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CHAPTER 16  
SECTION 1

## SEAMEN

## 1. INTRODUCTION

Control of seamen is an important part of overall immigration control in the United Kingdom. Merchant shipping has gradually contracted over the years, but there are residual and continuing problems which require the attention of the immigration officer. In addition to the normal controls on seamen, the strengthening of the control in other fields may lead to inadmissible persons seeking to use merchant shipping to gain entry to the United Kingdom. The main objectives of shipping control are:

- To identify actual or potential problem vessels and crew members amongst the merchant shipping which arrives in the United Kingdom and to apply the provisions of relevant legislation whilst hindering legitimate maritime business as little as possible, including the movements of bona fide crew.
- To identify and seek to prevent clandestine entry on merchant shipping and pleasure craft.
- To devote resources to this control in a selective and targeted manner, using intelligence and liaison sources as much as possible.

## 2. RESPONSIBILITY FOR CONTROL OF SEAMEN

\* Applications in respect of serving seamen, **including applications for leave to remain** (with the exception of those given leave to enter on Code 5N), are dealt with by immigration officers at ports.

\* Serving seamen seeking leave to remain in that capacity should normally be advised to apply at the port appropriate to where their ship is docked (unless they were given leave to enter on Code 5N).

\* Applications for leave to remain from seamen who were granted leave to enter on Code 5N (for discharge or to join a ship due to leave British waters) should be dealt with by Gen Group 1 (charged work).

\* A person admitted to the United Kingdom **other than as a seaman**, who signs on a ship in the United Kingdom which is **due to leave British waters** and intends to leave with that ship before the expiry of his current leave does not need to have his leave varied. Applications for **leave to remain** for this purpose should be dealt with by Gen Group 1 (charged work) (with advice from INPD, Section 3, if required);

\* A person admitted to the United Kingdom in another capacity who seeks a variation of his leave for employment on board a vessel **which is not due to leave British waters** requires a work permit and, in the absence of one, falls clearly for refusal, **without a right of appeal**, under Paragraph 133 with reference to 131(i) (see **Chapter 5, Section 1**). When refusing such applications, Gen Group 1 (charged work) caseworkers should use a covering letter in the form ICD 118 with the additional paragraph provided in paragraph 2.1. below.

If, for any reason, the caseworker suspects mal fides on the part of the seaman, the owners or agent of the vessel he intends to join, he should contact the port at which the vessel is docked or is due to be docked.

## 2.1. Refusal of variation of leave by Gen Group 1 (charged work) caseworkers - advice to applicant

When a person is refused variation of his leave in the circumstances described in the 5th indent above, form ICD 118, amended by the addition of the following paragraph, should be used as a covering letter to the notice of refusal.

"With certain exceptions, seamen working on ships which are **not** due to leave United Kingdom waters require work permits which, under the Immigration Rules, must be obtained before arrival in the United Kingdom. You did not enter the United Kingdom with such a work permit and the Secretary of State therefore refuses your application."

## 3. PERSONS WHO MAY BE CONSIDERED AS CREW MEMBERS

Section 33(1) of the Immigration Act 1971 defines "crew" as all persons actually employed in the working or service of a ship. In practical terms, this may include, for example, waiters, croupiers, hairdressers, painters and repairmen etc, arriving with the vessel from abroad and departing with it or being repatriated. The names of these persons are normally entered in the **ship's articles**.

It should be borne in mind that **crew lists** sometimes include supernumeraries, stowaways and passengers. Such persons may **not** be regarded as crewmembers or treated as such; they may not benefit from the provisions of Section 8(1), which are described in paragraph 4 below.

In the case of yachts and pleasure craft, the master and persons engaged on board for remuneration (even if payment is in kind) are regarded as crew. **Annex B** provides guidance for dealing with persons arriving on yachts.

## 4. CIRCUMSTANCES WHEN A CREW MEMBER MAY ENTER WITHOUT LEAVE

Under Section 8(1) of the Immigration Act 1971, and subject to the exceptions set out in paragraph 4.1. below, a person arriving as a crew member of a ship may enter **without leave** if he is under engagement to depart on that ship. Such persons may remain **until the departure of the vessel**.

No stamp or endorsement is required for entry under Section 8(1).

### 4.1. Crew members who may not enter without leave

A crew member **may not** enter without leave if:

- there is a deportation order in force against him [**Section 8(1)(a)**];
- he has at any time been refused leave to enter and has not since been given leave to enter or remain [**Section 8(1)(b)**]; or
- an immigration officer, for any reason, requires him to submit to examination under Schedule 2 [**Section 8(1)(c)**].

A crew member who is the subject of a deportation order or who has been refused leave to enter and has not since been given leave to enter, who goes ashore without

leave, is an illegal entrant and should be dealt with accordingly. See **Annex C** to this section.

## 5. EXAMINATION OF PERSONS ARRIVING AS CREW MEMBERS

Crew members require leave to enter **for temporary shore leave** if they are precluded from entering without leave (ie. if they fall into one of the categories set out in paragraph 4.1. above).

Crew members may also seek leave to enter **for discharge**:

- \* to be repatriated by their employers;
- \* for transfer to another ship; or
- \* for hospitalisation.

In addition, an immigration officer may decide to examine **any or all** of the crew members on board a ship, under Section 2(1) of Schedule 2 to the Immigration Act 1971.

*ANNEX A provides, inter alia, guidance for assessing the need to attend the arrival of a vessel for the purpose of examining crew members.*

Except in the case of a British citizen or an EEA national, examination of a crew member must **always** be followed by the granting or refusal of leave to enter (even in cases where the crew member would have qualified for entry without leave had the immigration officer not chosen to examine him).

### 5.1. Leave to enter for temporary Shore leave

Where a crew member is precluded by Section 8(1)(a), (b) or (c) from taking temporary shore leave in port under Section 8(1), (see paragraph 4.1. above), he must seek leave to enter from an immigration officer. The immigration officer may grant limited leave to enter in these circumstances under Paragraph 13(1)(a) to Schedule 2.

### 5.2. Key points

The requirements to be met by a crew member seeking leave to enter the United Kingdom for temporary shore leave are that he:

- has satisfactory documentary evidence of his identity and status;
- is under contract, as a member of its crew, to a ship in British waters and which is to leave British waters;
- does not intend to take employment except in the terms of this paragraph;
- intends to leave the United Kingdom on the next sailing and does not intend to base himself in the United Kingdom;
- is not a person to whom any of the general grounds for refusing leave to enter set out in Paragraphs 320 or 321 of HC 395 apply.

### 5.3. Leave to enter for discharge

Seamen who are European Economic Area nationals may be discharged without seeing an immigration officer.

Other nationals on board may not disembark without examination except under arrangements approved by the immigration officer and may not be discharged until examined.

*Annex A provides, inter alia, guidance for assessing whether or not to attend vessels arriving and explains the obligation of masters to ensure that such persons do not disembark without the approval of the immigration officer.*

The immigration officer may grant limited leave to enter in these circumstances under the following Paragraphs of Schedule 2 to the 1971 Act:

- \* **Paragraph 12(1)** in the case of those transferring to another ship;
- \* **Paragraph 13(1)(b)** in the case of those coming for medical treatment; or
- \* **Paragraph 13(1)(c)** in the case of those who are to be repatriated.

### 5.4. Key points

The requirements to be met by a crewmember seeking leave to enter the United Kingdom for discharge are that he:

- has a passport or other document satisfactorily establishing his identity and nationality or citizenship;
- does not intend to seek or take employment in the United Kingdom (unless transferring to another ship which is due to leave British waters);
- where he is seeking entry to receive hospital treatment, the owners/agents will make arrangements for his repatriation on completion of his treatment;
- intends to leave the United Kingdom (unless he is entitled to indefinite leave);
- has satisfactory travel arrangements (if being repatriated); or
- Is not a person to whom any of the general grounds for refusing leave to enter set out in Paragraphs 320 or 321 of HC 395 apply.

### 5.5. Further guidance

*Annex A provides, inter alia, guidance concerning the documentation of seamen.*

United Kingdom visa requirements should be waived for seamen seeking entry for discharge, provided the immigration officer is satisfied that the above requirements are met.

### 5.6. Costs of medical treatment

\* Seamen who are discharged from their ship for emergency medical treatment may be treated under the National Health Service.

\* Where a seaman who has been receiving treatment abroad is brought to the United Kingdom, either as crew or as a passenger, the owners/agents must satisfy the immigration officer that they are willing and able to meet all the costs involved and an undertaking to that effect should be obtained.

### 5.7. Routine Repatriations

The majority of repatriations may be dealt with by telephone and fax without the need for routine attendance by an immigration officer. See **Annex A** for further guidance on this point.

In some cases, however, the crew member may be directed to attend a specified immigration office for further examination or it may be necessary for an immigration officer to attend.

### 5.8. Granting leave to enter

In cases of persons entitled, under the Rules, to indefinite leave to enter, the appropriate endorsement should be made.

- Leave to enter for discharge for transfer to another ship in the United Kingdom should be granted in accordance with paragraph 5.9. below.
- Seamen seeking entry for hospital treatment should be granted leave to enter in accordance with paragraph 5.10. below.
- Otherwise, leave to enter for discharge should normally be on Code 5N, except that:
- Where the immigration officer has reservations about an individual seaman, but these are felt insufficient to justify refusal of entry, a period of up to seven days may be granted under the repatriation condition followed by the immigration officer's stamp with the ship's name added. A completed seaman's embarkation card, IS 10, should be inserted in the seaman's document for return to the issuing immigration office by the port of embarkation.
- Paragraph 5.11. below provides guidance for granting leave to enter to large groups of seamen.

### 5.9. Seamen given leave to enter for transfer to other ships

Provided the immigration officer is satisfied that the owners or agents will ensure the seaman's departure, leave to enter for discharge for transfer to another ship in the United Kingdom should be granted on Code 5N or on the transfer condition which reads:

"Given leave to enter the United Kingdom as a seaman joining the ship .....and accordingly required to leave the United Kingdom on that ship".

In doubtful cases, the owners or agents should be asked to complete form IS 9 as evidence of departure. Form IS 8 should be forwarded to the immigration officer at the port of embarkation.

### 5.10. Seamen given leave to enter to receive hospital treatment

When a seaman has to go to hospital, leave to enter should be granted in the following terms:

"Given leave to enter the United Kingdom in order to receive hospital treatment and required on his discharge therefrom or within ..... days thereafter to leave the United Kingdom in accordance with arrangements for his repatriation made by the owners/agents of the vessel from which he was discharged"

When the seaman is sent to hospital in an emergency without the prior consent of the immigration officer, arrangements should be made to grant such leave as soon as practicable.

If it is not possible to arrange repatriation or removal within the period originally granted when the seaman first entered hospital, an extension of the period necessary to arrange this may be granted. Enquiries should be made to ensure the sickness is genuine and requires treatment in the United Kingdom.

A completed seaman's embarkation card, IS 10, should be inserted in the seaman's document for return to the issuing immigration office by the port of embarkation.

#### 5.11. **Granting leave to enter to large groups of seamen**

When dealing with large groups of seamen, the leave and conditions may be endorsed on a nominal roll such as a crew list or on form IS 116. A copy of the roll should be given to the leader of the group and a copy retained at the port where the seamen are leaving or joining.

#### 5.12. **Seamen for discharge seeking leave to enter as visitors**

Seamen being discharged from ships may seek leave to enter as visitors, either to rejoin their ships later in the United Kingdom or to vacation here prior to eventual repatriation.

In such cases, **provided that** the provisions set out in paragraph 5.4 above **and** the requirements of Paragraph 41 of HC 395 are satisfied, leave to enter may be granted on Code 5N or for 6 months on Code 3, as appropriate.

United Kingdom visa requirements should be waived for seamen seeking entry in this capacity, provided the immigration officer is satisfied that the above requirements are met.

### 6. **EMBARKATION**

Discretionary embarkation checks on seamen being repatriated from vessels in the United Kingdom are the responsibility of the local immigration office for the port of arrival.

Similarly, discretionary confirmation of the departure of crew admitted as contract seamen on Code 7 (contract seaman stamp) should be done locally.

When a person admitted as a passenger on "checkout" conditions departs as a crew member, an embarkation card (IS 29) should be sent to the Home Office in the normal way.

Embarkation cards for seamen who were given leave to enter on Code 7 but who fail to sail with the ship and embark as passengers should be clearly marked "**CS**" on the front of the card. The name of the **port at which he should have joined the ship** should be noted and the card sent to that port. The card should **not** be sent to



Home Office.

## 7. REFUSAL OF LEAVE TO ENTER

- a crew member is to be refused leave to enter if he does not meet the requirements of the Section or Paragraph of the Immigration Act 1971 under which he is seeking entry;
- he may be refused entry under Paragraph 320 or 321 of HC 359, if appropriate (see **Chapter 9** to these instructions); or
- where a seaman is seeking entry other than as a crew member, eg. as a student, fiancé(e) or spouse, he should be refused entry in accordance with the Rules relating to that category.

In the case of the last two alternatives, see also paragraph 7.2. below.

***It is important that refusal of leave to enter is not confused with powers to remove seamen (see paragraph 10 below).***

### 7.1. Procedure

Where a crew member is refused leave to enter:

- his document should be endorsed with a signalled immigration officer's date stamp in the normal way;
- a notice of refusal, IS 82 series and, where appropriate, notice of appeal rights should be served on the seaman (see paragraph 16.7 below, "**Right of appeal and corresponding refusal forms**"). In all cases, the refusal of entry notices must be served on the seaman himself and the immigration officer must be satisfied he has fully understood; and
- directions for removal should be given in accordance with Paragraph 8 to Schedule 2 (see **Chapter 9, Section 8, "Removal"** if further guidance is required) and form IS 83 served on the master and agents/owners.
- Both the master and the crew member should be told that the crew member will be precluded by Section 8(1)(b) from entry without leave on future arrivals.

### 7.2. Refusal formulae

The following refusal formulae are given for guidance:

\* "On ..... you arrived at the port of ..... as a member of the crew of the ship ..... but I am not satisfied that you intend to leave the United Kingdom with that ship."

\* "... but I am not satisfied that you intend to leave the United Kingdom in accordance with the arrangements made by the vessel's agents in the United Kingdom."

Where the refusal is on grounds such as the lack of valid document establishing identity or nationality or on grounds which the Rules provide only for passengers, such as "non conducive" grounds, the following wording should be added to the appropriate formula:

"I therefore refuse you leave to enter in accordance with Section 3(1)(a) of the Immigration Act 1971."

## 8. REFUSAL OF LEAVE TO ENTER - SEAMEN ON VESSELS CALLING AT FREQUENT INTERVALS AT UK PORTS

If a seaman who is refused leave to enter is a crew member of a ship calling at United Kingdom ports at frequent intervals, or of a ship which proceeds coastwise to other United Kingdom ports, repeated refusal of leave to enter is not required.

The master of the ship should be told that the crew member may not have shore leave under Section 8(1) on that or any subsequent voyage unless given leave to enter by an immigration officer. The seaman need not be examined on subsequent arrivals but the immigration officer should serve form IS 15 (form IS 15a where the man is the subject of a deportation order) on the master. No report of this action is required but a local record should be kept. If the man is examined for any reason refusal action must again be taken unless the ship has not been to a country outside the common travel area since the last refusal.

## 9. IMMIGRATION (CARRIERS' LIABILITY) ACT 1987

Apart from the visa exemptions conferred by standing instructions and the International Labour Organisation Convention No. 108, normal considerations apply, but see paragraph 14.1. below in the case of spouses and children of crew members.

Charges may be waived in the case of stowaways and cases where the carrier had no **realistic** alternative but to transport the person to or via the United Kingdom. Such considerations should be referred to an Inspector.

## 10. VARIATION OF LIMITED LEAVE AND CONDITIONS

A seaman who has been given leave to enter as a contract seaman for hospital treatment, repatriation or transfer is not normally entitled to an extension of stay, except where necessary to fulfil the purpose for which entry was granted, unless he qualifies under the Rules relating to spouses (see **Chapter 8** of these instructions) or otherwise qualifies for settlement.

A crew member who seeks entry as a fiancé(e), however, need not be refused leave to remain on grounds of lack of entry clearance alone (see **Annex B** for further guidance).

Where an extension is granted, the immigration officer should grant leave to remain as indicated in paragraph 10.1. below and sign the endorsement on behalf of the Secretary of State.

***In cases where entry was given on Code 5N, all applications for extensions of stay must be made to Gen Group 1 (charged work).***