



FALKLAND ISLANDS

Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019

(No. 17 OF 2019)

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FALKLAND ISLANDS

Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019

(made: 18 September 2019)
(published: 25 September 2019)
(coming into force: in accordance with regulation 2)

I make these regulations under sections 6, 12, 15, 16, 21, 23, 25, 27, 28, 29, 30, 31, 37, 66, 67, 68, 70 and 71 of the Maritime Labour Ordinance 2019 and on the advice of Executive Council —

PART 1 - INTRODUCTION

1. Title

These regulations are the Maritime Labour (General Requirements under the Maritime Labour Convention) Regulations 2019.

2. Commencement

These regulations come into force on such date as the Governor may notify by notice published in the Gazette.

3. Interpretation

(1) In these regulations unless the context otherwise requires —

“**appropriate fee**” means a fee prescribed in relation to a particular application or service under—

- (a) the Merchant Shipping (Fees) Regulations 2018 (SI 2018/1104) as applied by the Law Revision and Publication Ordinance 2017; or
- (b) regulations made under section 298 of the Maritime Ordinance 2017;

“**armed robbery against a ship**” means any illegal act of violence or detention or any act or threat of depredation, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters or territorial sea, or any act of inciting or of intentionally facilitating such an act;

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“**authority**” has the meaning given by section 3 of the Harbours and Ports Ordinance 2017;

“**collective agreement**” has the meaning given under section 3(1) of the Ordinance;

“**controlled waters**” means the waters within the limits of the Interim Fishery Conservation and Management Zone (Proclamation No 4 of 1986) and the Fishery Conservation Outer Zone (Proclamation No 2 of 1990);

“**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 and as provided under the Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019;

“**Director**” means the Director of Natural Resources;

“**employed**” means employed under a contract of employment; and “**employment**” in relation to a seafarer is to be construed accordingly;

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

“**employer**” in relation to a seafarer, means the person by whom the seafarer is or was employed or engaged;

“**engaged**”, in the application of these regulations to a seafarer, has the meaning given in section 3(1) of the Ordinance;

“**Falkland Islands ship**” has the meaning given in section 3(1) of the Ordinance;

“**Falkland Islands waters**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**fishing vessel**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**gross tonnage**” has the meaning given in section 3(1) of the Ordinance;

“**hours of rest**” has the meaning given in section 3(1) of the Ordinance;

“**hours of work**” has the meaning given in section 3(1) of the Ordinance;

“**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 and as provided under the Maritime Labour (Survey and Certification under the Maritime Labour Convention) Regulations 2019;

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

“**MLC**”, “**MLC Code**” and “**MLC Regulations**” have the meanings given in section 3(1) of the Ordinance;

“**MLC foreign ship**” means a sea-going ship which is not a Falkland Islands ship, 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;

“**medical condition**” includes both injury and illness, and a “**significant medical condition**” is a medical condition which adversely affects or is reasonably likely to adversely affect the seafarer’s ability to carry out his or her duties, including the seafarer’s ability to undertake emergency duties;

“**medical practitioner**” means a person who —

- (a) is a duly qualified medical practitioner under the Medical Practitioners, Midwives and Dentists Ordinance 1914; or
- (b) if not duly qualified under that Ordinance, holds a licence, degree, or diploma which would entitle that person to be registered as a medical practitioner by the General Medical Council in the United Kingdom and who, when carrying out the functions of a medical practitioner under Part 11, is approved by the Governor or the Secretary of State to act in that capacity;

“**night**” means a period —

- (a) the duration of which is not less than nine consecutive hours; and
- (b) which includes the period between midnight and 5 a.m. (local time);

“**non-MLC foreign ship**” means a sea-going ship which is not a Falkland Islands ship, if —

- (a) the MLC has not come into force for the State whose flag the ship is entitled to fly; or
- (b) the MLC has come into force for the State whose flag the ship is entitled to fly, but the ship does not carry —

- (i) a Maritime Labour Certificate to which a Declaration of Maritime Labour Compliance is attached; or
- (ii) an interim Maritime Labour Certificate;

“**offshore installation**” means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation;

“**Ordinance**” means the Maritime Labour Ordinance 2019;

“**personal representative**”, in relation to a seafarer who has died, means —

- (a) a person responsible for administering the seafarer’s estate under the law of the Falkland Islands; or
- (b) a person who, under the law of another country or territory, has functions equivalent to those of administering the seafarer’s estate;

“**piracy**” means any of the following —

- (a) an illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed —
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) an act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) an act of inciting or of intentionally facilitating an act described in (a) or (b);

[S.R.&O 3/2024/w.e.f. 23/12/2024]

“**pleasure vessel**” has the meaning given in section 3(1) of the Ordinance;

“**proper officer**” has the meaning given in section 2(1) of the Maritime Ordinance 2017;

“**relevant inspector**” means any of the persons mentioned in section 240(1) of the Maritime Ordinance 2017;

“**safe haven**” means a harbour or shelter of any kind which affords safe entry and protection from the weather;

“**seafarer**” has the meaning given in section 3(1) of the Ordinance except that for the purposes of these regulations, it does not include a person whose normal place of work is not on board a ship;

“**seafarers’ employment agreement**” has the same meaning given in section 3(1) of the Ordinance;

“**sea-going**” has the meaning given in section 3(1) of the Ordinance;

“**ship**” includes hovercraft;

“**shipowner**” has the same meaning given in section 3(1) of the Ordinance, and for the purpose of these regulations includes, 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;

“**the STCW Convention**” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended by the Final Act of the Conference of Parties to the STCW Convention, at Manila on 25th June 2010; and

“**United Kingdom Merchant Shipping Notice**” means a Merchant Shipping Notice issued by the MCA as approved by the authority under section 74 of the Ordinance.

(2) In these regulations —

- (a) a reference to a United Kingdom enactment “**as applied by the Law Revision and Publication Ordinance**” is a reference to that enactment as applied to the Falkland Islands under section 21 of the Law Revision and Publication Ordinance 2017 and as modified or amended in accordance with sections 22 and 24 of that Ordinance; and
- (b) a reference to a United Kingdom statutory instrument “**as adopted by the Merchant Shipping (Adoption of Legislation) Ordinance**” is a reference to that statutory instrument as adopted in the Falkland Islands under section 9, and in accordance with section 6 (as modified by section 10), of the Merchant Shipping (Adoption of Legislation) Ordinance 1992; and
- (c) a reference to “**the Merchant Shipping Act 1970 as extended**” is a reference to the Merchant Shipping Act 1970 as extended to the Falkland Islands by the Merchant Shipping Act 1970 (Overseas Territories) Order 1988 (SI 1086/1988).

(3) 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.

(4) In interpreting the MLC for the purposes of these regulations —

- (a) the Regulations contained in the MLC; and
- (b) Part A of the MLC Code,

are to be construed as mandatory.

(5) Any reference in these regulations to a specific provision in the MLC, the MLC Regulations or the MLC Code is to be construed as —

- (a) a reference to the provision in that instrument as modified from time to time; and
- (b) a reference, if the instrument is replaced by another instrument, to the relevant provision in that other instrument.

- (6) For the purposes of sub-regulation (5) —
- (a) the MLC is modified if an omission, addition or other alteration to the text takes effect in accordance with Article XIV of the MLC;
 - (b) the MLC Regulations are modified if an omission, addition or other alteration to the text takes effect in accordance with Article XIV of the MLC; and
 - (c) the MLC Code is modified if an omission, addition or other alteration to the text takes effect in accordance with Article XV of the MLC.
- (7) A modification to, or replacement of, the MLC or the MLC Regulations by virtue of sub-regulation (6)(a) and (b) has effect at the time that such modification or replacement comes into force in accordance with Article XIV(6) or (7) of the MLC.
- (8) A modification to, or replacement of the MLC Code by virtue of sub-regulation (6)(c) has effect at the time that such modification or replacement comes into force in accordance with Article XV(8) and (9) of the MLC.
- (9) No modification or replacement of a reference to an instrument by virtue of sub-regulation (5) and (6) affects any rights or liabilities arising before the date on which the modification or replacement has effect.

4. Application

- (1) Subject to sub-regulation (3), Parts 2 to 16 and 18 and 19 apply to —
- (a) a sea-going Falkland Islands ship wherever it may be, and to a seafarer employed or engaged in it; and
 - (b) a sea-going non-MLC foreign ship while that ship is in Falkland Islands waters, and to a seafarer employed or engaged in it.
- (2) Subject to sub-regulation (3), Part 3, regulations 59 and 60 and Parts 17 to 19 apply to a sea-going MLC foreign ship while that ship is in Falkland Islands waters, and to a seafarer employed or engaged in it.
- (3) These regulations do not apply to —
- (a) a pleasure vessel;
 - (b) a fishing vessel;
 - (c) a ship of traditional build;
 - (d) a warship or naval auxiliary; or
 - (e) a vessel which is not ordinarily engaged in commercial activities.

PART 2 - MINIMUM AGE

5. Interpretation of Part 2

For the purposes of this Part, “**young person**” means any person who is under the age of 18 and is over the age of 16.

6. Employment of young persons at night: exceptions

(1) Section 25(2) of the Ordinance (minimum age or employment or engagement of young person at night) 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 the United Kingdom Merchant Shipping Notice 1838(M) as not being detrimental to the health and well-being of seafarers under the age of 18.

7. Employment or engagement of young persons: general provisions

(1) Appropriate measures must be taken to protect young persons at work from the risks to their health and safety which are a consequence of their lack of experience, or absence of awareness of existing or potential risks or the fact that young persons have not yet fully matured.

(2) No young person shall be permitted to begin work in a ship unless an assessment has first been made of the risks to the health and safety of young persons which might arise during the normal course of their working time, taking into account the inexperience, lack of awareness of risks and immaturity of young persons, and paying particular attention to —

- (a) the fitting out and layout of working areas;
- (b) the nature, degree and duration of exposure to physical, biological and chemical agents;
- (c) the form, range and use of work equipment and the way in which it is handled;
- (d) the organisation of processes and activities;
- (e) the extent of the health and safety training provided or to be provided to the young persons concerned; and
- (f) risks from agents, processes and work of a hazardous nature.

(3) Young persons shall be informed of possible risks to their health and safety identified by the assessment under sub-regulation (2), and of all measures adopted for their protection.

(4) No young person shall be engaged in —

- (a) work which is objectively beyond their physical or psychological capacity;

- (b) work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affect human health;
- (c) work involving harmful exposure to radiation;
- (d) work involving the risk of accidents which it may be assumed cannot be recognised or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or
- (e) work in which there is a risk to health from —
 - (i) extreme cold or heat,
 - (ii) noise, or
 - (iii) vibration.

(5) In determining whether the work will involve harm or risk for the purposes of this regulation, regard shall be had to the findings of the assessment carried out under sub-regulation (2).

(6) Nothing in sub-regulation (4) shall prevent the employment of a young person to perform any activity where that activity —

- (a) is indispensable for their vocational training; and
- (b) is performed under the supervision of a competent person,

and in such a case, the duty shall be to ensure, so far as is reasonably practicable, the health and safety of the young person when performing that activity.

(7) A breach of sub-regulation (1), (2), (3), or (4), is an offence by the employer or the person by whom the young person is engaged.

PART 3 - RECRUITMENT AND PLACEMENT

8. Duty on shipowner in respect of recruitment and placement services

(1) A shipowner must not use a recruitment and placement service to recruit a person as a seafarer to work on board a ship within the categories of ship described in regulation 4(1) or (2) unless it is a service falling within sub-regulation (2).

(2) A recruitment and placement service falls within this sub-regulation if it —

- (a) is based —
 - (i) in the Falkland Islands;
 - (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 sub-regulation (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

9. Interpretation of Part 4

In this Part, "**approved training provider**" means a person who provides or arranges the provision of seafarer training pursuant to an agreement with the Governor.

10. Duty to enter into seafarers' employment agreement

- (1) For the purposes of section 6 of the Ordinance, a seafarer and the shipowner or a representative of the shipowner must enter into a seafarers' employment agreement which complies with this regulation.
- (2) Subject to sub-regulation (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 seafarers' employment agreement; and
 - (b) the seafarers' 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 sub-regulation (4), if the seafarer is —
- (a) an employee of the shipowner; or
 - (b) engaged in a ship otherwise than under a contract of employment with the shipowner or any other person,

the shipowner must be a party to the seafarers' employment agreement.

(4) Sub-regulations (2)(b) and (3) do not apply if the parties to a seafarers' 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 sub-regulation (1), (2) or (3) is an offence by the shipowner.

11. Content of seafarers' employment agreement

(1) Subject to sub-regulation (2), a seafarers' employment agreement must include provision about the following —

- (a) the matters in Part 1 and Part 2 of Schedule 1, if the seafarer is an employee of the shipowner or of another person;
- (b) the matters in Part 1 and Part 3 of Schedule 1, if the seafarer is not an employee,

and where the seafarers' employment agreement is one which falls within regulation 10(4), the name and address of the approved training provider must be set out in the agreement.

(2) The provision referred to under sub-regulation (1) may be achieved by way of reference to another document which includes those matters.

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

(4) Prior to entering into a seafarers' employment agreement, the shipowner or, in the case of an agreement falling within regulation 10(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 sub-regulation (4),

the shipowner commits an offence.

(6) Where an approved training provider fails to take the steps required under sub-regulation (4), the approved training provider commits an offence.

(7) A seafarers' employment agreement must contain a declaration by the shipowner and the seafarer or, in the case of an agreement falling within regulation 10(4), by the approved training provider and the seafarer confirming that the requirements in sub-regulation (4)(a) to (c) have been met.

(8) A breach of sub-regulation (7) is an offence by the shipowner or approved training provider.

12. Minimum notice period

(1) Subject to sub-regulation (3), the minimum period of notice which must be given before terminating a seafarers' 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 seafarers' employment agreement must not be longer than the minimum period of notice which must be given by the shipowner or the approved training provider.

(3) A seafarers' employment agreement may be terminated without penalty where this is requested by the seafarer on compassionate grounds or where it is for reasons of gross misconduct.

12A. Seafarer employment agreements: captive seafarers

(1) This regulation applies where —

- (a) a seafarer is held captive as a result of piracy or armed robbery against a ship; and
- (b) the seafarer's seafarer employment agreement would terminate while the seafarer is held captive.

(2) In a case to which this regulation applies, the seafarer's seafarer employment agreement —

- (a) continues to have effect until the date on which the seafarer ceases to be held captive; and
- (b) is to be treated for the purpose of these Regulations as expiring on the date the seafarer ceases to be held captive.

(3) The reference in sub-regulation (1) to the termination of a seafarer employment agreement includes —

- (a) the operation of any provision of the seafarer employment agreement which would, but for this regulation, cause the seafarer employment agreement to cease to have effect; and
- (b) the expiry of a notice to suspend or terminate the seafarer employment agreement given for any reason, regardless of when such notice was given.

[S.R.&O 3/2024/w.e.f. 23/12/2024]

13. Documents

- (1) As soon as is practicable after entering into a seafarers' 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 sub-regulation (1) is an offence by the shipowner.
- (3) The shipowner must —
 - (a) ensure that a copy of the seafarers' employment agreement (and a copy of any document referred to in that agreement) for each seafarer working on board a ship is held on board; and
 - (b) allow each seafarer to see the copy of the seafarers' 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 sub-regulation (3) is an offence by the shipowner.
- (5) Subject to sub-regulation (6), 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 sub-regulation (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) A breach of sub-regulation (5) or (6) is an offence by the shipowner.

14. Foreign language seafarers' employment agreement

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

15. Duty of master to produce seafarers' employment agreement

- (1) The master of a ship must produce to the Governor (or any person acting on the Governor's behalf) on demand copies of any documentation held on board pursuant to regulations 13(3)(a) and 14(2).
- (2) A breach of sub-regulation (1) is an offence by the master of the ship.

PART 5 - WAGES

16. Late payment of wages etc.

(1) Subject to sub-regulation (2), if any amount in respect of wages or other remuneration payable to a seafarer under a seafarers' employment agreement is not paid on the due date, interest must be paid on the unpaid amount at the rate of 10 per cent per annum from the date on which the amount was due until the date of payment.

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

- (a) a reasonable 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.

17. Account of seafarer's wages, etc.

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

- (a) periodically during the term of the seafarers' 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 sub-regulation (2), the account includes information in respect 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 paragraph (a)); and
- (c) any rates of exchange and any commissions paid which are relevant to those payments.

(5) A breach of sub-regulation (1), (2), (3) or (4) is an offence by the shipowner.

17A. Wages of captive seafarers

(1) This regulation applies for any period —

- (a) from the date on which a seafarer is held captive as a result of piracy or armed robbery against a ship; to
- (b) whichever is the later of the date on which the seafarer —
 - (i) is released from captivity;
 - (ii) is repatriated in accordance with the duty imposed on a shipowner under regulation 45; or
 - (iii) dies while in captivity.

(2) During the period under sub-regulation (1) —

- (a) the seafarer's wages, remuneration and other entitlements, whether arising under the seafarer's seafarer employment agreement, a collective bargaining agreement or any enactment, must continue to be paid;
- (b) any part of the seafarer's wages allotted to a person by an allotment note issued in accordance with section 19 of the Ordinance must continue to be paid to that person; and
- (c) a term of any agreement is void to the extent that it purports to reduce, vary or stop any such payments.

(3) A breach of sub-regulation (2) is an offence by the shipowner.

[S.R.&O 3/2024/w.e.f. 23/12/2024]

PART 6 - HOURS OF WORK

18. General duty of shipowner, master and employer

(1) It is the duty of the persons mentioned in sub-regulation (2) to ensure that a seafarer in relation to a ship is provided with at least the minimum hours of rest.

- (2) The persons are —
- (a) the shipowner in relation to the ship;
 - (b) the master of the ship; and
 - (c) where the seafarer is an employee, the seafarer's employer if not the shipowner.
- (3) A muster, drill or training session held pursuant to the Merchant Shipping (Musters, Training and Decision Support Systems) Regulations 1999 (SI 2722/1999), as applied by the Law Revision and Publication Ordinance 2017 —
- (a) may require the participation of a seafarer during the seafarer's hours of rest; but
 - (b) must be conducted in a manner which minimises disturbance of the seafarer's hours of rest and does not induce fatigue.
- (4) A seafarer who is required to participate in a muster, drill or training session mentioned in paragraph (3) during the seafarer's hours of rest must be provided with an adequate compensatory rest period.
- (5) A seafarer who is on-call on board a ship may be required to do call-outs during hours of rest but must be provided with an adequate compensatory rest period for any call-out work done during hours of rest.
- (6) This regulation is subject to regulation 22.

19. Minimum hours of rest

- (1) The minimum hours of rest are —
- (a) 10 hours in any 24-hour period; and
 - (b) 77 hours in any 7-day period.
- (2) The 10 hours of rest mentioned in sub-regulation (1)(a) may be divided into no more than 2 periods, one of which is to be at least 6 hours in length.
- (3) This regulation is subject to regulation 20.

20. Authorised exceptions to minimum hours of rest

- (1) The Governor may authorise collective agreements or workforce agreements which —
- (a) provide exceptions to the minimum hours of rest mentioned in regulation 19(1)(b);
 - (b) provide for exceptions to regulation 19(2).
- (2) A collective agreement or workforce agreement under sub-regulation (1)(a) must require that—
- (a) there are at least 70 hours total rest in any period of 7 days;

- (b) the exceptions provided for in the agreement do not apply in relation to a period of more than two consecutive weeks; and
 - (c) where the exceptions apply in relation to two periods separated by an interval, the interval is at least twice the duration of the longer of the two periods.
- (3) A collective agreement or workforce agreement under sub-regulation (1)(b) must require that the 10 minimum hours of rest mentioned in regulation 19(1)(a) are divided into three periods —
- (a) one of the three periods is at least 6 hours long and neither of the two other periods are less than one hour long;
 - (b) intervals between consecutive periods do not exceed 14 hours each; and
 - (c) the exceptions provided for in the agreement do not apply in relation to more than two 24 hour periods in any 7 day period.
- (4) Sub-regulations (2) and (3) do not apply in relation to ships which —
- (a) operate only within 60 miles of a safe haven;
 - (b) are not engaged in the transport of cargo or passengers; and
 - (c) do not operate to or from, or call at, any port in a country other than the Falkland Islands.
- (5) For the purpose of this regulation, a “**workforce agreement**” is an agreement which complies with the conditions set out in Schedule 3.

21. Posting up of table

- (1) The master, or a person authorised by the master, must ensure that the following tables are posted up in a prominent and easily accessible place in the ship —
- (a) a table of scheduled watchkeeping; and
 - (b) a table of scheduled hours of rest.
- (2) A table under sub-regulation (1) must —
- (a) contain the information specified in the United Kingdom Merchant Shipping Notice 1877(M);
 - (b) be in the format specified in that Merchant Shipping Notice, or in a format substantially like it; and
 - (c) be in English and in the working language of the ship, if that is not English.

22. Exception for emergencies

- (1) A master may require a seafarer to work any hours of work necessary for the immediate safety of a ship, persons on board or cargo, or for the purpose of giving assistance to another ship or to a person in distress at sea.
- (2) As soon as practicable after the normal situation has been restored, the master must ensure that any seafarer who has performed work in hours of rest scheduled in the table under regulation 21 is provided with an adequate rest period.

23. Records

- (1) The master, or a person authorised by the master, must maintain records of each seafarer's daily hours of rest in accordance with the requirements of the United Kingdom Merchant Shipping Notice 1877(M).
- (2) Records under sub-regulation (1) must be in a format which complies with the requirements specified in the United Kingdom Merchant Shipping Notice 1877(M).
- (3) Records under sub-regulation (1) must be in English and in the working language of the ship if it is not English.
- (4) The records kept under sub-regulation (1) must be endorsed by —
 - (a) the master, or the person authorised by the master; and
 - (b) the seafarer to whom the record relates.
- (5) The master, or a person authorised by the master, must give a copy of the endorsed record to the seafarer to whom the record relates.
- (6) A relevant inspector must examine and endorse, at appropriate intervals, records kept under sub-regulation (1).
- (7) The shipowner and the master must ensure that a copy of these regulations, the United Kingdom Merchant Shipping Notice 1877(M) and any collective agreements or workforce agreements relevant to the ship which are authorised under regulation 20 are carried at all times on board ship in an easily accessible place.

24. Power to require information

A shipowner must provide the Governor with such information as the Governor may specify on watchkeepers and other seafarers working at night.

25. Entitlement to annual and additional leave

- (1) A seafarer is entitled to —
 - (a) paid annual leave that is to be calculated on the basis of two and a half days for each month of employment in the leave year and pro rata for incomplete months; and
 - (b) additional paid leave of eight days in each leave year and pro rata for incomplete years.

- (2) Leave to which a seafarer is entitled under this regulation —
- (a) may be taken in instalments; and
 - (b) may not be replaced by payment in lieu, except where the seafarer's employment is terminated.
- (3) Justified absences from work are not to be considered annual leave for the purposes of sub-regulation (1)(a).
- (4) For the purposes of this regulation, “**justified absences from work**” include any absence authorised by —
- (a) any enactment;
 - (b) any contract between the seafarer's employer and the seafarer;
 - (c) any collective agreement or workplace agreement to which the seafarer is subject; or
 - (d) custom and practice.

26. Shore leave

The shipowner and the master must ensure that shore leave is granted to seafarers who work on the ship to benefit their health and well-being where consistent with the operational requirements of their positions.

27. Entitlements under other provisions

Where during any period a seafarer is entitled to hours of rest or paid leave both under a provision of these regulations and under a separate provision (including a provision of the seafarer's contract), the seafarer may not exercise the two rights separately, but may, in taking hours of rest or paid leave during that period, take advantage of whichever right is, in any particular respect, the more favourable.

28. Remedies

- (1) A seafarer may present a complaint to the Summary Court that the seafarer's employer —
- (a) has refused to permit the exercise of any right that the seafarer has under regulation 25(1)(a) or (b); or
 - (b) has failed to pay the seafarer the whole or any part of any amount due to the seafarer under regulation 25(1)(a) or (b).
- (2) The Summary Court must not consider a complaint under this regulation unless it is presented—
- (a) before the end of the complaint period; or

(b) within such further period as the Summary Court considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the complaint period.

(3) Where the Summary Court finds a complaint under sub-regulation (1)(a) to be well-founded, the Summary Court —

(a) must make a declaration to that effect; and

(b) may make an award of compensation to be paid by the employer to the seafarer.

(4) The amount of the compensation is to be such amount as the Summary Court considers just and equitable in all the circumstances having regard to —

(a) the employer's default in refusing to permit the seafarer to exercise the seafarer's right; and

(b) any loss sustained by the seafarer which is attributable to the matters complained of.

(5) Where on complaint under sub-regulation (1)(b) the Summary Court finds that an employer has failed to pay a seafarer in accordance with regulation 25(1), it must order the employer to pay the seafarer the amount which it finds to be due to the seafarer.

(6) The “**complaint period**” is the period of three months beginning on the date on which it is alleged that the exercise of the right should have been permitted (or in the case of a period of annual leave or additional leave extending over more than one day, the date on which it should have been permitted to begin) or, as the case may be, the payment should have been made.

29. Extension of complaint period to facilitate conciliation before institution of proceedings

In calculating when the complaint period expires, the Summary Court may permit, on the application of the seafarer, an extension to that period of such number of days as the Summary Court thinks fit if the seafarer has sought conciliation with the seafarer's employer in relation to the matter in respect of which the proceedings are brought.

30. Restriction on contracting out

(1) Any provision in an agreement (whether a contract of employment or not) is void in so far as it purports to —

(a) exclude or limit the operation of any provision of these regulations; or

(b) preclude a person from bringing proceedings under these regulations before the Summary Court.

(2) Sub-regulation (1) does not apply to any agreement to refrain from instituting or continuing proceedings under regulation 28, if the following conditions are met.

(3) For the purposes of sub-regulation (2) the conditions are —

(a) the agreement is in writing;

- (b) the agreement relates to the particular complaint;
 - (c) the seafarer has received advice from a relevant independent adviser as to the terms and effect of the proposed agreement and, in particular, its effect on the seafarer's ability to pursue the seafarer's rights before the Summary Court;
 - (d) there is in force, when the adviser gives the advice, a contract of insurance, or an indemnity provided for members of a profession or a professional body, covering the risk of a claim by the seafarer in respect of loss arising in consequence of the advice; and
 - (e) the agreement states that the conditions in paragraphs (a) to (d) are satisfied.
- (4) A person is a relevant independent adviser for the purposes of sub-regulation (3)(c) if the person —
- (a) is a qualified lawyer;
 - (b) is an officer, official, employee or member of an independent trade union who has been certified in writing by the trade union as competent to give advice and as authorised to do so on behalf of the trade union; or
 - (c) works at an advice centre (whether as an employee or a volunteer) and has been certified in writing by the centre as competent to give advice and as authorised to do so on behalf of the centre.
- (5) A person is not a relevant independent adviser for the purposes of sub-regulation (3)(c) —
- (a) if the person is employed by, or is acting in the matter for, the employer or an associated employer;
 - (b) in the case of a person within sub-regulation (4)(b), if the trade union is the employer or an associated employer; or
 - (c) in the case of a person within sub-regulation (4)(c), if the seafarer makes a payment for the advice received from the person.
- (6) In sub-regulation (4)(a), “**qualified lawyer**” means a person who, for the purposes of the Legal Practitioners Ordinance 1997, is an authorised person in relation to an activity which constitutes the exercise of a right of audience or the conduct of litigation (within the meaning of that Ordinance);
- (7) For the purposes of sub-regulation (5) any two employers are to be treated as associated if —
- (a) one is a company of which the other (directly or indirectly) has control; or
 - (b) both are companies of which a third person (directly or indirectly) has control,
- and “**associated employer**” is to be construed accordingly.

31. Hours of rest: offences

- (1) It is an offence for —
 - (a) the master of the ship to breach regulation 18(1) or (3)(b), 21(1), 22(2), 23(1), (4)(a), (5) or (7) or 26;
 - (b) the employer of a seafarer to breach regulation 18(1);
 - (c) the person authorised by the master of the ship to breach regulation 21(1) or 23(1), (4)(a) or (5); or
 - (d) the shipowner to breach regulation 18(1), 23(7), 24 or 26.
- (2) Where there is a contravention of regulation 25(1)(a) or (b), the employer of the seafarer is guilty of an offence.

PART 7 - CREW ACCOMMODATION

32. Crew accommodation requirements

- (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 33, 34 and 35, a ship must comply with the requirements relating to crew accommodation set out in the United Kingdom Merchant Shipping Notice 1844(M).
- (3) A breach of sub-regulation (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 sub-regulation (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 sub-regulation (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 sub-regulation (6) is an offence by the master of the ship.

33. Provision for certain older ships

(1) A ship constructed before 1st July 1979 —

- (a) as respects crew accommodation which has not been substantially reconstructed or altered on or after that date, must comply with the requirements set out in Schedule 6 to the Merchant Shipping (Crew Accommodation) Regulations 1978 (SI 795/1978), as adopted by the Merchant Shipping (Adoption of Legislation) Ordinance 1992, as if those regulations had not been revoked;
- (b) as respects crew accommodation which has been substantially reconstructed or altered on or after that date but before 11th July 1997, must comply with the requirements set out in Part 1 of the Merchant Shipping (Crew Accommodation) Regulations 1978, as adopted by the Merchant Shipping (Adoption of Legislation) Ordinance 1992, as if those regulations had not been revoked; and
- (c) as respects crew accommodation which has been substantially reconstructed or altered on or after 11th July 1997 but before 7th August 2014, must comply with the requirements set out in the Merchant Shipping (Crew Accommodation) Regulations 1997, as applied by the Law Revision and Publication Ordinance 2017.

(2) A ship constructed on or after 1st July 1979 but 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 Part 1 of the Merchant Shipping (Crew Accommodation) Regulations 1978, as adopted by the Merchant Shipping (Adoption of Legislation) Ordinance 1992, as if those regulations had not been revoked; and
- (b) as respects crew accommodation which has been substantially reconstructed or altered on or after 11th July 1997 but before 7th August 2014, must comply with the requirements set out in the Merchant Shipping (Crew Accommodation) Regulations 1997, as applied by the Law Revision and Publication Ordinance 2017.

(3) A ship constructed 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, as applied by the Law Revision and Publication Ordinance 2017.

(4) A breach of sub-regulation (1), (2) or (3) is an offence by the shipowner.

34. Exemptions

(1) The Governor may exempt a ship from some or all of the requirements of regulation 33(2) where —

- (a) the exemption is expressly permitted by Standard A3.1 (accommodation and recreational facilities) of the MLC; and

- (b) the Governor has fulfilled any obligation imposed on the competent authority by that Standard in respect of the exemption,

and in 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 Standard A3.1.

(2) An exemption under this regulation —

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

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

35. Approvals to allow substantial equivalences

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

(2) An approval under sub-regulation (1) —

- (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) An approval mentioned under sub-regulation (1) may be cancelled, and the terms of an approval may be altered, in both cases by the Governor 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 8 - FOOD AND CATERING

36. Interpretation of Part 8

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 United Kingdom 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 41;
- (b) a certificate of competency as a ship’s cook which has been issued by the MCA under a regulation which applies in the United Kingdom and is equivalent to regulation 41;
- (c) a certificate which under regulation 43 has effect as if it were a certificate of competency as a ship’s cook issued under regulation 41; or
- (d) a certificate which is specified in the United Kingdom Merchant Shipping Notice 1846(M) as equivalent to a certificate of competency as a ship’s cook issued under regulation 41.

37. Provision of food and drinking water

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

- (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 sub-regulation (1) are provided free of charge to all seafarers while they are on board.

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

38. Organisation and equipment of the catering department

(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 so as to permit the provision to seafarers of adequate, varied, balanced and nutritious meals prepared and served in hygienic conditions,

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

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

39. Inspection of food and catering facilities

(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 in relation to their quantity, nutritional value, quality and variety to check their compliance with regulations 37 and 38; and
- (b) the catering department and its equipment are inspected to check compliance with regulation 38.

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(2) An inspection under sub-regulation (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) The master of the ship must ensure that the results of any inspection under sub-regulation (1) are recorded in the official logbook of the ship.

(4) A breach of sub-regulation (1), (2) or (3) is an offence by the master of the ship.

40. Requirement to carry a qualified ship's cook

(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 Falkland Islands.

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

(3) In circumstances of exceptional necessity the Governor may grant an exemption from the requirement in sub-regulation (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 food and personal hygiene and safe handling and storage of food in accordance with the relevant requirements in the United Kingdom Merchant Shipping Notice 1846(M).

(4) An exemption under this regulation —

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

(5) The Governor 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 Governor considers are substantially equivalent to the requirement in sub-regulation (2).

(6) An approval under this regulation —

- (a) must be given in writing to the shipowner and the master of the ship; 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 Governor giving written notice to the shipowner and the master of the ship.

(8) A breach of —

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

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

41. Certificate of competency as a ship's cook

(1) On receipt of an application for a certificate of competency as a ship's cook and the appropriate fee (if any), the Governor 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 Governor 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 Governor that the applicant is an eligible person.

(3) If an eligible person —

(a) satisfies the Governor that a certificate already issued to that person has been lost, destroyed or stolen; and

(b) pays the appropriate fee (if any),

the Governor must issue a copy of the certificate to that person.

(4) Any such copy must, before it is so issued, be certified by such person as the Governor may have directed to keep the record referred to in sub-regulation (5).

(5) 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 Governor may require, by such person as the Governor may direct.

42. Suspension or cancellation of a certificate of competency as a ship's cook

(1) The provisions of sections 49 to 57 of the Ordinance apply in respect of a certificate of competency issued under regulation 41(1) as if such a certificate were a certificate to which those sections apply.

(2) A notice served by the Governor pursuant to section 51(1) of the Ordinance must be effected either by serving the holder of the certificate concerned personally or by sending it to their last known address by registered post or by the recorded delivery service.

(3) Within six weeks of the receipt of such notice, or such longer period as the Governor may allow, the holder of the certificate may inform the Governor of his or her intention to make written representations or claim to make oral representations to the Governor.

(4) In the case of a claim to make oral representations, the Governor must seek to agree with the holder of the certificate a suitable date and place for the oral representations to be heard and if no such agreement is reached, they must be heard at the address specified by the Governor on the last working day of the period for representations allowed by sub-regulation (6).

(5) If oral representations are to be made, the holder of the certificate may be accompanied by a friend who may advise him or her or speak on their behalf.

(6) Representations, whether written or oral, must be made within ten weeks of receipt of the notice.

(7) Notice of the Governor's decision shall be given to the holder either by serving the holder of the certificate concerned personally or by delivering or sending it by post to their last known address by registered post or by the recorded delivery service.

43. Recognition of existing certificates of competency

- (1) A certificate of competency as a ship's cook —
 - (a) issued under the Merchant Shipping Act 1970 as extended; or
 - (b) treated as equivalent to such a certificate under that Act,

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 41(1) of these regulations.

- (2) A certificate to which sub-regulation (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 51 of the Ordinance.

44. Training requirements for catering staff and other persons processing food in the galley

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

PART 9 - REPATRIATION

45. Duty to repatriate seafarers

- (1) Subject to regulation 47, a shipowner must make such provision as is necessary for the repatriation of a seafarer as soon as is practicable in the following cases —
 - (a) where the seafarers' employment agreement expires;
 - (b) where the seafarers' employment agreement is terminated by the shipowner;
 - (c) where the seafarers' 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 seafarers' 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 his or her 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 seafarers' employment agreement; or
- (f) where the seafarers' employment agreement is terminated pursuant to an order of a court or tribunal.

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

46. Place for return

(1) Where there is a duty on a shipowner to provide for the repatriation of a seafarer under regulation 45, a seafarer is entitled to repatriation to the destination provided for in the seafarers' employment agreement, or such other place as may subsequently be agreed with the shipowner.

(2) If the seafarers' 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 seafarers' employment agreement; or
- (b) the seafarer's country of residence.

47. Scope of duty to repatriate

Where there is a duty on a shipowner to provide for the repatriation of a seafarer under regulation 45, that duty ends when —

- (a) the seafarer is repatriated in accordance with regulation 46;
- (b) the shipowner makes reasonable arrangements for repatriation which are unsuccessful because of the seafarer's unreasonable conduct;
- (c) except where the seafarer is held captive as a result of piracy or armed robbery against a ship the shipowner has used reasonable endeavours to contact the seafarer for a period of three months or more, but has been unable to make such contact;
- (d) the seafarer confirms in writing to the shipowner that repatriation is not required; or
- (e) the seafarer is dead.

48. Duty pending repatriation

- (1) A shipowner to which a duty in regulation 45 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 sub-regulation (1).
- (3) Without prejudice to the generality of sub-regulation (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 sub-regulation (1) ends when the duty in regulation 45 ends in accordance with regulation 47.
- (5) A breach of sub-regulation (1) is an offence by the shipowner.

49. Prohibition on recovering costs from seafarer

- (1) Subject to sub-regulation (2) and (4), a shipowner must not enter into an agreement with a seafarer under which the seafarer becomes liable in respect of either —
 - (a) repatriation costs; or
 - (b) relief and maintenance costs.
- (2) A seafarer's 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's employment agreement contains a provision described in sub-regulation (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 seafarers' employment agreement does not contain provision such as that described in sub-regulation (2), the shipowner may only recover the costs described in sub-regulation (1) (or damages in respect of such costs) where the agreement is terminated because of the seafarer's serious misconduct.

(5) A breach of sub-regulation (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 sub-regulation (1).

50. Seafarer property

(1) This regulation applies where —

(a) a shipowner is under a duty under regulation 45 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 sub-regulation (2) is an offence by the master of the ship.

(4) Subject to sub-regulation (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 sub-regulation (10).

(5) A breach of sub-regulation (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 sub-regulation (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 sub-regulation (6)(b) are entered in the official log book.

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

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

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

(12) A breach of sub-regulation (10) is an offence by the shipowner.

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

51. Duty to carry documents

(1) A shipowner must ensure that a copy of this Part of these regulations and United Kingdom Marine Guidance Notice 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 sub-regulation (1), the duty in sub-regulation (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 sub-regulations (1) or (2) is an offence by the shipowner.

52. Financial security requirement applicable to all ships

(1) A ship must not be operated unless 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 45 and 48.

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

52A. Facilitation of repatriation

(1) The Governor must take reasonable steps to facilitate —

- (a) the repatriation of a seafarer engaged on a ship which is in a Falkland Islands port or in Falkland Islands waters, including a seafarer who is abandoned in the circumstances listed in regulation 86(1); and
- (b) the replacement of that seafarer.

(2) The Governor must not refuse to permit the repatriation of a seafarer because of either —

- (a) the financial circumstances of the shipowner; or
- (b) the shipowner's inability or unwillingness to replace a seafarer.

(3) The Governor must cooperate with other states to ensure that a seafarer engaged on a ship to replace a seafarer who has been abandoned in the Falkland Islands or on a Falkland Islands ship is accorded the rights and entitlements under the MLC.

[S.R.&O 3/2024/w.e.f. 23/12/2024]

53. Governor's functions in the event of shipowner default

(1) The Governor must make any provision which the shipowner of a Falkland Islands ship is required to make under regulation 45 or 48 (repatriation and duty pending repatriation) (or secure that it is made) if —

- (a) the shipowner fails to make the required provision; and
- (b) the seafarer in relation to whom the shipowner has failed to make such provision is not entitled to receive financial assistance under an abandonment security in accordance with Part 14.

(2) The Governor may make any provision which the shipowner of a non-MLC foreign ship is required to make under regulation 45 or 48 (repatriation and duty pending repatriation) (or secure that it is made) if —

- (a) the shipowner fails to make the required provision; and
- (b) the seafarer in relation to whom the shipowner has failed to make such provision is entitled to receive financial assistance under an abandonment security in accordance with Part 14.

(3) Where the Governor makes provision under sub-regulation (1) or (2), the Governor may recover costs incurred from the shipowner as a civil debt.

(4) Subject to sub-regulation (7), the costs which the Governor may recover under sub-regulation (3) include —

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

(5) Subject to sub-regulation (6), if a shipowner fails to make provision required under regulation 45 or 48 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.

(6) The costs incurred by the seafarer which are referred to in sub-regulation (5) may not be recovered by the seafarer under sub-regulation (5) if they have been recovered by the Governor under sub-regulation (3).

(7) The costs incurred by the Governor which are referred to in sub-regulation (4) may not be recovered by the Governor under sub-regulation (3) if they have been recovered by the seafarer under sub-regulation (5).

PART 10 - MEDICAL CARE

54. Shipowner duty to make provision for seafarer medical and other expenses

- (1) This regulation applies in relation to a seafarer who suffers sickness or injury falling within sub-regulation (2).
- (2) Sickness or injury falls within this sub-regulation if it —
 - (a) first occurs during a period —
 - (i) which starts on the date on which that seafarer's seafarers' 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 45 ends under regulation 47; 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 sub-regulations (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 sub-regulation (4) which are reasonably incurred in connection with the seafarer's sickness or injury.
- (4) Expenses falling within this sub-regulation 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 sub-regulation (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 48 and does not apply in respect of any expenses met by the shipowner in accordance with that duty.
- (6) Subject to sub-regulation (7), the duty to meet expenses referred to in sub-regulation (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 seafarers' 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 sub-regulation (6)(b) and that person or another subsequently notifies the seafarer that such a decision no longer applies in both or either respects, the duty to meet expenses referred to in sub-regulation (3)(b) is limited to expenses incurred during the period set out in sub-regulation (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 sub-regulation (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 seafarers' employment agreement.

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

(10) A breach of sub-regulation (3) is an offence by the shipowner.

(11) In this regulation “**person authorised to issue seafarer medical certificates**” means a person who has been authorised by or on behalf of the Governor or the Director 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.

55. Duty to carry a medical practitioner on ship

(1) Subject to sub-regulation (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 sub-regulation (1) is an offence by the shipowner.

56. Right to medical attention

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

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

56A. Prompt disembarkation of seafarers

(1) This regulation applies where a seafarer is on board a ship in the Falkland Islands or in Falkland Islands waters.

(2) Where a seafarer to which this regulation applies is in need of immediate medical care, the Governor must —

(a) ensure the prompt disembarkation of the seafarer; and

(b) permit the seafarer to have access to medical facilities ashore for the provision of appropriate treatment.

(3) For the purposes of this regulation, cases where a seafarer is to be considered in need of immediate medical care include cases of —

(a) a serious injury or disease;

(b) an injury or disease which might lead to temporary or permanent disability;

(c) a communicable disease which poses a risk of transmission to other members of the crew;

(d) an injury involving broken bones, severe bleeding, broken or inflamed teeth or severe burns;

(e) severe pain which cannot be managed on board the ship, taking account of the operational pattern of the ship, the availability of suitable analgesics and the health impacts of taking such analgesics for an extended period;

(f) suicide risk; or

(g) a tele-medical advisory service recommending treatment ashore.

[S.R.&O 3/2024/w.e.f. 23/12/2024]

56B. Facilitation of the repatriation of a seafarer's body

(1) This regulation applies where the death of a seafarer engaged on a ship has occurred either —

(a) in the Falkland Islands or Falkland Islands waters; or

(b) on the high seas and the ship has entered the Falkland Islands waters.

(2) Where this regulation applies, the Governor must facilitate the repatriation of the seafarer's body by the shipowner, in accordance, so far as is possible, with —

- (a) any recorded wishes of the seafarer; or
- (b) if none, any wishes expressed by the seafarer's next of kin.

[S.R.&O 3/2024/w.e.f. 23/12/2024]

56C. Reporting of seafarers' deaths

The Governor must ensure that any deaths of seafarers employed, engaged or working on a Falkland Islands ship are reported on an annual basis to the Director General of the International Labour Organisation.

[S.R.&O 3/2024/w.e.f. 23/12/2024]

PART 11- MEDICAL CERTIFICATION

57. Interpretation of Part 11

In this Part —

“**approval**” means an approval given by the Governor in writing and which specifies the date on which it takes effect, its duration and the conditions (if any) on which it is given, and “**approved**” has a corresponding meaning; and

“**medical fitness certificate**” means a certificate attesting to a person's fitness to perform the duties which that person will carry out at sea and which is issued under regulation 61 or 66 (whether or not subject to restriction or conditions);

58. Application of Part 11

This Part does not apply to any person whose work is not part of the routine business of the ship and whose principal place of work is ashore.

59. Seafarer to have valid medical fitness certificate

(1) Subject to sub-regulations (3) and (4), no person may work as a seafarer in a ship unless that person has been issued with a medical fitness certificate which is valid and is not suspended.

(2) A seafarer who has been issued with a medical fitness certificate must carry that certificate on board during the term of that seafarer's employment in a ship.

(3) A seafarer whose medical fitness certificate has expired during the course of a voyage may continue to work until —

- (a) the first port of call at which it is possible for the seafarer to make an application for a medical fitness certificate and to be examined by a medical practitioner; or

(b) the expiry of three months starting on the date of the expiry of the certificate,

whichever is the sooner.

(4) In urgent cases, with the Governor's approval, if a person —

(a) does not hold a valid medical fitness certificate; but

(b) has held a medical fitness certificate for a period of not less than 24 months (or in the case of a person under 18 years at the date of issue of the certificate, 12 months) and that certificate has expired no earlier than one month before the date on which that person joined a ship,

that person may work as a seafarer in that ship until the first port of call at which it is possible for an application for a medical fitness certificate as respects that person to be made and for that person to be examined by a medical practitioner, but in any case not for a period exceeding three months.

(5) No person may work as a seafarer in a ship or in a geographical area precluded by any restriction in that person's medical fitness certificate.

(6) No person may work as a seafarer in a ship in breach of a condition of that person's medical fitness certificate.

(7) A breach of this regulation is an offence.

60. Employment of seafarers

(1) Subject to sub-regulations (2) and (3), no person may employ another person as a seafarer in a ship unless that other person has been issued with a medical fitness certificate which is valid and is not suspended.

(2) A person may continue to employ as a seafarer in a ship a person whose medical fitness certificate has expired during the course of a voyage until —

(a) the first port of call at which it is possible for the seafarer to make an application for a medical fitness certificate and to be examined by a medical practitioner; or

(b) the expiry of three months starting on the date of expiry of the certificate,

whichever is the sooner.

(3) In urgent cases, with the Governor's approval, if a person who is a seafarer —

(a) does not hold a valid medical fitness certificate; but

(b) has held a medical fitness certificate for a period of not less than 24 months (or in the case of a person under 18 years at the date of issue of the certificate, 12 months) and that certificate has expired no earlier than one month from the date on which the seafarer joined a ship,

another person may employ that person as a seafarer on that ship until the first port of call at which it is possible for an application for a medical fitness certificate as respects that seafarer to be made and for that seafarer to be examined by a medical practitioner, but in any case not for a period exceeding three months.

(4) No person may employ a person as a seafarer in a ship or in a geographical area precluded by any restriction in that person's medical fitness certificate.

(5) No person may employ a person as a seafarer in a ship in such a way as to breach a condition of the person's medical fitness certificate.

(6) A breach of this regulation is an offence.

61. Application for and issue of medical fitness certificate

(1) If —

- (a) an application for a medical fitness certificate is made to a medical practitioner;
- (b) the appropriate fee has been paid;
- (c) the medical practitioner has examined the person to whom the application relates; and
- (d) having had regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M), the medical practitioner considers that the person to whom the application relates is fit to perform the duties which that person will carry out at sea in accordance with his or her seafarers' employment agreement,

the medical practitioner must issue that person with a medical fitness certificate in the form specified in the United Kingdom Merchant Shipping Notice 1839(M).

(2) A person applying for a medical fitness certificate must disclose to the medical practitioner to whom the application is made —

- (a) all existing medical conditions from which the person suffers and of which the person is aware (if any); and
- (b) all medication which the person is taking (if any).

(3) Disclosure required by sub-regulation (2) must be made with the application or as soon as reasonably practicable afterwards.

(4) A medical fitness certificate may, as the medical practitioner considers appropriate —

- (a) be restricted to such capacity of work or geographical areas as that practitioner records on the certificate; and
- (b) be subject to such conditions as that practitioner records in accordance with the requirements of the United Kingdom Merchant Shipping Notice 1839(M).

(5) If a person is employed as a seafarer, or has been offered employment as a seafarer, at the time an application is made for a medical fitness certificate under sub-regulation (1), the person's employer must ensure that the application is made and processed at no cost to the person to whom it relates.

(6) An employer who fails to comply with sub-regulation (5) is guilty of an offence.

62. Period of validity of medical fitness certificate

A medical fitness certificate is valid only from the date of the medical examination or the date of consideration by a medical referee, as appropriate, and for the following maximum periods —

- (a) in respect of a person under 18 years of age, one year; and
- (b) in respect of a person of 18 years of age or over, two years,

or, in either case, such shorter period as is specified on the certificate.

63. Medical fitness certificates: non-Falkland Islands certificates

(1) A certificate of medical fitness to work as a seafarer which has been issued to a person —

- (a) under regulation 8 or 14 of the Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010 (S.I. 2010/737) as they apply in the United Kingdom; or
- (b) by an authority empowered to issue such certificates by the laws of any country or territory outside the Falkland Islands specified in the United Kingdom Merchant Shipping Notice 1815(M) Amendment 1,

is for the purposes of regulations 59, 60 and 64, and for the purposes of regulation 65 other than regulation 65(1)(d), equivalent to a medical fitness certificate, but only until the expiry date specified on the certificate.

(2) A certificate to which sub-regulation (1) applies is not equivalent to a medical fitness certificate unless it is issued in English, or in English and some other language.

64. Reporting of medical conditions

(1) A seafarer who holds a medical fitness certificate and who —

- (a) is, or is likely to be, absent from work for a period of thirty days or more due to a medical condition; or
- (b) develops a significant medical condition,

must report that medical condition as soon as practicable.

(2) A report made in accordance with sub-regulation (1) must be made —

- (a) in the case of a person who has been issued with a certificate of medical fitness, to the authority which issued that certificate;

(b) in any other case, to a medical practitioner.

(3) If a seafarer must make the report required by sub-regulation (1), the validity of that seafarer's medical fitness certificate or certificate of medical fitness is suspended from the date on which it first becomes practicable for that seafarer to make the report until the date (if any) on which a medical practitioner or the authority (as appropriate) has assessed, if necessary by conducting a medical examination of the seafarer, that the seafarer is fit having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M).

65. Suspension and cancellation of medical fitness certificate

(1) This regulation applies if a medical practitioner has reasonable grounds for believing that —

- (a) there has been a significant change in the medical fitness of a person during the period of validity of that person's medical fitness certificate;
- (b) a person is not complying with the terms of a condition to which that person's medical fitness certificate is subject;
- (c) when a medical fitness certificate was issued to a person, had a medical practitioner been in possession of full details of that person's condition, the medical practitioner could not reasonably have considered that the person was fit, having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M); or
- (d) a medical fitness certificate was issued to a person otherwise than in accordance with these regulations.

(2) If this regulation applies, the medical practitioner may —

- (a) suspend the validity of that medical fitness certificate until the person to whom the certificate was issued has undergone further medical examination;
- (b) suspend the validity of the medical fitness certificate for such period as the medical practitioner considers the person to whom the certificate was issued will remain unfit to perform the duties that person will carry out at sea; or
- (c) cancel the certificate if the medical practitioner considers that the person to whom the certificate was issued is likely to remain permanently unfit to perform the duties that person will carry out at sea,

and must notify the person concerned accordingly.

(3) The medical practitioner may require that a seafarer surrenders a medical fitness certificate which has been issued to that person and which has been suspended or cancelled pursuant to sub-regulation (2), as that practitioner directs.

(4) In this regulation, a “**significant change in the medical fitness of a person**” is a condition which affects or would be reasonably likely to affect that person's ability to carry out their duties, including their ability to undertake emergency duties.

(5) A seafarer who fails without reasonable excuse to comply with a requirement made under sub-regulation (3) is guilty of an offence.

66. Review of medical practitioner's decision

(1) A person who is aggrieved by —

- (a) the refusal of a medical practitioner to issue a medical fitness certificate in accordance with regulation 61;
- (b) any restriction imposed on such a certificate; or
- (c) the suspension for a period of more than three months or cancellation of such a certificate by a medical practitioner pursuant to regulation 65,

may apply to the Governor for the matter to be reviewed by a single medical referee appointed by the Governor.

(2) The Governor must have the matter reviewed if the application —

- (a) was lodged with the Governor within one month of the date on which the applicant was given notice of refusal, imposition of a restriction, suspension or cancellation;
- (b) includes a consent for the medical practitioner responsible for the refusal, imposition of a restriction, suspension or cancellation to provide a report to the medical referee; and
- (c) specifies the name and address of that practitioner.

(3) If an application is made after the time prescribed in sub-regulation (2)(a), the Governor, upon consideration of any reasons for the lateness of the application, may decide that the matter is nonetheless to be reviewed.

(4) If requested by the applicant, the medical practitioner must send to the applicant a copy of the report of the medical practitioner and any other evidence provided to the medical practitioner to the medical referee.

(5) In a case within sub-regulation (1)(a) or (c), if in the light of the medical evidence, and having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M), the medical referee considers that the applicant is fit to perform the duties that person will carry out at sea, the medical referee must issue to the applicant a medical fitness certificate in the form specified in the United Kingdom Merchant Shipping Notice 1839(M), or terminate the suspension of the applicant's medical fitness certificate, as the case may be.

(6) In a case within sub-regulation (1)(a), (b) or (c), and having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M), if in the light of the medical evidence the medical referee considers that restrictions as to capacity of work or geographical areas should be imposed on a certificate issued to the applicant, or that any restriction so imposed by a medical practitioner should be deleted or varied, the medical referee must issue to the applicant a medical fitness certificate in the form specified in the United Kingdom Merchant Shipping Notice 1839(M) which records any restrictions as so imposed or varied, and the former certificate shall cease to have effect.

(7) If in the light of the medical evidence and having regard to the medical standards specified in the United Kingdom Merchant Shipping Notice 1839(M), the medical referee considers that the applicant is unfit to perform the duties that person will carry out at sea, the medical referee must notify the applicant of the period during which the medical referee considers that the applicant will remain unfit to go to sea.

(8) If the applicant fails to attend an appointment with the medical referee without giving adequate notice, then the Governor may recover from the applicant as a civil debt the cost incurred by the Governor of that appointment.

67. Health assessment and transfer of seafarers on night watchkeeping duties

(1) If —

(a) a medical practitioner or medical referee has certified that a seafarer engaged on watchkeeping duties is suffering from health problems which the practitioner considers to be due to the fact that the seafarer performs work during the night; and

(b) it is possible for the seafarer's employer to transfer the seafarer to work —

(i) to which the seafarer is suited; and

(ii) which is to be undertaken other than at night,

the employer must transfer the seafarer accordingly.

(2) A breach of sub-regulation (1) is an offence by the employer.

68. Medical examinations and reviews: records and returns

(1) A medical practitioner or medical referee who conducts a medical examination or a review in accordance with this Part must —

(a) make and retain for ten years a record of each such examination or review which that medical practitioner or medical referee carries out pursuant to this Part; and

(b) send to the Governor on the Governor's written request a return of all such examinations or reviews.

(2) In keeping the record and making any return required under sub-regulation (1), the medical practitioner or medical referee must use the relevant form or forms specified in the United Kingdom Merchant Shipping Notice 1839(M).

69. Replacement certificates

(1) Unless a medical fitness certificate has been surrendered under regulation 65(3), if a person who was issued with a medical fitness certificate which is still valid is no longer in possession of that certificate, then upon —

(a) application being made by that person or that person's employer to the medical practitioner or referee who issued the certificate; and

- (b) payment of the medical practitioner's or referee's administrative costs of issuing the replacement,

the medical practitioner or referee who issued that certificate may issue to that person a replacement medical fitness certificate.

- (2) A replacement medical fitness certificate issued under this regulation expires on the expiration date of the original medical fitness certificate which it replaces.

PART 12 - SHIPOWNERS' LIABILITY

70. Interpretation of Part 12

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).

71. Shipowners' liability for seafarer unemployment and losses following loss or foundering of ship

- (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 under the seafarers' 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 sub-regulation (2)), the shipowner must pay compensation to the seafarer subject to, and in accordance with, applicable general law.

- (4) In relation to loss other than personal injury or death, the duty in sub-regulation (3) is limited to the amount specified (if any) in the seafarers' employment agreement.

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

72. Shipowners' liability for wages following sickness or injury sustained by seafarer

- (1) Subject to sub-regulation (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 seafarers' 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 45 ends under regulation 47; 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 sub-regulation (1)(a)(i) does not receive the wages payable under the seafarers' employment agreement in respect of the period specified in sub-regulation (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 sub-regulation (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 45 ends under regulation 47 (or, if such a duty does not arise, the date on which the seafarer leaves the ship).
- (4) If a seafarer falling within sub-regulation (1) is incapable of work after the date on which the duty to repatriate the seafarer under regulation 45 ends under regulation 47 (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 seafarers' 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 the period of incapacity 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 the period of incapacity.
- (5) **“Period of incapacity”** means —
- (a) where the seafarer's seafarers' employment agreement does not specify a date on which the agreement is to terminate, the shorter of the following —

- (i) the period of 16 weeks beginning with the day (“**the start day**”) after the date of injury or the first day of sickness referred to in sub-regulation (1);
 - (ii) the period beginning with the start day and ending with the date that the seafarer is again fit for work; and
 - (iii) the period beginning with the start day and ending with the date that the agreement terminates; or
- (b) where the seafarer’s seafarers’ employment agreement does specify a date on which the agreement is to terminate, the shorter of the following —
- (i) the period specified in sub-regulation (a)(i);
 - (ii) the period specified in sub-regulation (a)(ii);
 - (iii) the period specified in sub-regulation (a)(iii); and
 - (iv) the period beginning with the start day and ending with the termination date specified in the agreement.

(6) The duty in sub-regulation (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 Falkland Islands 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 sub-regulation (6) in respect of the period of incapacity or any part of that period —

- (a) the amount which the shipowner must pay to the seafarer under sub-regulation (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 of incapacity.

(9) The sums payable to the seafarer under sub-regulations (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 seafarers’ employment agreement.

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

(11) Sub-regulations (1) to (10) of this regulation do not apply to a seafarer where —

- (a) the injury referred to in sub-regulation (1) was sustained while the seafarer was not at work;
- (b) the injury or sickness referred to in sub-regulation (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 seafarers' employment agreement, and the seafarer deliberately concealed the sickness or incapacity from the shipowner.

(12) A collective agreement may exclude or limit the operation of sub-regulations (4) to (9) if it requires the person responsible under the agreement for paying seafarers to pay incapacitated seafarers the relevant amount for the period of incapacity.

(13) In sub-regulation (12) —

“incapacitated seafarer” means a seafarer party to the collective agreement who would otherwise receive a payment by virtue of sub-regulation (4); and

“relevant amount” in relation to a period of incapacity means the whole or a specified percentage of the basic wages that would have been payable under the incapacitated seafarer's seafarers' employment agreement if —

- (a) the seafarer had remained fit for work; and
- (b) (where the agreement would otherwise have terminated during the period that the seafarer was not fit for work) the agreement had continued on the same terms throughout that period.

(14) The purported termination by any person of a seafarer's seafarers' employment agreement is to have no effect if it is solely or mainly for the purpose of avoiding liability to make any payment under this regulation.

73. Property left behind by sick or injured seafarer

To the extent it would not otherwise apply, regulation 50(2), (4), (6) to (8), (10), (11) and (13) applies in respect of property left behind on board a ship by a seafarer falling within regulation 72(1).

74. Shipowners' liability in respect of burial or cremation of seafarer

(1) Subject to sub-regulation (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 sub-regulation (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 sub-regulation (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.

PART 13 - SECURITY AGAINST SHIPOWNER'S LIABILITY FOR DEATH OR LONG TERM DISABILITY OF SEAFARERS

75. Interpretation of Part 13

In this Part —

“**shipowner's security**” has the meaning given in regulation 77; and

“**shipowner's security document**” has the meaning given in regulation 81(6).

76. Shipowner's security requirement

(1) A ship must not be operated unless a shipowner's security is in force in relation to the ship.

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

77. Shipowner's security

(1) “**Shipowner's security**” means a contract of insurance or other form of security relating to a ship that satisfies the first and second conditions.

(2) The first condition is that the shipowner's security must provide financial assurance of an amount which the shipowner reasonably considers adequate to ensure that the shipowner will be able to meet any liabilities that 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) The second condition is that the shipowner's security must provide that a claim for compensation may be submitted directly to the shipowner's security provider by —

(a) any relevant seafarer who sustains a long term disability arising from a relevant occupational injury, illness or hazard; and

(b) the personal representatives of any deceased relevant seafarer, the death of whom arose from a relevant occupational injury, illness or hazard.

(4) In this regulation —

“**relevant occupational injury, illness or hazard**” means an occupational injury, illness or hazard—

- (a) occurring during the period of validity of the shipowner's security; and
- (b) in relation to which the shipowner is, or may be, liable to provide compensation to the seafarer or, as the case may be, the seafarer's estate; and

“**relevant seafarer**” means a seafarer whose normal place of work during the period of validity of the shipowner's security is, or was, on board the ship.

78. Payment of contractual compensation

(1) This regulation applies where a claim for contractual compensation is submitted to a shipowner's security provider.

(2) A shipowner's security provider must pay the contractual compensation to the seafarer, or the seafarer's personal representative, within 7 days beginning with the date on which it is established that the shipowner is liable for the contractual compensation either —

- (a) by agreement between —
 - (i) the shipowner's security provider; and
 - (ii) the seafarer or the seafarer's personal representative; or
- (b) by order of a court or tribunal which is not subject to appeal.

(3) A shipowner's security provider who fails to comply with sub-regulation (2) must pay to the seafarer, or the seafarer's personal representative, interest on the unpaid amount at the rate of 10% per year beginning with the date on which the shipowner's security provider becomes liable to pay compensation to the seafarer under subsection (2).

(4) In this regulation, “**claim for contractual compensation**” means a claim for compensation in the event of death or long term disability of a seafarer arising from occupational injury, illness or hazard where the compensation payable in respect of the claim is set out in the seafarer's seafarer employment agreement; and “**contractual compensation**” is to be construed accordingly.

79. Interim payments

(1) A seafarer is entitled to a payment (an “**interim payment**”) from a shipowner's security provider if the following conditions are satisfied —

- (a) the shipowner is liable to pay compensation to the seafarer due to the seafarer having sustained a long term disability arising from an occupational injury, illness or hazard;
- (b) the occupational injury, illness or hazard occurred during the period of validity of the shipowner's security;
- (c) the shipowner's security provides financial assurance in respect of the compensation mentioned in sub-regulation (a);
- (d) the full amount of compensation payable has not yet been determined; and

- (e) the seafarer has reasonable grounds to show that he or she is suffering undue hardship.
- (2) A seafarer entitled under sub-regulation (1) may make a request for an interim payment to the shipowner's security provider.
- (3) A request under sub-regulation (2) must be supported by evidence that the seafarer satisfies the conditions in sub-regulation (1).
- (4) A shipowner's security provider must within 14 days of receipt of the request from the seafarer determine whether the conditions in sub-regulation (1) are satisfied.
- (5) If, in contravention of sub-regulation (4), a shipowner's security provider does not determine whether the conditions in sub-regulation (1) are satisfied, it must make an interim payment within 21 days of the receipt of the request from the seafarer.
- (6) Where a shipowner's security provider determines that the conditions in sub-regulation (1) are satisfied, it must make the interim payment within 21 days of the receipt of the request from the seafarer.
- (7) The minimum amount of an interim payment is —
- (a) where an amount in respect of any part of the claim has been determined and payment of that amount would be sufficient to alleviate the seafarer's hardship, the amount so determined; or
 - (b) where no amount in respect of any part of the claim has been determined, or the amount which has been determined is not sufficient to alleviate the seafarer's hardship, the lower of—
 - (i) such amount as would alleviate the seafarer's hardship; and
 - (ii) 75% of the likely total amount of compensation payable in respect of the claim as estimated by the shipowner's security provider.
- (8) Where, in contravention of sub-regulation (5) or (6), a shipowner's security provider does not make an interim payment, the shipowner's security provider must pay interest on the unpaid amount at a rate of 10% per year from the date of receipt of the request from the seafarer.
- (9) A shipowner's security provider who makes an interim payment may deduct the amount of the interim payment from the full amount of compensation payable in respect of the shipowner's liability.
- (10) A shipowner's security provider who —
- (a) has made an interim payment under sub-regulation (5); and
 - (b) establishes that the conditions in sub-regulation (1) were not satisfied,

may recover as a civil debt the amount of the interim payment less any interest payable under sub-regulation (8).

(11) A shipowner's security provider may recover as a civil debt any proportion of an interim payment which exceeds the full amount of compensation payable in respect of a claim.

80. Offence of undue pressure

A person is guilty of an offence if the person induces another to accept less than the full amount of compensation payable (as set out in a seafarer's seafarer employment agreement), in respect of the death or long term disability of a seafarer arising from occupational injury, illness or hazard.

81. Duty to carry and display shipowner's security document

(1) The shipowner must ensure that for each shipowner's security in force in relation to the ship, a shipowner's security document containing the information specified in Schedule 4 is carried on board.

(2) The shipowner must ensure that each shipowner's security document that relates to the ship and is not in English, has with it an English translation.

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

(4) The shipowner and master of the ship must ensure that each shipowner's security document that relates to the ship, together with any English translation, is displayed in a conspicuous place on board ship.

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

(6) "Shipowner's security document" means a certificate or other documentary evidence of a shipowner's security issued by the shipowner's security provider.

82. Termination of shipowner's security on notice to the Governor

(1) The termination by a shipowner's security provider of a shipowner's security before the end of its period of validity is effective only if the shipowner's security provider gives at least 30 days' prior notice to the Governor.

(2) A notice under sub-regulation (1) must —

(a) be in writing; and

(b) include a copy of the shipowner's security document.

83. Duty on shipowner's security provider to notify the Governor where a shipowner's security has been terminated

(1) If a shipowner's security provider terminates a shipowner's security before the end of its period of validity, the shipowner's security provider must give notice to that effect to the Governor.

(2) A notice under sub-regulation (1) must —

(a) be in writing; and

(b) include a copy of the shipowner's security document.

(3) Failure to give notice under sub-regulation (1) within the period of 30 days beginning with the date on which the shipowner's security was terminated is an offence by the shipowner's security provider.

84. Duty on shipowner to notify seafarers if shipowner's security is to be terminated

(1) Where a shipowner becomes aware that any shipowner's security that relates to the ship is to be, or has been, terminated before the end of its period of validity, the shipowner must give notice to that effect to all seafarers who work on the ship during the notification period.

(2) A notice under sub-regulation (1) must —

(a) be in writing;

(b) state the date on which the shipowner's security is to be or was terminated; and

(c) be given as soon as reasonably practicable after the shipowner becomes aware that the shipowner's security is to be or was terminated.

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

(4) In this regulation, the "**notification period**" means the period —

(a) beginning with the date on which the shipowner becomes aware that the shipowner's security is to be, or has been, terminated before the end of its period of validity; and

(b) ending with the date that the shipowner becomes aware that the shipowner's security has been replaced or reinstated.

PART 14 - SECURITY AGAINST THE ABANDONMENT OF SEAFARERS

85. Interpretation of Part 14

In this Part —

"**abandonment security**" has the meaning given in regulation 88(1);

"**relevant period**" has the meaning given in regulation 86(3); and

"**wages**" has the same meaning as in section 70.

86. Abandonment

(1) A seafarer is "**abandoned**" in relation to a ship if the shipowner —

(a) fails to make the provision required under regulation 45 (duty to repatriate seafarers);

- (b) having regard to the seafarer's personal circumstances and requirements, leaves the seafarer without necessary maintenance and support, including —
 - (i) adequate food;
 - (ii) drinking water supplies;
 - (iii) clothing, where necessary;
 - (iv) accommodation;
 - (v) essential fuel for survival on board the ship; or
 - (vi) necessary medical care; or
- (c) otherwise unilaterally severs ties with the seafarer, including failing to pay any amount in respect of wages payable to the seafarer under the seafarer's seafarer employment agreement for a period of at least two months.

(2) An abandoned seafarer ceases to be abandoned in relation to a ship if, after the end of the relevant period, the seafarer continues, resumes or takes up new employment on board the ship or is engaged on board the ship.

(3) The “**relevant period**” begins with the day on which the seafarer is abandoned and ends with the earliest of the following events —

- (a) the seafarer's arrival in or at —
 - (i) the seafarer's country of residence;
 - (ii) the destination provided in the seafarer's seafarer employment agreement as being that to which the seafarer should be returned in the event that the seafarer is repatriated; or
 - (iii) such place as the seafarer has agreed in advance with —
 - (aa) the abandonment security provider; or
 - (bb) any person who has made provision for the seafarer's repatriation;
- (b) the seafarer refusing unreasonably to be repatriated, or to co-operate with arrangements made for the seafarer's repatriation;
- (c) the expiry of a period of 3 months during which the abandonment security provider has used reasonable endeavours to contact the seafarer but has been unable to make such contact;
- (d) the abandonment security provider receives written confirmation from the seafarer that financial assistance is no longer required; or
- (e) the death of the seafarer.

87. Abandonment security requirement

- (1) A ship must not be operated unless an abandonment security is in force in relation to the ship.
- (2) A breach of sub-regulation (1) is an offence by the shipowner.

88. Abandonment security

- (1) “**Abandonment security**” means a contract of insurance or other form of security relating to a ship that —
 - (a) provides financial assurance of an amount which the shipowner reasonably considers adequate to cover the items in sub-regulation (2)(a) to (d) for any seafarer who is abandoned in relation to the ship; and
 - (b) provides that any seafarer who is abandoned in relation to the ship is entitled to —
 - (i) make an abandonment claim; and
 - (ii) receive financial assistance in respect of the items in sub-regulation (2)(a) to (d).
- (2) The items referred to in sub-regulation (1)(a) and (b)(ii) are —
 - (a) up to four months’ unpaid wages relating to work undertaken by the seafarer before the end of the relevant period;
 - (b) the cost during the relevant period of —
 - (i) adequate food;
 - (ii) drinking water supplies;
 - (iii) clothing, where necessary;
 - (iv) accommodation;
 - (v) essential fuel for survival on board the ship; and
 - (vi) necessary medical care;
 - (c) the cost of repatriation, including —
 - (i) the cost of appropriate travel arrangements and any related costs of passage, but this may be limited to travel or passage that is completed before the seafarer ceases to be abandoned; and
 - (ii) the cost of transport of the seafarer’s personal effects; and
 - (d) all other expenses reasonably incurred by the seafarer before the end of the relevant period as a result of being abandoned.

(3) In this regulation —

“**abandonment claim**” is a claim for financial assistance that —

- (a) is submitted directly to the abandonment security provider by —
 - (i) an abandoned seafarer; or
 - (ii) a person authorised by the seafarer to act on the seafarer’s behalf; and
- (b) is supported by evidence showing that the seafarer is abandoned; and

“**relevant period**” has the meaning given in regulation 86(3).

89. Consideration and payment of abandonment claims

(1) This regulation applies where an abandonment claim is made.

(2) The abandonment security provider to whom the abandonment claim is made must, within 7 days of receipt of the claim, determine whether the seafarer is entitled to receive financial assistance.

(3) An abandonment security provider who determines that a seafarer is entitled to receive financial assistance (whether in relation to the whole or any part of an abandonment claim), must within 14 days of receipt of the claim, provide such assistance, whether or not there are further parts of the claim yet to be determined.

(4) An abandonment security provider who in contravention of sub-regulation (2) fails to determine whether a seafarer is entitled to receive financial assistance in relation to the whole or part of an abandonment claim, must within 14 days of receipt of the claim provide financial assistance in the amount claimed by the seafarer.

(5) Where, in contravention of sub-regulation (3) or (4) financial assistance is not provided, the abandonment security provider must pay interest on the unpaid amount at the rate of 10% per year from the date of receipt of the claim.

(6) An abandonment security provider who —

- (a) has provided financial assistance to a seafarer under sub-regulation (3); and
- (b) establishes that the seafarer was not entitled to receive the financial assistance,

may recover as a civil debt the amount of the financial assistance less any interest payable under sub-regulation (5).

(7) In this regulation “**abandonment claim**” has the meaning given in regulation 88(3).

90. Subrogation

(1) Sub-regulation (2) applies where an abandonment security provider provides financial assistance (“**the sum provided**”) to a seafarer under an abandonment security.

(2) Any rights which a seafarer has (or but for the payment of that sum would have had) against the shipowner as a result of being abandoned are, with respect to the sum provided, transferred to and vested in the abandonment security provider.

91. Duty to carry and display an abandonment security document

(1) The shipowner must ensure that, for each abandonment security in force in relation to the ship, an abandonment security document containing the information specified in Schedule 5 is carried on board.

(2) The shipowner must ensure that each abandonment security document that relates to the ship and is not in English, has with it an English translation.

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

(4) The shipowner and the master of a ship must ensure that each abandonment security document that relates to the ship, together with any English translation, is displayed in a conspicuous place on board ship.

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

(6) “**Abandonment security document**” means a certificate or other documentary evidence of abandonment security issued by the abandonment security provider.

92. Termination of abandonment security effective only where notice given

(1) The termination by an abandonment security provider of an abandonment security before the end of its period of validity is effective only if the abandonment security provider gives at least 30 days’ prior notice to the Governor.

(2) A notice under sub-regulation (1) must —

(a) be in writing; and

(b) include a copy of the abandonment security document.

(3) “**Abandonment security document**” has the meaning given in regulation 91(6).

93. Duty on shipowner to notify seafarers if abandonment security is to be terminated

(1) Where the shipowner becomes aware that any abandonment security that relates to a ship is to be, or has been, terminated before the end of its period of validity, the shipowner must give notice to that effect to all seafarers who work on the ship during the notification period.

(2) A notice under sub-regulation (1) must —

(a) be in writing;

(b) state the date on which the abandonment security is to be or was terminated; and

(c) be given as soon as reasonably practicable after the shipowner becomes aware that the abandonment security is to be or was terminated.

- (3) A breach of sub-regulation (1) is an offence by the shipowner.
- (4) In this regulation, the “**notification period**” means the period —
 - (a) beginning with the date on which the shipowner becomes aware that the abandonment security is to be, or has been, terminated before the end of its period of validity; and
 - (b) ending with on the date that the shipowner becomes aware that the abandonment security has been replaced or reinstated.

PART 15 - COMPLAINTS PROCEDURES

94. On-board and on-shore complaints procedure

- (1) The shipowner and the master of a ship must ensure that there is available to a seafarer on that ship a procedure to lodge a complaint alleging a breach of the requirements of the MLC and for that complaint to be resolved fairly, effectively and expeditiously.
- (2) A procedure to lodge a complaint and have it resolved must —
 - (a) seek to resolve the complaint at the lowest level possible;
 - (b) enable a seafarer to complain directly to the master of the ship and appropriate external authorities;
 - (c) include the right of the seafarer to be accompanied or represented during any hearing which takes place under that procedure; and
 - (d) comply with the requirements of the United Kingdom Merchant Shipping Notice 1849(M).
- (3) The shipowner and the master of a ship must ensure that a seafarer joining the ship is or has been provided with —
 - (a) a copy of the complaints procedure which is available to the seafarer in accordance with sub-regulation (1);
 - (b) contact information for the certifying authority for the ship;
 - (c) where applicable, contact information for the authority which is the competent authority for the purposes of the MLC in the seafarer’s country of residence; and
 - (d) the name of a person on board the ship who can, on a confidential basis, provide the seafarer with impartial advice on their complaint and otherwise assist them in following the complaints procedure.
- (4) A seafarer may lodge a complaint with the Governor alleging a breach of the requirements of the MLC, and the Governor must treat the source of any such complaint as confidential.

(5) The shipowner and the master of a ship must ensure that a seafarer is not subjected to any detriment on the grounds that the seafarer has lodged a complaint, whether through an on-board procedure or to the Governor, alleging a breach of the requirements of the MLC.

(6) For the purposes of sub-regulation (2)(a), “**seeking to resolve the complaint at the lowest level possible**” means —

- (a) having the complaint considered by the lowest level of manager or officer who has the expertise and authority appropriate to consider such a complaint, provided that the person considering the complaint is not directly involved with the particular complaint;
- (b) if that person is unable to resolve or reject the complaint, escalating the complaint to be considered by the next level of manager or officer who has the expertise and authority appropriate to consider such a complaint, provided that the person considering the complaint is not directly involved with the particular complaint; and
- (c) continuing to escalate the complaint in such manner until it is resolved or rejected.

(7) In sub-regulation (3), “**certifying authority**” means —

- (a) the Governor; or
- (b) an organisation which –
 - (i) has an agreement with the Governor which authorises it to undertake surveys of ships; and
 - (ii) is recognised by the Governor as meeting the requirements of Regulation 5.1.2 and Standard A5.1.2 of the MLC.

PART 16 - INSPECTION AND DETENTION OF SHIPS

95. Inspection of Falkland Islands ship and non-MLC foreign ship

For the purpose of checking compliance with these regulations, a relevant inspector or a proper officer may at all reasonable times go on board a ship and carry out an inspection of the ship, its equipment, any articles on it and any document carried on it in accordance with Standard A5.2.1 of the MLC.

96. Inspection of medical certificates of seafarers on a non-MLC foreign ship

(1) For the purpose of checking compliance with Part 11 a relevant inspector or a proper officer may require any seafarer on board a non-MLC foreign ship to produce any document, in order to ascertain whether the requirements of Regulation 1.2 and Standard A1.2 of the MLC are met in relation to the seafarers working on that ship.

(2) Any person who —

- (a) obstructs a relevant inspector in the exercise of his powers under this regulation; or

- (b) fails without reasonable excuse to comply with a requirement made under this regulation,

is guilty of an offence.

97. Inspection: Supplemental provision

(1) Sections 239 (powers to require production of ships' documents) and 240(1), (3) and (5) of the Maritime Ordinance 2017 (powers to inspect ships and their equipment, etc.) apply in relation to regulation 95 as if references in those sections to "this section" and "subsection (1) above" were references to regulation 95.

(2) Sections 241(1), (2), (5), (6) and (9) to (11) and 242(1) and (2) of the Maritime Ordinance 2017 (powers of inspectors in relation to premises and ships, and supplementary provisions) apply in relation to the inspection of a ship to which regulation 95 applies as if —

- (a) references in those sections to "this Ordinance" were to these regulations;
- (b) for section 241(1)(b) there were substituted a reference to any ship to which regulation 95 applies;
- (c) in section 241(2)(h)(iii) the words "or any instrument made under it" were omitted; and
- (d) in section 241(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".

(3) Any regulations made under section 241(7) or section 242(3) of the Maritime Ordinance 2017 apply for the purposes of the provisions of those sections as applied by sub-regulation (2) as they apply for the purposes of the Maritime Ordinance 2017.

(4) Sections 243 to 248 of the Maritime Ordinance 2017 apply for the purposes of these regulations as if the meaning of "the relevant statutory provisions" in section 243(4) included these regulations.

98. Inspection of Government ships

Sections 239 to 248 of the Maritime Ordinance 2017 apply in relation to Government ships which are inspected for the purposes of these regulations.

99. Detention of ships

(1) Where a relevant inspector has reasonable grounds for believing that —

- (a) a ship does not comply with these regulations; and
- (b) (i) the conditions on board are hazardous to the health, safety 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 reasonable grounds for believing that —

- (a) the shipowner has failed to make provision in connection with which the Governor has incurred costs under regulation 53; and
- (b) the Governor has requested reimbursement of those costs but has not been reimbursed,

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

100. Supplementary provisions as respects detention of ships

(1) The power under regulation 99 to detain a ship may be exercised as regards a Falkland Islands ship wherever it may be, but as regards a non-MLC foreign ship, it may only be exercised if the ship in question is —

- (a) in a port or shipyard in the Falkland Islands; or
- (b) at an offshore installation in Falkland Islands waters or controlled waters.

(2) A person having powers to detain a ship may permit a ship which is liable to be detained under regulation 99 to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard available.

(3) Section 268 of the Maritime Ordinance 2017 (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 Maritime Ordinance 2017 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 99, 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 268(1) of the Maritime Ordinance 2017.

(5) Where a ship other than a Falkland Islands' ship is detained, the Governor 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.

(6) In the exercise of the power under regulation 99, a ship must not be unduly detained or delayed.

101. Release of ship detained

(1) Where a ship is detained under these regulations, and none of the grounds for detention continue 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;
- (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 Governor by way of security; or
 - (ii) security which, in the opinion of the Governor, is satisfactory and is given for an amount of not less than £30,000, is provided to the Governor,

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 and that person has paid any fines, costs or expenses arising out of that conviction; 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, and any bond or other financial security ordered by such court or tribunal is posted.

(2) The Governor must repay any sum paid in pursuance of sub-regulation (1)(c) or release any security so provided —

- (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 provided; 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.

(3) Where a sum has been paid, or security has been provided, by any person in pursuance of sub-regulation (1)(c) and the shipowner or the master of the ship is convicted of an offence under these regulations, the sum so paid or the security provided 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 person who paid the sum.

(4) Section 156 of the Maritime Ordinance 2017 (interpretation of section 155) applies for the purposes of sub-regulations (1) and (2) 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 140 were references to an offence under these Regulations.

102. Arbitration and compensation in relation to detentions

(1) This regulation applies to the detention of a ship under regulation 99.

(2) Sections 93 and 94 of the Maritime Ordinance 2017 apply in relation to a detention notice under regulation 100(4) as they apply to a detention notice under section 92(4) of the Maritime Ordinance 2017.

(3) In its application by virtue of sub-regulation (2), section 93 of the Maritime Ordinance 2017 (references of detention notices to arbitration) applies as if —

- (a) in subsection (1), for the words “owner of a ship” there were substituted “shipowner”;
- (b) in subsection (2) —
 - (i) for the words “owner of a ship” there were substituted “shipowner”; and
 - (ii) the words from “unless” to the end were omitted;
- (c) in subsection (3), the words “to whether the ship was or was not a dangerously unsafe ship” were omitted;
- (d) in subsection (5), the words “as a dangerously unsafe ship” were omitted.

(4) In its application by virtue of sub-regulation (2), section 94 of the Maritime Ordinance 2017 (compensation in connection with invalid detention of a ship) applies as if for subsection (1) there were substituted —

“(1) If on a reference under section 93 relating to a detention notice, the shipowner in relation to the ship shows to the satisfaction of the arbitrator that —

- (a) any matter did not constitute a valid basis for the relevant inspector’s opinion; and
- (b) there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may award the shipowner such compensation in respect of any loss suffered by the shipowner in consequence of the detention of the ship as the arbitrator thinks fit.”

103. Release of information

The Governor must ensure the publication, at least annually, of the information specified in the United Kingdom Merchant Shipping Notice 1848(M) concerning ships which during the previous year have been detained in a port in the Falkland Islands under these regulations.

PART 17 – MLC REQUIREMENTS RELATING TO MLC FOREIGN SHIPS

104. Minimum age: MLC foreign ships

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.

105. Seafarers' employment agreements: MLC foreign ships

A ship must not be operated unless it complies with the following requirements in Standard A2.1 of the MLC —

- (a) paragraph 1 (seafarers to have a seafarers' employment agreement);
- (b) paragraph 4 (particulars to be contained in a seafarers' employment agreement); and
- (c) paragraph 7 (seafarers' employment agreement to continue to have effect while a seafarer is in captivity),

whether or not the State whose flag the ship is entitled to fly has adopted any relevant laws or regulations.

[S.R.&O 3/2024/w.e.f. 23/12/2024]

106. Wages: MLC foreign ships

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

[S.R.&O 3/2024/w.e.f. 23/12/2024]

107. Hours of rest: MLC foreign ships

(1) A person mentioned in sub-regulation (2) must ensure that a seafarer in relation to a ship to which this regulation applies is provided with hours of work or hours of rest in accordance with the provisions of Standard A2.3 of the MLC.

(2) The persons are —

- (a) the shipowner in relation to the ship;
- (b) the master of the ship; and
- (c) where the seafarer is an employee, the seafarer's employer.

108. Requirement to post up table: MLC foreign ships

The master of a ship, or a person authorised by the master, must post a table of the working shipboard arrangements in accordance with the provisions of paragraphs 10 and 11 of Standard A2.3 of the MLC.

109. Exception for emergencies: MLC foreign ships

(1) The master of a ship may require a seafarer to work any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to another ship or to a person in distress at sea.

(2) As soon as practicable after the normal situation has been restored the master must ensure that any seafarer who has performed work in hours of rest scheduled in the table under regulation 90 is provided with an adequate rest period.

110. Records: MLC foreign ships

The master of a ship, or a person authorised by the master, must maintain records of seafarers' daily hours of rest or hours of work and provide copies of such records to seafarers in accordance with the provisions of paragraph 12 of Standard A2.3 of the MLC.

111. Annual leave: MLC foreign ships

The employer of a seafarer in relation to a ship must ensure that the seafarer is given paid annual leave in accordance with Regulation 2.4 of the MLC.

112. Shore leave: MLC foreign ships

The shipowner and the master of a ship must ensure that shore leave is granted to seafarers who work on the ship to benefit their health and well-being where consistent with the operational requirements of their positions.

113. Crew accommodation: MLC foreign ships

(1) Subject to sub-regulation (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 sub-regulation (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) 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.

114. Food and catering: MLC foreign ships

(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) 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.

(3) 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.

(4) 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.

115. Repatriation: MLC foreign ships

(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 A2.5.1 of the MLC, subject to any national provisions which have been adopted by the State whose flag the ship is entitled to fly pursuant to paragraph 2 of Standard A2.5.1.

(2) A shipowner must comply with —

- (a) the prohibitions in paragraph 3 of Standard A2.5.1, whether or not those prohibitions apply in the State whose flag the ship is entitled to fly; and
- (b) the requirement in paragraph 9 of Standard A2.5.1, whether or not the State whose flag the ship is entitled to fly has imposed that requirement in its national laws or otherwise.

116. Medical care: MLC foreign ships

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

(3) Sub-regulation (2) 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.

(4) In sub-regulation (2), “**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.

117. Security against shipowner’s liability for death or long term disability of seafarers: MLC foreign ships

A ship must not be operated unless financial security to assure compensation in the event of death or long term disability of seafarers arising from occupational illness, injury or hazard is provided in relation to the ship in accordance with paragraph 1 of Standard A4.2.1 of the MLC.

118. Security against the abandonment of seafarers: MLC foreign ships

A ship must not be operated unless financial security is in place for the ship in accordance with paragraph 3 of standard A2.5.2 of the MLC (financial security for abandoned seafarers).

119. Inspection: MLC foreign ships

(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) A relevant inspector may inspect a ship, and may require any seafarer on board that ship to produce any document, in order to ascertain whether the requirements of Regulation 1.2 and Standard A1.2 of the MLC are met in relation to the seafarers working on that ship

(3) Regulation 97 (Inspection: Supplemental provision) applies to the power conferred by sub-regulation (2).

(4) Where a relevant inspector who has exercised the powers conferred by sub-regulations (1)(b) or (2), is satisfied that any seafarer working in a ship is unable to prove that that seafarer is working in accordance with the medical certification requirements of Regulation 1.2 and Standard A1.2 of the MLC, the relevant inspector may send —

- (a) a report to the government of the State whose flag the ship is entitled to fly, and
- (b) a copy of the report to the Director General of the International Labour Office.

(5) In the exercise of the power under this regulation, a ship must not be unduly detained or delayed.

120. Detention of ships: MLC foreign ships

Where a relevant inspector has reasonable grounds for believing that —

- (a) an MLC foreign ship does not comply with the provisions of these regulations which apply to it: and
- (b) (i) the conditions on board are hazardous to the health, safety 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.

121. Failure to repatriate - detention of MLC foreign ships at request of foreign State

(1) Subject to sub-regulation (2), a ship is liable to be detained if the Governor 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 A2.5.1 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 Governor receives satisfactory evidence that —

- (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 Governor receives —

- (a) satisfactory evidence that the costs referred to in sub-regulation (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.

122. Supplementary provisions as respects detention of MLC foreign ships

(1) The power under regulation 120 to detain a ship may only be exercised if the ship in question is —

- (a) in a port or shipyard in the Falkland Islands; or
- (b) at an offshore installation in Falkland Islands waters or controlled waters.

(2) Regulations 100 to 103 apply to a detention under regulation 120.

123. Offences: MLC foreign ship

(1) It is an offence for the master of a ship to breach regulation 104, 107(1), 108, 109, 112, 113(3), 114(1), (2), or (3)(a).

(2) It is an offence for the employer of a seafarer to breach regulation 107(1) or 111.

(3) It is an offence for 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, to breach regulation 104.

(4) It is an offence for a person authorised by a master to breach regulation 90 or 92.

(5) It is an offence for a shipowner to breach regulation 8(3), 106, 107(1), 112, 113(1), 114(1), (3)(a), (3)(b) or (4), 115(1) or (2), 116(1) or (2), 117 and 118.

(6) In relation to regulation 105 —

- (a) a breach of regulation 105 (other than a breach of the requirement referred to in sub-regulation (b)) is an offence by the shipowner; and
- (b) a breach of regulation 105 as a consequence of a breach of the requirement in subparagraph 1(d) of Standard A2.1 of the MLC is an offence by the master of the ship.

PART 18 - GENERAL PROVISIONS

124. Penalties

(1) Subject to sub-regulations (2) to (5), offences under these regulations are punishable on summary conviction by a fine not exceeding level 5 on the scale set out in Schedule 7 to the Maritime Ordinance 2017.

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(2) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 2 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 —

- (a) regulation 17(5);
- (b) regulation 32(7);

- (c) regulation 50(3);
- (d) regulation 61(6);
- (e) regulation 67(2);
- (f) regulation 123(1), but only in relation to an offence consisting of a breach of regulation 113(3)(b); and
- (g) regulation 123(5), but only in relation to an offence consisting of a breach of regulation 106.

(3) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 3 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 —

- (a) regulation 13(7);
- (b) regulation 14(3);
- (c) regulation 32(5);
- (d) regulation 39(4);
- (e) regulation 50(5), (9) and (12);
- (f) regulation 51(3);
- (g) regulation 123(1), but only in relation to an offence consisting of a breach of regulation 113(3)(a); and
- (h) regulation 123(5), but only in relation to an offence consisting of a breach of regulation 114(1) or 115(2)(b).

[S.R.&O 3/2024/w.e.f. 23/12/2024]

(4) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 4 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 —

- (a) regulation 11(3) and (8);
- (b) regulation 13(4);
- (c) regulation 39(4);
- (d) regulation 56(2);
- (e) regulation 123(5), but only in relation to an offence consisting of a breach of regulation 116(1); and
- (f) regulation 123(6)(b).

[S.R.&O 3/2024/w.e.f. 23/12/2024]

(5) Offences under the following provisions are punishable on summary conviction by a fine not exceeding level 5 on the scale set out in Schedule 7 to the Maritime Ordinance 2017 or to imprisonment for a term not exceeding two years, or to both —

- (a) regulation 32(3);
- (b) regulation 33(4);
- (c) regulation 34(3);
- (d) regulation 35(4);
- (e) regulation 40(8);
- (ea) regulation 96; and
- (f) regulation 123(5), but only in relation to an offence consisting of a breach of regulation 113(1) or 114(4).

[S.R.&O 3/2024/w.e.f. 23/12/2024]

(6) ...

[S.R.&O 3/2024/w.e.f. 23/12/2024]

125. Defences

In any proceedings for an offence under these regulations (other than an offence under regulation 11(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 19- MISCELLANEOUS PROVISION

126. Transitional provisions relating to existing Falkland Islands ships

(1) In this regulation —

- (a) “**existing ship**” means a ship constructed before 1st January 2016; and
- (b) a reference to the date by which a ship is constructed is a reference to the date on which—
 - (i) the keel of the ship is laid; or
 - (ii) the ship is at a stage of construction at which —
 - (aa) construction identifiable with a specific ship has begun; and
 - (bb) 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.

(2) In relation to an existing Falkland Islands ship, until such date as the MLC is extended to the Falkland Islands —

(a) these regulations do not apply; and

(b) the Ordinance and any instruments made under it apply to such a ship as if it were a non-MLC ship.

(3) For the purposes of sub-regulation (2), the date the MLC is extended to the Falkland Islands is the date when notice is given to the International Labour Organisation to that effect by the United Kingdom Government.

(4) The Governor must notify the date the MLC is extended to the Falkland Islands by notice published in the *Gazette*.

(5) In this regulation, “**non-MLC ship**” has the meaning given in section 3(1) of the Ordinance.

SCHEDULE 1
Provision to be included in a Seafarers' employment agreement

(regulations 10 and 11)

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

(regulation 13)

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 in the ship.
4. Date on which seafarer started work in the ship.
5. Date and location of seafarer's discharge from the ship.

SCHEDULE 3
Workforce agreements

(regulation 20)

1. An agreement is a workforce agreement for the purposes of these regulations if the following conditions are satisfied —

- (a) the agreement is in writing;
- (b) the agreement has effect for a specified period not exceeding five years;
- (c) the agreement applies either —
 - (i) to all of the relevant members of the workforce; or
 - (ii) to all of the relevant members of the workforce who belong to a particular group;
- (d) the agreement is signed —
 - (i) in the case of an agreement of the kind referred to in paragraph (c)(i) —
 - (aa) by the representatives of the workforce; or
 - (bb) if the employer employed 20 or fewer individuals on the date on which the agreement was first made available for signature, the majority of the individuals employed by the employer; or
 - (ii) in the case of an agreement of the kind referred to in paragraph (c)(ii) —
 - (aa) by the representatives of the group to which the agreement applies (excluding, in either case, any representative not a relevant member of the workforce on the date on which the agreement was first made available for signature); or
 - (bb) if the employer employed 20 or fewer individuals on the date on which the agreement was first made available for signature, the majority of the individuals employed by the employer; and
- (e) before the agreement was made available for signature, the employer provided all the employees to whom it was intended to apply on the date on which it came into effect with copies of the text of the agreement and such guidance as those employees might reasonably require in order to understand it in full.

2. For purposes of paragraph 1 —

“**a particular group**” is a group of the relevant members of a workforce who undertake a particular function, work at a particular workplace or belong to a particular department or unit within their employer’s business;

“**employee**” means an individual who has entered into or works under a contract of employment;

“**relevant members of the workforce**” are all of the employees employed by a particular employer, excluding any employee whose terms and conditions of employment are provided for, wholly or in part, in a collective agreement; and

“**representatives of the workforce**” are employees duly elected to represent the relevant members of the workforce, “**representatives of the group**” are employees duly elected to represent the members of a particular group, and representatives are “**duly elected**” if the election at which they were elected satisfies the requirements of paragraph 3 of this Schedule.

3. The requirements concerning elections referred to in the definition of “**representatives of the workforce**” are that —

- (a) the number of representatives to be elected is determined by the employer;
- (b) the candidates for election as representatives of the workforce are relevant members of the workforce, and the candidates for election as representatives of a group are members of the group;
- (c) no employee who is eligible to be a candidate is unreasonably excluded from standing in the election;
- (d) all the relevant members of the workforce are entitled to vote for representatives of the workforce, and all the members of a particular group are entitled to vote for representatives of the group;
- (e) the employees entitled to vote may vote for as many candidates as there are representatives to be elected; and
- (f) the election is conducted so as to ensure that —
 - (i) so far as practicable, those voting do so in secret; and
 - (ii) the votes given at the election are fairly and accurately counted.

SCHEDULE 4
Information to be included in a shipowner's security document

(regulation 81)

The information to be included in a shipowner's security document is —

- (a) the name of the ship to which the shipowner's security relates;
- (b) the port of registry of the ship;
- (c) the call sign of the ship;
- (d) the International Maritime Organisation number of the ship;
- (e) the name and address of the shipowner's security provider;
- (f) the contact details of the point of contact at the shipowner's security provider responsible for handling claims made by seafarers;
- (g) the name of the owner of the ship;
- (h) the period of validity of the shipowner's security; and
- (i) a declaration from the shipowner's security provider that the shipowner's security meets the requirements of standard A4.2.1 of the MLC.

SCHEDULE 5
Information to be included in an abandonment security document

(regulation 91)

The information to be included in an abandonment security document is —

- (a) the name of the ship to which the abandonment security relates;
- (b) the port of registry of the ship;
- (c) the call sign of the ship;
- (d) the International Maritime Organisation number of the ship;
- (e) the name and address of the abandonment security provider;
- (f) the contact details of the point of contact at the abandonment security provider responsible for handling seafarers' abandonment claims;
- (g) the name of the owner of the ship;
- (h) the period of validity of the abandonment security; and
- (i) a declaration from the abandonment security provider that the abandonment security meets the requirements of standard A2.5.2 of the MLC.