

MODEL FORMAT FOR A SEAFARER EMPLOYMENT AGREEMENT

This Agreement is between:-

(1).....

(insert Seafarer's full name) hereinafter called the Seafarer

..... *(insert date of birth or age (see Note 1)*

.....*(insert place of birth – town and country)*

AND

(2)

.....

.....

(insert name of Shipowner or Employer* as appropriate - see Note 2) hereinafter called the shipowner* / employer**

OF.....

.....

.....

(insert full address of Shipowner or Employer* as appropriate)*

****ADDITIONALLY (WHERE THE SEAFARER IS EMPLOYED AND THE SHIPOWNER IS NOT THE EMPLOYER OF THE SEAFARER) THE FOLLOWING IS TO BE COMPLETED BY THE SHIPOWNER (Note this should be deleted where the shipowner is the employer***

***3. I / We**

(insert Shipowner's name)

OF

.....

.....

(insert Shipowner's full address)*

* Delete if not applicable

hereby guarantee that in the event of the employer named at (2) above failing, for whatever reason, to meet its obligations to the seafarer named at (1) above under the terms of this Seafarer Employment Agreement I / We* as shipowner(s) undertake to meet those obligations to that seafarer [and at no cost to that seafarer].

Capacity in which seafarer is to be employed

The capacity in which you are initially employed is

(insert capacity)(see Note 3)

Place of Work

You will be employed on [ship name*] [any vessel owned, managed or chartered by the shipowner*. (see Note 4)] * Delete whichever is not applicable

Wages

Your wages will be (insert amount and currency) per week*/month*/year* (delete as appropriate) (or insert formula for determining wages - see Note 5)

Means of payment of Wages

Your wages will be payable by..... [insert method of payment] at weekly*/monthly* (delete as appropriate) intervals on the[insert number] day of each week*/month* (delete as appropriate)
[Overtime hours i.e. hours worked outside of normal **hours of work** will be paid at a rate of(insert overtime rate)] (Delete this sentence if not applicable)

Paid Leave

You are entitled to take(insert number) (see Note 6) working days as paid leave in each year of employment. [You will be paid your normal basic wages during such leave.]

If your employment commenced or terminates part way through the holiday year, your entitlement to paid annual leave will be assessed on a pro rata basis. Deductions from final salary due to you on termination of employment will be made in respect of any paid annual leave taken in excess of your entitlement.

You will be entitled to payment in lieu of paid leave accrued but not taken at the date of termination of employment.

Notice of Termination of Employment (Delete whichever is not applicable) (See Note 7)

(a) Definite Period Agreement

Your employment is for a period commencing on[insert date] and ending on [insert date] unless it is terminated for justified reasons in advance of this point or the ship is at sea at that time in which event it will continue until its arrival in port at which point it will terminate.

OR

(b) Indefinite Agreement

The length of notice which you are obliged to give to terminate your employment is [insert notice period which is to be not less than seven days].

The length of notice which you are entitled to receive from the shipowner to terminate your employment is [insert notice period which is to be not less than seven days].

OR

(c) Voyage Agreement

Your employment is for the length of the voyage of [*ship*] commencing on[*insert date*] from the port of.....[*insert name of port*] until[*insert date*] or [its arrival in the port of[*insert name of port*]] at which point it will terminate, unless it is terminated for justified reasons in advance of this point.

Health and Social Security Protection Benefits (see Notes 8 and 9)

If you become sick or injured while on a voyage, you will be paid your normal basic wages until you have been repatriated in accordance with the repatriation provisions set out below. After you have been repatriated you will be paid [your normal basic wages excluding bonuses] OR [*insert rate of sick pay specified in a collective bargaining agreement*] for up to a maximum ofweeks [*insert number which shall be 16 or above*] or until your seafarer employment agreement expires, whichever is the sooner, less the amount of any Statutory Sick Pay or Social Security Sickness Benefit to which you may be entitled.

If you require medical care while you are on-board this will be provided free of charge, including access to necessary medicines, medical equipment and facilities for diagnosis and treatment and medical information and expertise. Where practicable and appropriate, you will be given leave to visit a qualified medical doctor or dentists in ports of call for the purpose of obtaining treatment.

In the event of sickness or incapacity, you will be provided with medical care, including medical treatment and the supply of necessary medicines and therapeutic devices and board and lodging away from home until your recovery or until your sickness or incapacity has been declared of a permanent character, subject to a maximum period of.....weeks [*insert number which shall be 16 or above*]. In addition the shipowner will return your property left on board to you or your next of kin.

In the event of your death occurring on board or ashore during a voyage, the shipowner will meet the cost of burial expenses, or cremation where appropriate or required by local legislation, and will return your property left on board to your next of kin.

Compensation in respect of loss of personal property as a result of the loss or foundering of the vessel

Where you lose personal property, as a result of the vessel on which you are serving foundering or being lost, the shipowner will pay compensation up to a maximum of (*insert amount*).

Repatriation (see Note 10)

You will be entitled to repatriation, at the expense of the shipowner, if you are away from your country of residence when this agreement is terminated:-

- by the shipowner
- by you in the event of illness or injury or other medical condition requiring your repatriation, the event that the ship is proceeding to a Warlike Operations Area or the

event of termination or interruption of employment in accordance with an industrial award or collective agreement.

- in circumstances where you are no longer able to carry out your duties under this agreement or cannot be expected to do so e.g. shipwreck, the sale of your ship or a change in your ship's registration.

The entitlement to repatriation entails transport by(*insert means of transport*) to.....(*insert place name or country*):

NOTE - You may not be entitled to repatriation at the expense of the shipowner in circumstances where you have been dismissed for serious misconduct. In such circumstances the shipowner will still be liable to repatriate you but is entitled to recover from any wages due to you the cost of doing so.

Maximum duration of service periods after which you are entitled to repatriation

The maximum period of service following which you will be entitled to repatriation at no cost to you isweeks (*insert number of weeks*) (See Note 11)

Applicable Collective Bargaining Agreement(s)(*delete if not applicable*)(*see Note 12*)

Your employment will also be subject to the collective bargaining agreement(s) entered into on.....(*insert date(s)*) between the shipowner and(*insert details of the other parties to the collective bargaining agreement(s)*) except that where any provision(s) of such collective bargaining agreement(s) conflicts with International or UK law such provision(s) shall not apply to your employment under this Agreement.

ADDITIONAL PARTICULARS REQUIRED TO BE INCLUDED BY UNITED KINGDOM LAW

Hours of Work (*see Note 13*)

Your normal hours of work are [*Insert normal weekly hours or pattern of work, and any differences in rate of pay for hours worked in excess of this, as applicable*],

Your hours of work will be arranged such as to ensure that you receive a minimum of 10 hours available for rest in each 24-hour period and a minimum of 77 hours rest in each seven-day period. This minimum period of rest may not be reduced below 10 hours except in an emergency.

Grievance and Disciplinary Procedures

(a) Grievances

If you have a grievance regarding your employment you should follow the shipowner's grievance procedure a copy of which will be provided to you when you join the vessel.

(b) Disciplinary Rules and Procedure

The disciplinary rules applicable to you are set out in the:-

- Code of Conduct for the Merchant Navy, which has been agreed between the Chamber of Shipping, Nautilus International and the National Union of Rail, Maritime and Transport Workers; or
- the shipowner's Code of Conduct .
(Delete as necessary)

If you are dissatisfied with any disciplinary decision taken in relation to you, you should refer to the disciplinary procedure set out in the Code of Conduct which can be obtained from[state from where Code of Conduct can be obtained].

Pension benefits (Delete which ever is not applicable) (see Note 14)

You will be entitled to the following pension or other benefits(insert full details including whether contributory (if so at what rate(s)) or non-contributory and when payable etc).

OR

You will be entitled to join thepension scheme (insert details)

OR

There is no pension or other benefit entitlement attached to this employment.

ADDITIONAL PROVISIONS INCLUDED BY SHIPOWNER

(See Note 15)

.....

CERTIFICATION BY SHIPOWNER AND SEAFARER (see Note 16)

By signing this Agreement the undersigned seafarer, and the undersigned shipowner, each confirm that the seafarer has:-

1. been given the opportunity to review and seek advice on their SEA;
2. received an explanation of their rights and responsibilities under the agreement before signing it, and
3. has entered into the agreement freely.

Signature of Seafarer

Signature of Shipowner or Shipowner's representative
(State position held)

Place where this Agreement is entered into(see Note 17)

Date when this Agreement is entered into

*Signature of Employer or Employer's representative
(State position held)

Place where this Agreement is entered into(see Note 17)

Date when this Agreement is entered into

* (Delete if not applicable)

NOTES

Note 1 - “insert date of birth or age” - Normally the date of birth should be inserted in full. Only in exceptional circumstances should the seafarer’s “age” be inserted. This should be the seafarer’s age at the time the SEA was signed and should be inserted **only** where there is no means of establishing the seafarer’s actual date of birth e.g. because the seafarer comes from a country where birth records are not accurate or for various reasons no longer exist and the seafarer himself does not know his actual date of birth.

Note 2 - “Name and Address of Shipowner or Employer” - Where the seafarer is employed by the shipowner is not the employer of the seafarer the name and address of the employer should also be inserted at Point (2) of this model SEA and the separate provision at (3) be completed and signed by the shipowner. Where the shipowner is the actual employer of the seafarer the shipowner’s name and address of the shipowner should be inserted at (2) and the entry at (3) should be deleted. If the seafarer does not have an employer, the shipowner’s name must be entered.

Note 3 - “Capacity in which seafarer is to be employed” - This will be the capacity in which the seafarer is to be employed at the time the SEA is signed by the parties to it. Given that an SEA may run for a considerable length of time if the seafarer remains with the same shipowner, it is possible that the capacity in which the seafarer is employed could change over time. The shipowner may wish to consider whether a new SEA will be issued at such time or alternatively include a provision indicating how any changes to capacity will be dealt with e.g. by means of a letter setting out the new capacity and the relevant wage scale.

Note 4 – “Place of Work” may state either the name of the vessel on which the Seafarer is to be employed where this is known or, where the seafarer may be employed on more than one vessel, should state *“Place of Work may be on any vessel owned, managed or chartered by [the shipowner]”*.

Note 5 - Wages - As with “Capacity” (Note 3 above) wages payable to the seafarer are likely to change if employed by the same shipowner over a significant period of time. When completing the “Wages” entry in the SEA, the shipowner will therefore need to bear this in mind and include appropriate wording to cover any future wage increases e.g. by providing for the wage to increase as notified to the seafarer in writing.

Note 6 –“Paid Leave” - The period of paid leave per annum is primarily a matter between the shipowner or employer if different and the seafarer but must be not less than the period of statutory paid leave specified in the Merchant Shipping (Hours of Work) Regulations 2002 (as amended) i.e 30 days per annum plus 8 days in respect of public holidays per annum, or pro rata for periods of less than one year. Where it is more appropriate to do so, the formula to be used for calculating annual leave, e.g. 2.5 days per month of employment, may be inserted

instead of an actual number of days. The 8 days per annum in respect of UK public holidays is additional to this and may also be applied on a pro-rata basis for periods of less than a year.

Note 7 - Notice of Termination of Employment - The period of notice required to be given to the seafarer by the shipowner must not be less than that required to be given to the shipowner by the seafarer and must be not less than seven days. "Justified reasons" for early termination of employment should be specified.

Note 8 - Health and Social Security Protection Benefits - On a UK registered vessel the provision of medical care includes any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance).

Note 9 – Health and Social Security Protection Benefits - These include payment by the shipowner of any costs incurred in respect of any sickness or injury occurring between the date on which they commenced duty on board a ship and the date on which they are deemed to have been duly repatriated. This also includes payments that shipowners are required to make in respect of the death or long term disability of a seafarer due to an occupational injury, illness or hazard occurring while the seafarer is serving under a seafarer's employment agreement or arising from their employment under such agreement, and compensation in case of loss or foundering of the ship.

Note 10 - Repatriation - The destination for repatriation must be one of the following:

- the place where the seafarer signed their employment agreement;
- their country of residence;
- the place specified in any applicable collective agreement; or,
- subject to the agreement of the shipowner, another place of the seafarer's choosing.

Note 11- Maximum duration of service periods after which you are entitled to repatriation

The maximum period of service following which a seafarer will be entitled to repatriation is to be not more than 52 weeks minus the period of statutory paid annual leave - see note 6. There is however no statutory obligation on a seafarer to take repatriation at that time if he/she chooses to serve on board for a longer period e.g. to complete a period of sea time for certification purposes. Shipowners/employers may not however require a seafarer to continue to serve on board once the maximum period of service has expired except in an emergency or similar extenuating circumstances.

Note 12 - Applicable Collective Bargaining Agreement(s) - SEAs may, where applicable, incorporate any applicable collective bargaining agreements. Therefore the terms and conditions contained in a collective bargaining agreement should be appended to, or incorporated by reference into, and thus form part of an SEA. Collective bargaining agreements may not however be substituted entirely for individual SEAs in respect of seafarers employed on UK registered vessels.

It should also be noted that in the event of any conflict between the provisions of a collective bargaining agreement and UK general or merchant shipping legislation, the relevant UK legislation will prevail.

Note 13 - Hours of Work - The hours of work for seafarers employed on UK registered vessels must comply with the requirements of the Merchant Shipping (Hours of Work) Regulations 2002 (as amended) or any subsequent Regulations which may further amend or replace those Regulations.

Note 14 - Pension benefits - Where applicable details of any company pension scheme must be recorded. In addition, where the employer makes deductions from the seafarer's wages towards any additional pension benefits (e.g. State Pension) to which a seafarer may be entitled, it is recommended this is noted.

Note 15 – “Inclusion of Additional Provisions by Shipowner/Employer” – It is recognised that there will be occasions on which shipowners/employers wish to include provisions additional to those set out in the MLC Regulations. There is no objection to the inclusion of such additional provisions provided that any such provisions do not conflict with the provisions of UK general or merchant shipping legislation or any international instruments which have been ratified by the United Kingdom. The MCA will not be undertaking prior checking and approval of SEAs, and it will therefore be the responsibility of the shipowner to ensure that there is no conflict.

In the context of non compliance, some provisions have previously been found in crew agreements which, if included in SEAs, could result in refusal to issue, or cancellation of, a Maritime Labour Certificate. Examples of these, which would apply also to SEAs, include:-

- (a) **requiring that all seafarers belong to a union or forbidding membership of a union** - *Under ILO Convention 87 on Freedom of Association, which has been ratified by the UK, workers are free to form and join appropriate organisations of their own choosing, but equally under UK law they cannot be required to do so. However, it is not acceptable for shipowners, employers or anyone else to discriminate against, or take action against those who either choose to join a union or who choose not to join a union.*
- (b) **requiring that seafarers join a specified union** - *Apart from the previous provision regarding choice on whether or not to join a union, such a provision would also conflict with the International Labour Organisation Convention on Freedom of Association. This Convention has been ratified by the UK and provides that workers shall be free to form and join organisations of their own choosing. It is however acceptable to promote membership of a trade union that has signed a collective agreement with the shipowner albeit without an obligation on the seafarer to join that union.*
- (c) **requiring that by signing the agreement seafarers automatically agree to medical information about themselves being passed to the shipowner or another party acting on behalf of the shipowner.** - *This is not acceptable and may only be done with the specific prior authority of the seafarer on each occasion the shipowner requests that such information be made available.*
- (d) **requiring that by signing the agreement seafarers automatically agree to sensitive personal data (as defined in the Data Protection Act) about them being passed to other individuals or organizations as determined appropriate by the shipowner or another party acting on behalf of the shipowner.** - *This also is not acceptable as such individuals/organisations may potentially be located in countries that do not have data protection legislation or have legislation that does not provide similar protection to that of the UK. Such transfer of “sensitive personal information” may only be undertaken with the specific prior authority of the seafarer on each occasion the shipowner proposes that such information be passed to another individual or organisation.*
- (e) **requiring that a seafarer bear the cost of his repatriation, and the cost of providing his replacement, should he terminate his employment prior to completing the specified period of employment even though he gave the period of notice to terminate his employment that was required by the agreement.** - *Under UK legislation a seafarer can only be charged the cost of his repatriation if he has breached his obligations under the agreement or has been dismissed on disciplinary grounds. The*

giving of the period of notice specified in the agreement would not constitute breach of the seafarer's obligations even if it terminated his employment before the date envisaged in the agreement.

(f) **requiring payment, or deduction of wages, for items which the UK legislation requires to be provided free of charge, for example, accommodation, food and catering, provision of personal protective equipment, medical care** - *The Wages Regulations applicable to seafarers only permit certain specified deductions to be automatically made from the wages due to a seafarer. These specified deductions do not include costs incurred in providing accommodation, food and catering, personal protective equipment and medical care to seafarers.*

(g) **the levying of fines on a seafarer by a shipowner in respect of a breaches of that seafarer's obligations under his SEA or for breaches of discipline.** - *No provision exists under UK Merchant Shipping law for fines to be levied on seafarers by shipowners in respect of disciplinary offences .*

This list is illustrative only and should not be taken as listing all provisions that would be considered unacceptable.

Note 16 – “Certification by Shipowner and Seafarer”

As indicated at paragraph 5.5 of the main part of this MGN, the MLC Minimum Requirements Regulations require that seafarers signing an SEA must be given an opportunity to examine and seek advice on the terms and conditions of that agreement before signing it, and have any other facilities they need to ensure that they have freely entered into the SEA with a sufficient understanding of their rights and responsibilities.. The MLC Minimum Requirements Regulations accordingly require that each SEA must include a statement signed by the shipowner or their representative and the seafarer confirming that the seafarer

- has been given the opportunity to review and seek advice on their SEA;
- has received an explanation of their rights and responsibilities under the agreement before signing it, and
- that they have entered into the agreement freely.

Note 17 – “The Place where Agreement is entered into” should state the name of village, town or city and country, or the name of the ship, where the Agreement is signed by the parties to it