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**CHAPTER 16
SECTION 1****SEAMEN****SPECIAL CLASSES OF SEAMEN****1. NON-PROFESSIONAL SEAMEN**

Low operating margins and low rates of pay have encouraged some ship operators to engage as crew persons who have no previous sea-going experience. Nationals of countries with restricted job opportunities and pressure to emigrate may make their way to places such as Cyprus, Piraeus and Rotterdam to seek employment, often on vessels registered under flags of convenience. Experience has shown that such persons may well desert their ship on arrival in the United Kingdom.

Non-professional seamen are unlikely to hold a seaman's book or to have been on board for long. Their passports may show a land-based occupation and little evidence of previous travel. The ship's articles will show how long a crewmember has been employed on board. A seaman's contract, if held, will normally be for a period of 9-12 months and the lack of any contractual arrangements will suggest the employment may lack any permanence.

Vessels which are considered likely to carry non-professional seamen should be targeted and any such persons examined under Paragraph 2(1) of Schedule 2. This should be done even if shore leave has already been taken under Section 8(1) of the Immigration Act 1971. If there are reasonable grounds for suspecting that any crew member does not intend to leave with his ship, he should be refused leave to enter. The following formula should be used:

"You have arrived in the United Kingdom at the port of as a crew member on board the MV..... and have been examined under Paragraph 2(1) of the Immigration Act 1971, but I am not satisfied that you intend to leave the United Kingdom on board that ship"

On any subsequent arrival, he need not be re-examined unless an application is made for discharge or detention ashore is considered necessary. The master should be served with form IS 15 and reminded of his responsibilities.

Port files in respect of non-professional seamen refused leave to enter should be retained for five years at the port.

2. PERSONNEL OF SHIPS ENGAGED IN SCIENTIFIC SERVICE OR TRAINING

These persons may be regarded as crewmembers, provided they are members of the working complement of the ship and their full details and functions are clearly indicated on the crew list.

Instructors and cadets, including those on some training vessels, should be treated as crew members.

Supernumeraries should not normally be treated as crew members.

3. SEAMEN SIGNED ON IN THE UNITED KINGDOM

Though there is no power to refuse someone permission to sign on a ship in the United Kingdom, regardless of the capacity in which that person arrived, there is no automatic right of re-entry to the United Kingdom and such persons may be refused leave to enter where appropriate or directions given for removal under Paragraph 13 if there is reason to believe that the individual intends to remain beyond the leave given for discharge (except where this is given on Code 5N).

4. SEAFARERS JOINING VESSELS REMAINING IN BRITISH WATERS

Under the Immigration Rules relating to those seeking leave to enter for work permit employment, seafarers joining ships in British waters are required to possess a work permit *unless* they are under contract to join a ship due to leave British waters. (HC395 paragraph 128)

Guidelines, which came into effect on 1 August 1996, took account of the concerns expressed by the British Chamber of Shipping in relation to the operation of the work permit arrangements. These specified a work permit requirement for those engaged on domestic ferry voyages and dredging operations wholly or largely within British waters.

Following recommendations arising out of the Government White Paper "British Shipping - Charting a new course", published in December 1998, further changes to the work permit arrangements have been phased in with effect from 1 June 2000, regarding scheduled domestic freight services. Proposals to extend the work permit requirement to non-scheduled services and one-port voyages are due to be implemented at a later date.

4.1. Circumstances where work permits are required

Generally speaking, permits will be needed where the ship in question does not leave British waters for a foreign port, or is operating *wholly or largely* within British waters, and already includes:

- **domestic ferry voyages** between two United Kingdom ports where the ship involved has a passenger certificate. This includes "ro-ro" services which carry 12 or more lorry drivers as these must have a passenger certificate, but it does **not** include voyages to the Isle of Man or the Channel Islands; and
- **dredgers** operating wholly or largely within British waters

The fact that a vessel leaves British waters for a short period will not enable a seafarer to circumvent this requirement.

Applications for leave to enter for this type of employment, where no work permit is held are to be refused for lack of a work permit with **no** right of appeal.

With effect from **1 June 2000**, the existing work permit requirement has been extended to include:

- ***scheduled domestic freight services*** between United Kingdom ports

NB In recognition of the need for Shipping Companies engaged in coastal freight trade, to adjust their staffing patterns to take account of the revised arrangements, it has been agreed that a degree of flexibility will be exercised in respect of scheduled domestic freight services during the initial period following introduction.

Seafarers arriving after 1 June 2000 without the requisite work permit must be informed of the new work permit requirement and the shipping company concerned formally reminded of the need to comply with the revised arrangements, using the standard letters provided. Copies of letters served should be retained at the port.

A period of grace operated from 1 June 2000 to 31 December 2000. **With effect from 1 January 2001, all non-EEA seafarers working on ships engaged in scheduled domestic freight services, must be in possession of a valid work permit.** Where no work permit is held, applications for leave to enter for this type of employment should be refused, in accordance with normal procedures.

4.2. **Circumstances where work permits are not required**

If a ship is bound for an overseas port, the requirements of paragraph 128 of HC395 are met and work permits are not required. This should be taken to include scheduled ***passenger and freight*** vessels leaving British waters, since the period of "employment" in the United Kingdom will be short.

4.3. **Granting leave to enter**

A passenger coming for any purposes outlined in 4.2 above will normally be in possession of a letter from the relevant shipping agent and in the case of a visa national travelling on a national passport, a visa endorsed "JOINING SHIP (NAME OF SHIP) AT (PORT)". Such persons should be admitted on Code 5N or Code 7 to join the appropriate ship.

5. **FISHERMEN**

Fishermen subject to control coming to join a fishing vessel should be treated as contract seamen.

6. **CREW MEMBERS JOINING OR ACCOMPANYING SHIPS UNDER CONSTRUCTION OR REPAIR**

Officers and men forming the crew of ships under construction or repair may be given leave to enter on Code 5N or Code 7.

7. SEAMEN EMPLOYED ON BRITISH NAVAL VESSELS AS COOKS OR LAUNDRYMEN

A number of seamen of Chinese origin are employed on board British naval ships in capacities such as cooks or laundrymen. Such seamen should be admitted on Code 7. Full records of these seamen are held at the immigration office in Plymouth and in OASIS.

8. SHIPWRECKED SEAMEN

Shipwrecked seamen should normally be granted leave to enter. They will usually be cared for by a local shipping agent, the Shipwrecked Mariners Society or the Mission to Seamen.

Seamen for this purpose include non-professional seamen. If, for any reason, the immigration officer considers leave to enter might not be appropriate, reference should be made to a chief immigration officer. No shipwrecked seaman should be detained without reference to an inspector and in such cases OASIS or the WEDO should be informed as soon as possible.

9. CREW MEMBERS OF CRUISE SHIPS

Crew members subject to control must be presented if they seek leave to enter other than for temporary shore leave. Spouses and children of crew who are visa nationals may benefit from the visa waiver. See **Chapter 19, Section 1, "Special categories of passenger"** for cruise passenger procedures.

10. CREWS OF YACHTS

Paid members of a yacht crew should be regarded as crew. The master or owner is required to furnish a list of crew and passengers on arrival. Immigration offices should make contact with local yacht harbours and marinas to ensure masters of yachts arriving "from foreign" are made aware of their obligation to report the arrival of nationals subject to control.

It will not always be practical or necessary for the immigration officer to respond with personal attendance. In most cases leave to enter by fax following a telephone interview will suffice. Alternatively, the person may be required to present himself at a specified immigration office for further examination.

11. STOWAWAYS

Stowaways are **not** crewmembers and should not be treated as such. For guidance relating to stowaways, see **Chapter 19, Section 1 "Special classes of passenger"**.

12. SEAMEN SUBJECT TO CONTROL WHO SEEK ENTRY TO MARRY WOMEN SETTLED IN THE UNITED KINGDOM

A seaman who arrives as a passenger to marry a woman settled here should be dealt with under the Rules. The provisions outlined in paragraph 10 above on the grant of Code 7 also apply.

A crew member who seeks entry as a fiancé need not be refused leave to enter on grounds of lack of entry clearance alone. If the immigration officer is satisfied that the provisions of the Rules have otherwise been met and the master will discharge him, an appropriate leave to enter may be granted.

13. SEAMEN SUBJECT TO CONTROL MARRIED TO WOMEN SETTLED IN THE UNITED KINGDOM

A seaman who arrives as a passenger and seeks entry for settlement as a spouse should be dealt with under the Rules. A seaman who has no entry clearance for settlement but who is under contract to join a ship here may be given leave to enter on Code 7 if the immigration officer is satisfied he will join the ship and leave the United Kingdom in it. If the immigration officer is not so satisfied, leave to enter should be refused.

In cases where the seaman arrives as a member of the crew and settlement is intended, the entry clearance requirement may be waived, but the immigration officer will need to make enquiries to establish it is a genuine marital relationship and that the other requirements of the Rules with regard to spouses are met. In acceptable cases, leave to enter for 12 months may be granted and a report submitted to OASIS but reference should always be made to OASIS in cases where there is some doubt.

14. PERSONS SEEKING RESIDENCE ON THE BASIS OF SERVICE ON BRITISH SHIPS

Sea service in British ships alone does not count as residence in the United Kingdom for the purpose of settlement. Payment of National Insurance contributions by a seaman does not entitle him to residence in the United Kingdom, nor is he entitled to free medical treatment under the NHS except for emergency treatment. A seaman who applies for residence solely on the basis of service in British ships will normally have his application refused. Where an immigration officer considers that a seaman has developed associations with this country which might justify exceptional treatment, a report containing details of his service, family and connections with the United Kingdom should be submitted to OASIS.

15. NAUTICAL STUDENTS

15.1. Joining ships

Students from nautical schools must serve as apprentices at sea for up to 4 years in order to qualify for the first certificate of competency as a deck officer and up to 18 months for those wishing to qualify as engineering officers.

15.2. Discharging from ships

Apprentices discharging in order to continue their studies ashore or to sit examinations may be given leave to enter for an appropriate period, not exceeding 12 months on Code 3.

Other crew members wishing to discharge for study or to sit examinations before resuming their careers, may be granted leave to enter as for apprentices, providing they have satisfactory means at their disposal.

15.3. Extensions of stay

A scheme exists for immigration offices to deal with extensions of stay for nautical students and their dependants. Provided he is satisfied that the student will not seek to remain permanently in the United Kingdom and that full details of any dependants have been disclosed, an immigration officer may grant an extension of stay for **up to 12 months** on **Code 3**. Local procedures should be in line with arrangements for the student extension scheme, where one exists. Where it is proposed to refuse an extension of stay to a nautical student, the case should be referred to OASIS.

15.4. Dependants of nautical students

Provided the requirements of Paragraph 76 or 79 of HC 395 (as appropriate) are met, leave to enter may be granted in line with the student (see **Chapter 3, Section 4** if further guidance is required).

As in the case of all student dependants, Code 3 should be imposed if **less than** 12 months is granted, or Code 1 if 12 months is granted.

15.5. Reports on nautical students and apprentices

A report should be submitted when nautical student signs on a British ship as an apprentice and when an apprentice finally leaves the United Kingdom as a crewmember for discharge abroad.