

CHAPTER 16
SECTION 1

ANNEX A

SEAMEN

CONTROL OF SEAMEN - PRACTICAL CONSIDERATIONS**1. CONTACT WITH SHIPPING AGENTS**

Shipowners employ the services of shipping agents for their vessels in ports and these agents should be the normal local point of contact for the immigration officer. Each immigration office with responsibility for seaman work should seek to establish close and regular contacts with shipping agents and other control agencies in its area. Agents should be asked to provide regular "ships expected" positioning lists where possible.

Such lists provide advance notification of the arrival of suspect vessels and arrangements to meet the vessel can then be made. It should be noted that unless suspect vessels are met *on arrival*, there is little likelihood of apprehending inadmissible persons.

2. OBLIGATIONS OF MASTERS**2.1. Obligation of masters to provide crew lists**

The Immigration (Particulars of Passengers and Crew) Order 1972 requires a master to provide, within 12 hours of the arrival of a ship which has arrived from outside the Common Travel Area, a return containing particulars of all crew on board. Legal advice is that notification of any passengers may be required *in advance of arrival*. Normal practice is for the crew list to use the IMCO FAL 6 format.

2.2. Action where crew lists are not provided as required

Crew lists should be required as a matter of course and instances of missing lists or persistent failure to comply, which is an offence under Section 27 of the Immigration Act 1971, should be investigated and referred to a chief immigration officer.

2.3. Retaining crew lists

Where space permits locally, crew lists for merchant vessel arrivals should be kept for a minimum of four years and for two years in the case of cruise ships. If storage is difficult, for example because of a large number of crew lists received or if a vessel

arrives frequently with the crew unchanged, officers in charge may decide upon lesser criteria according to local conditions.

2.4. Obligation to ensure that persons on board do not disembark except as approved by the immigration officer

Under Paragraph 27 to Schedule 2 of the Immigration Act 1971, the master is required to ensure that persons on board do not disembark without examination except under arrangements approved by the immigration officer and may not be discharged until examined.

Local shipping agents should be advised of this procedure and spot checks should be made to ensure it is not being abused.

2.5. Advising masters of their obligations

Form IS 6 serves as a notice to masters of their obligations under the Immigration Act 1971 regarding presentation of crew lists, presentation of passengers, discharge of crew, hospital treatment, immigration control, temporary shore leave and desertion.

4. PROCEDURE ON SHIP'S ARRIVAL - ASSESSING THE NEED TO ATTEND THE ARRIVAL OF A VESSEL

A decision should be made on the need for an immigration officer to attend. Positioning lists and intelligence sources should be used to determine the "risk" of a particular vessel. Relevant considerations would be:

- * if the vessel is under a flag of convenience;
- * if it or the master has previously come to adverse notice;
- * if it is considered likely to carry non-professional seamen
- * if the vessel has come from a port or route known to present a risk; or
- * if the vessel's load seems unviable.

Local agents and other control agencies, particularly HM Customs, may provide useful information. maintains an index of ships and their Masters brought to light in reports relating to Stowaways, Deserters and non-Professional Seamen. Alternatively, Harwich Maritime Intelligence records may be consulted. Ports may also consider setting up local indices of suspect vessels and masters.

4.1. **Checking of crew lists**

If possible, crew lists should be obtained in advance of arrival. They should be scrutinised and suspect persons' details checked against the Suspect Index at the discretion of the immigration officer. The list should be examined for any persons not entitled to be treated as crew. If it appears action is warranted, the vessel should be met on arrival or visited as soon as possible.

4.2. **Non crew members on board**

Crew lists sometimes contain supernumeraries, stowaways and passengers. Such persons are not crew members and may not benefit from the provisions of Section 8(1) of the Immigration Act 1971. They should be examined in order to establish whether or not they qualify under the Rules for admission.

4.3. **Flags of Convenience**

Particular attention should be paid to vessels under flags of convenience. Whilst not all present problems, a crew list indicating a variety of nationalities, seamen prepared to accept low wages and/or a vessel in poor condition will merit closer scrutiny.

4.4. **Coastwise ships**

A vessel from a foreign port, having arrived at a United Kingdom port and proceeding to other United Kingdom ports is termed "coastwise". Crew lists should only be requested if crew members subject to control are to be discharged or if the vessel is of particular interest and has not been visited previously since arrival in the United Kingdom.

5. **ARRANGEMENTS FOR GRANTING LEAVE TO ENTER BY FAX**

Immigration offices should, wherever possible, establish a system with local shipping agents for dealing with routine applications for leave to enter by fax. This system will be especially useful for vessels which would not normally be visited or where attendance is not practical:

- ◆ Agents should be instructed to send by fax the full personal details and travel arrangements of the seaman to be repatriated or transferred. This advice should take the form of a letter on headed notepaper, showing the above details and explaining that an immigration officer could not attend the vessel but that the seaman may proceed and report to the Immigration Authorities at the point of embarkation.
- ◆ The immigration officer approving this arrangement should endorse the letter accordingly and fax it back to the agents.

- ◆ The seaman may then present this upon embarkation and it should be returned to the approving immigration office by the port of embarkation.

Alternatively, immigration officers may grant leave to enter by fax in accordance with local procedures. Such leave is deemed to be lawful notice of leave to enter in writing.

6. SEAMEN'S DOCUMENTS

Seamen's documents may be issued by governments, not only to their own citizens but also to seamen of other countries. The holder of a seamen's document who is not a national of the issuing country does *not* become a citizen of that country. The document, however, may be accepted as evidence of identity and status.

Where the issuing country is a signatory to the International Labour Office Convention No 108, the holder (even if he is *not* a national of the issuing country) benefits from the relevant provisions of the convention (see paragraph 6.1. below).

In other words, the visa exemption conferred by the convention depends on the *country which issued the seamen's document* and *not* the nationality of the document holder.

Holders of documents issued by countries which have not ratified the ILO Convention are subject to the normal visa requirements.

6.1. International Labour Office Convention No. 108

The main effect of the Convention, to which the United Kingdom is a party, is that a seaman holding a document to which it applies:

- ◆ shall be readmitted to the country which issued the document both during its validity and during a period of at least one year after any date of expiry; and
- ◆ does not require a visa when travelling in the course of his duties to or through countries which have ratified the Convention.

The provisions of the Convention cover joining or transferring to a ship, passing in transit to join a ship in another country or for repatriation and temporary shore leave while the ship is in port. Countries which have ratified the Convention as of 31 December 1995 are as follows:

Algeria	Ghana	Norway
Angola	Greece	
Antigua & Barbuda	Grenada	Panama
Azerbaijan*	Guatemala	Poland
	Guinea-Bissau	Portugal
Barbados	Guyana	
Belarus*		Romania

Belize	Honduras	Russian Federation*
Brazil		
Bulgaria	Iceland	St Lucia
	Iran	Seychelles
Cameroon	Iraq	Solomon Islands
Canada	Ireland	Spain
Cuba	Italy	Sri Lanka
Czech Republic		Sweden
	Kyrgyzstan*	
Denmark		Tajikistan*
Djibouti	Latvia	Tanzania
Dominica	Liberia	Tunisia
	Luxembourg	
Estonia		Ukraine*
	Malta	United Kingdom
Fiji	Mauritius	Uruguay
Finland	Mexico	
France		

* Under the British-Soviet Treaty on Merchant Navigation (1968), all seamen holding documents issued by the Soviet Union coming to the United Kingdom to join a vessel required visas. Following the break up of the Soviet Union, Foreign Office advice is that the United Kingdom considers that the treaty should be regarded as being in force between the United Kingdom and all the States of the Former Soviet Union except for the Baltic States, who do not regard treaties entered into by the Soviet Union as binding upon them. Seamen travelling on documents issued by former Soviet Union States, other than the Baltic states, arriving without entry clearance should therefore be refused leave to enter.

6.2. The British Seamen's card

The British Seamen's Card, which is red in colour, is issued by the Department of Transport and contains a notice that it is a seafarer's document for the purposes of the Convention. It is issued to persons who qualify under the terms of the "Merchant Shipping (Seamen's Documents) Regulations 1987. Persons who qualify may be:

- * British Citizens with right of abode;
- * British Passport holders without right of abode but who have indefinite leave to enter;
- * Commonwealth citizens with indefinite leave to enter; and
- * Irish citizens.

Non-commonwealth nationals are not entitled to apply for a British Seaman's Card.

Persons travelling on British Seaman's cards are *exempt from immigration control* when arriving as a member of the crew of a ship, having signed on in the Common Travel Area.

British seaman's cards should not be confused with British Discharge Books (see paragraph 6.3. below).

6.3. **Seamen's Discharge Books (Not to be endorsed)**

British Discharge Books, which are blue in colour and also issued by the Department of Transport to British and foreign seamen employed on United Kingdom registered vessels, *should not be endorsed* by the immigration officer. They should not be confused with British Seamen's Cards (see paragraph 6.2. above).

Similarly, Indian Seamen's Discharge Books should not be endorsed and form IS 116 should be issued if no other endorsable document is held.

6.4. **Seamen resident in the United Kingdom who hold Home Office Documents**

United Kingdom resident seamen who are refugees or stateless, are entitled to have their Home Office documents endorsed "The Convention relating to Seafarers' National Identity Documents dated 13 May 1958 applies to this document". Once such a seaman leaves sea-going employment, the immigration officer should cancel the endorsement and initial it.

6.5. **Seamen travelling on national passports or non-convention seamen's documents**

Seamen seeking entry on such documents are subject to the normal visa requirements.