if it is not possible to give the notice before the beginning of that period, it shall be given as early as practicable within that period.

- (3) A notice under this regulation shall contain the following particulars:—
- (a) the name of the ship (or, if the crew agreement relates to more than one ship, of each ship to which the agreement relates), its port of registry and official number;
 - (b) whether a new crew agreement is to be made or whether an agreement with any person is to be added to those contained in a crew agreement;

- (c) the date on which, and the place and time at which, the crew agreement is to be made or an agreement with any person is to be added to those contained in the crew agreement;
 - (d) the capacity in which each person to whom the notice relates is to be employed.
- (4) The circumstances in which no notice need be given under paragraph (1) of this regulation are—
- (a) where it is not practicable without unreasonably delaying the ship to give notice before employing the seaman; or
 - (b) where the person who would, but for this paragraph, be required to give such notice has reasonable grounds for believing that the total number of seamen agreements with whom will be added to a crew agreement relating to a single ship, while that ship remains at one place in the United Kingdom, will not exceed two.

Carrying of copy of crew agreement in ships

5.—(1) A ship required under section 1 of the Act to carry a crew agreement may, in the case of an agreement which relates both to that and to other ships and which is kept at an address ashore in the United Kingdom, comply with that requirement by carrying a copy of the agreement certified in the manner provided by paragraph (2) of this regulation.

(2) A copy of a crew agreement carried in a ship in accordance with paragraph (1) of this regulation shall bear a certificate signed by the master certifying that it is a true copy of the crew agreement and specifying the address in the United Kingdom at which the crew agreement is kept and the name of the person by whom it is so kept.

Delivery of crew agreement and copies

6.—(1) The employer shall, within 2 days of the date on which a crew agreement is made or any agreement is added to those contained in a crew agreement or, if it is not practicable within that period, as soon as practicable thereafter, deliver to the appropriate superintendent or proper officer a copy of the crew agreement and of any agreement so added.

(2) The employer shall, within 7 days of the date when the last person remaining employed under the crew agreement ceases to be employed under that agreement, deliver the crew agreement to a superintendent or proper officer for the place where the ship was when that person ceased to be so employed.

Display of crew agreement

7. The master of a ship shall cause—

- (a) a copy of any crew agreement relating to the ship; or
- (b) an extract containing the terms of that agreement applicable—
 - (i) to all seamen employed under it, and
 - (ii) to each description of seamen so employed;

to be posted in some conspicuous place on board the ship where it can be read by the persons employed under the crew agreement and he shall cause it to be kept so posted and legible so long as any seaman is employed in the ship under the crew agreement.

Supply and production of copy documents

8. Upon a seaman making a demand of his employer or of the master, the employer or the master, as the case may be, shall within a reasonable time—

- (a) cause to be supplied to him a copy of the crew agreement under which he is employed or such extracts therefrom as are necessary to show the terms on which he is employed; and
- (b) cause to be made available to him a copy of any document referred to in the agreement.

Production of documents to officer of customs and excise

9. The master shall, on demand by an officer of customs and excise, produce to him—

- (a) any crew agreement, or the copy of any crew agreement carried in the ship in pursuance of regulation 5; and
- (b) any certificate evidencing an exemption granted by the Secretary of State from the requirements of section 1 of the Act with respect to the ship or to any person in it.

Offences under Part I

10.—(1) A person who fails to comply with an obligation imposed on him by or under regulation 4, 6 or 8 shall be guilty of an offence.

(2) A master who fails to comply with an obligation imposed on him by or under regulation 7, 8 or 9 shall be guilty of an offence.

(3) Any offence under this regulation shall be punishable on summary conviction with a fine not exceeding £50.

PART II**LISTS OF CREW***Interpretation of Part II*

11. In this Part of these Regulations—

“seaman” includes the master of a ship;

except where the context otherwise requires, references to the employment of a seaman in a ship include references to engagement; and references to discharge include references to termination of engagement.

Exemptions from the requirements of section 69 of the Act (lists of crew)

12. The duty imposed by section 69 of the Act to make and maintain a list of the crew shall not apply in relation to a pleasure yacht which is—

- (a) engaged on a coastal voyage; or
- (b) engaged on any other voyage, provided that not more than 4 members of the crew receive wages for their employment.

Lists of crew contained in crew agreement

13. A list of crew may be contained in the same document as a crew agreement relating to one ship only and any particulars entered in the crew agreement shall be treated as forming part of the particulars entered in the list.

Particulars to be specified in lists of crew

14.—(1) Subject to paragraphs (2) and (3) of this regulation, a list of crew shall contain the following particulars—

- (a) (i) the name of the ship, its port of registry and official number;
 - (ii) the name of the owner of the ship and his address; and
 - (iii) the number of the certificate evidencing an exemption granted by the Secretary of State from the requirements of section 1 of the Act (which relates to crew agreements) with respect to the ship or any person in it; and
- (b) subject to paragraph (4) of this regulation, in respect of every seaman from time to time on board the ship, whether or not he is employed under a crew agreement—
- (i) his name;
 - (ii) his address;
 - (iii) the number of his current discharge book (if any) or the date and place of his birth;
 - (iv) the name of the ship in which he was last employed, and, if he was discharged from that ship more than 12 months before he became employed in the ship to which the list of crew relates, the year in which he was so discharged;
 - (v) the capacity in which he is employed in the ship;
 - (vi) the grade and number of any certificate of competency held by him;
 - (vii) the date on which he went on board the ship to commence his employment in it;
 - (viii) the date on and place at which he left the ship and, if he left on discharge, the reason for his discharge;
 - (ix) if he is left behind otherwise than on discharge, the date and place of and the reason (if known to the master) for this being done; and
 - (x) the name and relationship of his next of kin and the address of his next of kin, if different from that of the seaman.

(2) A list of crew which relates to a ship belonging to a general lighthouse authority need contain only the particulars referred to in paragraph (1)(a)(i) and in (i), (ii), (vii) and (viii) of paragraph (1)(b) of this regulation.

(3) A list of crew which relates to seamen employed under a crew agreement need contain only the particulars referred to in paragraph (1)(a)(i) of this regulation and, in respect of each seaman, the particulars referred to in (i), (ii), (iii), (v), (vii) and (viii) of paragraph (1)(b) if the remaining particulars referred to in paragraph (1) are contained in the crew agreement.

(4) In respect of a member of the naval, military or air forces of the Crown or of any service administered by the Defence Council when acting as such a member, a list of crew need contain only the particulars referred to in (i), (ii), (vii) and (viii) of paragraph (1)(b) of this regulation.

*Delivery of copies of lists of crew and notification of changes***15.—(1) When—**

- (a) a new list of crew is made relating to a ship of 25 gross tons or more, other than one belonging to a general lighthouse authority; or
- (b) any change (including the addition of any particulars) is made in a list of crew relating to a ship of 200 gross tons or more, other than one belonging to a general lighthouse authority;

the master shall, within 2 days thereafter or, if it is not practicable within that period, as soon as practicable thereafter, deliver to a superintendent or proper officer a copy of the list of crew or notification of the change, as the case may be.

(2) The master shall endorse the copy of a list of crew or the notification of any change with a certificate that it is a true copy.

Copies of list of crew

16.—(1) A copy of every list of crew (including all changes in it notified to the owner) shall be maintained by the owner of the ship at an address in the United Kingdom.

(2) The master shall, as soon as practicable and in any event within 3 days of any change being made in the list of crew, notify the change to the owner of the ship.

(3) In this regulation, “owner of the ship” means—

- (a) the person registered as managing owner, ship’s husband or manager;
or
- (b) if there is no such person, the owner of the ship.

17. When any person having in his possession the copy of a list of crew required to be maintained under regulation 16 has reason to believe that the ship to which it relates has been lost or abandoned, he shall immediately deliver the copy of the list to a superintendent.

18. A person having in his possession a copy of a list of crew relating to a ship of less than 25 gross tons or to a ship belonging to a general lighthouse authority shall deliver it on demand to a superintendent.

Duration of lists of crew

19. A list of crew shall remain in force—

- (a) if any person is employed in the ship under a crew agreement, until all the persons employed under that agreement in that ship have been discharged; and
- (b) in any other case, until the ship first calls at a port more than 6 months after the first entry relating to a seaman is made in the list.

Delivery of lists of crew

20. The master shall, within 2 days after a list of crew (other than one relating to a ship of less than 25 gross tons or to a ship belonging to a general lighthouse authority) has ceased to be in force or, if it is not practicable within that period, as soon as practicable thereafter, deliver the list to a superintendent or proper officer for the place where the ship is when the list of crew ceases to be in force.

Production of lists of crew

21. A master shall, on demand, produce to the Registrar General of Shipping and Seamen, a superintendent or proper officer or an officer of customs and excise the list of crew required to be maintained in the ship.

Offences under Part II

22.—(1) A master who fails to comply with an obligation imposed on him by or under regulation 15(1), 15(2), 16(2), 20 or 21 shall be guilty of an offence.

(2) A person who fails to comply with an obligation imposed on him by regulation 16(1), 17 or 18 shall be guilty of an offence.

(3) Any offence under this regulation shall be punishable on summary conviction with a fine not exceeding £20.

PART III

DISCHARGE OF SEAMEN

Notice of discharge

23.—(1) Subject to regulation 24, the master of a ship shall, not less than 48 hours before a seaman is discharged from the ship or, if it is not practicable within that period, as soon as practicable thereafter, give a notice of discharge in writing to a superintendent or proper officer for the place where the seaman is to be discharged.

(2) A notice of discharge shall contain the following particulars—

- (a) the name of the ship, its port of registry and official number;
- (b) the place, date and time of the seaman's discharge;
- (c) the capacity in which the seaman is employed in the ship;
- (d) if the seaman is to be discharged outside the United Kingdom, whether or not the consent of a proper officer to the seaman's discharge is required;
- (e) if the seaman is to be discharged outside the United Kingdom and the consent of a proper officer is not required, which of the reasons specified in regulation 25(1) is the reason for that consent not being required; and
- (f) the seaman's name if, at the time of discharge, a dispute about his wages is to be submitted to a superintendent or proper officer under section 10 of the Act (which relates to disputes about seamen's wages) or an appeal is to be made by the seaman to a superintendent or proper officer under section 35 of the Act (which relates to appeals against fines for disciplinary offences).

(3) If a notice of discharge relates to more than one seaman, it shall state, in addition to the particulars specified in paragraph (2) of this regulation, the number of seamen being discharged.

Discharge in the United Kingdom

24. A notice of discharge is not required in respect of a seaman discharged in the United Kingdom—

- (a) if—
 - (i) at the time of discharge, no such dispute or appeal as is referred to in regulation 23(2)(f) is to be submitted or made to a superintendent; and
 - (ii) the master has reasonable grounds for believing that the total number of seamen, (other than seamen exempted by regulation 3(b) from the requirements of section 1 of the Act, which relates to crew agreements) who will be discharged from the ship, while it remains in the place where the seaman is being discharged, will not exceed two; or
- (b) if the seaman is to be discharged from a ship exempted from the requirements of section 1 of the Act by regulation 3(a); or
- (c) if the seaman is exempted from the requirements of section 1 of the Act by regulation 3(b).

Discharge outside the United Kingdom

25.—(1) A seaman employed in a ship (other than a ship belonging to a general lighthouse authority) shall not be discharged from the ship outside the United Kingdom without the consent of a proper officer, except where—

- (a) the seaman is employed under an agreement for one or more voyages and he is to be discharged either at the end of that voyage or of the last of such voyages; or
- (b) the seaman is employed under an agreement for a specified period and he is to be discharged at the end of that period; or
- (c) the seaman and the master agree (notwithstanding anything in the agreement under which the seaman is employed) that he should be discharged at the place and at the time when he is discharged; or
- (d) it appears to the master that it is not practicable without unreasonably delaying the ship to obtain the consent of a proper officer to a seaman's discharge and that either—
 - (i) in the interests of safety or for the preservation of good order and discipline on board the ship, it is necessary that the seaman should be discharged; or
 - (ii) the seaman is incapable of performing his duties by reason of illness or injury and is in urgent need of medical or surgical attention which cannot be provided on board the ship.

(2) Where a proper officer consents to the discharge of a seaman outside the United Kingdom, he shall, if it is practicable for him to do so, make and sign an entry in the ship's official log book recording his consent; but if he does not make and sign an entry, the master shall make and sign an entry recording that such consent has been given.

Procedure on discharge

26.—(1) Where a seaman is present when he is discharged—

- (a) the master, or one of the ship's officers authorised by him in that behalf, shall, before the seaman is discharged—
 - (i) if the seaman produces his discharge book to him, record in it the name of the ship, its port of registry, gross or register tonnage and official number, the description of the voyage, the capacity in which the seaman has been employed in the ship, the date on which he began to be so employed and the date and place of his discharge; or
 - (ii) if the seaman does not produce his discharge book to him, give to the seaman a certificate of discharge containing the like particulars;
- (b) the master shall ensure that the seaman is discharged in the presence of—
 - (i) the master himself, or
 - (ii) the seaman's employer, or
 - (iii) a person authorised in that behalf by the master or employer;
- (c) the person mentioned in paragraph (1)(b) of this regulation in whose presence the seaman is being discharged shall—
 - (i) make and sign an entry in the official log book recording the place, date and time of the seaman's discharge; and
 - (ii) make and sign an entry in the crew agreement or, if there is a list of crew separate from a crew agreement, in the list of crew, recording the place and date of, and the reason for, the seaman's discharge;
- (d) the seaman shall sign the entry in the crew agreement and list of crew referred to in paragraph (1)(c)(ii) of this regulation.

(2) Where a seaman is not present when he is discharged, the master, or a person authorised in that behalf by the master, shall make the entries referred to in paragraph (1)(c) of this regulation.

(3) All entries in the official log book required under the preceding paragraphs of this regulation shall, in addition to being signed by the person making the entry, be signed also by a member of the crew.

(4) If a seaman so requests, the master, or one of the ship's officers authorised by him in that behalf, shall give to the seaman a certificate (which shall be separate from any other document) either as to the quality of his work or indicating whether he has fully discharged his obligations under his contract of employment.

Offences under Part III

27.—(1) Any person (including a master)—

- (a) who discharges a seaman in contravention of any of the provisions of regulation 25(1); or
- (b) who fails to comply with an obligation imposed on him by or under paragraph (1)(a), (1)(c)(ii) or (4) of regulation 26; or
- (c) who fails to comply with an obligation imposed on him by regulation 26(2) in relation to an entry in a crew agreement or in a list of crew; or
- (d) who fails to make an entry in an official log book required by regulation 26(1)(c)(i); or

(e) who fails to comply with an obligation imposed on him by regulation 26(2) in relation to an entry in an official log book; shall be guilty of an offence.

(2) A master—

(a) who fails to comply with an obligation imposed on him under regulation 23(1), or 26(1)(b); or

(b) who fails to make an entry in an official log book required by regulation 25(2);

shall be guilty of an offence.

(3) A seaman who fails to comply with an obligation imposed on him by regulation 26(1)(d) shall be guilty of an offence.

(4) Any offence under this regulation shall be punishable on summary conviction—

(a) in the case of an offence referred to in paragraph (1)(a), (1)(b), (1)(c) or (2)(a) of this regulation, with a fine not exceeding £100;

(b) in the case of an offence referred to in paragraph (1)(d), (1)(e) or (2)(b) of this regulation, with a fine not exceeding £20; and

(c) in the case of an offence referred to in paragraph (3) of this regulation, with a fine not exceeding £10.

Michael Noble,

Minister for Trade,
Department of Trade and Industry.

20th June 1972.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which are made under the Merchant Shipping Act 1970 apply to ships registered in the United Kingdom other than fishing vessels.

Part I provides for exemption from the requirements of section 1 of that Act (which relates to crew agreements) in relation to the ships, voyages and seamen described in regulation 3, for the giving of notice before crew agreements are made and for other matters relating to crew agreements.

Part II provides for the exemption from the requirements of section 69 of that Act (which relates to lists of crew) of the ships described in regulation 12, for the particulars to be specified in lists of crew and for other matters relating to such lists.

Part III provides for the procedure to be followed in connection with the discharge of seamen from ships, for the giving of notice and for the recording of such discharge.

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