

2016 No.

MERCHANT SHIPPING

**The Merchant Shipping (Maritime Labour Convention)
(Minimum Requirements for Seafarers etc.) (Amendment) and
Miscellaneous Amendments Regulations 2016**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to the safety of ships and the health and safety of persons on them(b) and in relation to measures relating to maritime transport(c).

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 85(1)(a) and (b), (3), (6) and (7) and section 86(1) of the Merchant Shipping Act 1995(d) and by section 2(2) of the European Communities Act 1972.

In accordance with section 86(4) of the Merchant Shipping Act 1995 the Secretary of State has consulted the persons referred to in that section.

PART 1

Citation and commencement

1. These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) (Amendment) and Miscellaneous Amendments Regulations 2016 and come into force on [xxx].

(a) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and Part I of the Schedule to, the European Union (Amendment) Act 2008 (c.7). The Maritime Labour Convention is regarded as one of the EU treaties within the meaning of section 1(2) of the European Communities Act 1972 by virtue of the European Communities (Definition of Treaties) (Maritime Labour Convention) Order 2009 (S.I. 2009/1757, as amended by S.I. 2011/1043).

(b) S.I. 1993/595.

(c) S.I. 1994/757.

(d) 1995 c.21. Sections 85 and 86 were amended by section 8 of the Merchant Shipping and Maritime Security Act 1997 (c.28), and are applied to hovercraft by article 4 of the Hovercraft (Application of Enactments) Order 1989 (S.I. 1989/1350) (sections 85 and 86 re-enact sections 21 and 22 of the Merchant Shipping Act 1979 (c.39), to which that article refers). There are other amendments not relevant to these Regulations.

PART 2

Amendments relating to compulsory financial security

Amendments relating to compulsory financial security

2.—(1) The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014(a) are amended as follows.

(2) In regulation 3 (application)—

- (a) in paragraph (2)(a), for “10” substitute “10B”;
- (b) in paragraph (4)(a), for “and 49” substitute “and 53A”.
- (c) in paragraph (4)(b),—
 - (i) at the end of paragraph (vi) omit “and”;
 - (ii) after paragraph (vii) insert—
 - “(viii) regulation 53A(1)(b); and
 - (ix) regulation 53K(1)(b).”.

(3) In regulation 27 (Secretary of State functions in the event of shipowner default)—

(a) for paragraph (1) substitute—

“(1) The Secretary of State must make any provision which the shipowner of a United Kingdom ship is required to make under regulations 19 or 22 (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 financial security.

(1A) The Secretary of State may make any provision which the shipowner of a United Kingdom ship is required to make under regulations 19 or 22 (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 financial security.

(1B) Where the Secretary of State makes provision under paragraph (1) or (2), the Secretary of State may recover any costs incurred from the shipowner as a civil debt.”;

- (b) in paragraph (3), in the words before sub-paragraph (a), after “paragraph (1)” insert “, (1A)”;
 - (c) in paragraph (3)(b), for “A2.5” substitute “A2.5.1”;
 - (d) in paragraph (5)(a) and (b), after “paragraph (1)” insert “or (1A)”.
- (4) In regulation 28(1) and (3)(a) and (b), for “A2.5” substitute “A2.5.1”.
- (5) Omit regulation 49 (financial security requirement applicable to all ships).
- (6) After regulation 53 insert—

(a) S.I. 2014/1613.

“PART 10A

Shipowners’ liability financial security requirement

Financial security requirement applicable to all ships

53A.—(1) A ship must not be operated unless—

- (a) in the case of a ship in a category described in regulation 3(1)(a) or (b), shipowners’ liability financial security is in force in relation to the ship which complies with the requirements in regulation 53B; or
- (b) in the case of a ship in the category described in regulation 3(3), financial security to assure compensation in the event of death or long term disability of seafarers due to occupational injury or hazard is provided in accordance with the provisions of the Code of the Maritime Labour Convention.

(2) A breach of paragraph (1) is an offence by the shipowner [*punishment within 59(5)(h)*].

(3) “Shipowner’s liability financial security”, in relation to a ship, means a contract of insurance or other form of security which provides financial assurance if the shipowner incurs a liability (including a liability under a seafarer employment agreement) to provide compensation.

Requirements in respect of shipowners’ liability financial security

53B.—(1) In order to comply with the requirements in this regulation, a shipowners’ liability financial security must satisfy the following conditions.

(2) The shipowners’ liability financial security must provide financial assistance if the shipowner incurs a liability (including a liability under a seafarer employment agreement) to provide compensation in the event of death or long term disability of a seafarer who works on the ship due to occupational injury, illness or hazard.

(3) The shipowners’ liability financial security must be of an amount which the shipowner reasonably considers adequate to ensure that the shipowner will be able to meet any liabilities the shipowner may have to provide compensation in the event of death or long term disability of seafarers who work on the ship due to occupational injury, illness or hazard.

(4) The shipowners’ liability financial security must provide that a direct claim may be made.

(5) The shipowners’ liability financial security must not restrict the seafarer’s ability to enforce the right to make a direct claim.

Payment of compensation

53C.—(1) This regulation applies where—

- (a) the shipowner is liable to provide compensation to a seafarer, or the estate of a seafarer, because of death or long term disability due to occupational injury, illness or hazard; and
- (b) a direct claim is made.

(2) Once the financial security provider determines the full amount of compensation to be paid in respect of the claim, the financial security provider must pay the full amount to the claimant within 7 days.

(3) If paragraph (2) is not complied with, the financial security provider must pay to the claimant interest on the unpaid amount at the rate of 20% per annum from the date that the full amount of compensation was determined.

(4) The financial security provider must make a payment (an interim payment) if—

- (a) 14 days have elapsed since the date of the claim;
 - (b) the financial security provider has not determined the full amount of compensation to be provided in respect of the claim; and
 - (c) a beneficiary is suffering hardship.
- (5) The amount of an interim payment to be paid to a beneficiary is—
- (a) where an amount in respect of part of the claim has been determined and payment of that amount, in whole or part, is sufficient to alleviate the beneficiary's hardship, that amount; or
 - (b) where no amount in respect of part of the claim has been determined, or the amount which has been determined is not sufficient to alleviate the beneficiary's hardship, the lower of—
 - (i) such amount as would alleviate the beneficiary's hardship; and
 - (ii) [75% of] the likely total amount of compensation payable in respect of the claim [as estimated by the financial security provider].
- (6) Where, in contravention of paragraph (4), a financial security provider does not make an interim payment, the financial security provider must pay to the beneficiary interest on the amount of the unpaid interim payment at the rate of 20% per annum from the date that the interim payment became payable.
- (7) A financial security provider who makes an interim payment may deduct the amount of the interim payment from the full amount of compensation payable under paragraph (2).
- (8) A financial security provider may recover any proportion of an interim payment which exceeds the full amount of compensation payable in respect of a claim as a civil debt.
- (9) In this regulation—
- “beneficiary” means—
- (a) the seafarer in respect of whom the direct claim is made; or
 - (b) if the seafarer is deceased, a person entitled to receive a payment out of the seafarer's estate;
- “claimant” means a person making a direct claim.

Offence of undue pressure

53D. A person is guilty of an offence if that person uses undue pressure to induce another person to accept less than the full amount of compensation payable in respect of a claim under a financial security referred to in regulation 53A. [*punishable on summary conviction by a fine not exceeding the statutory maximum or on indictment by imprisonment for a term not exceeding two years, or a fine, or both*].

Duty to issue certificate of shipowners' liability financial security

53E.—(1) A financial security provider must issue to the shipowner a certificate (a “certificate of shipowners' liability financial security”) in respect of each ship in relation to which it has provided shipowners' liability financial security.

(2) A certificate of shipowners' liability financial security must contain the information specified in Schedule 3.

(3) A breach of paragraph (1) or (2) is an offence by the financial security provider [*punishable on summary conviction by a fine not exceeding level 4 on the standard scale these words to come out*].

Duty to carry and display certificate of shipowners' liability financial security

53F.—(1) The shipowner must ensure that the certificate of shipowners' liability financial security in relation to the ship is held on board.

(2) Where shipowners' liability financial security in relation to the ship is provided by more than one financial security provider, paragraph (1) applies in relation to each certificate of shipowners' liability financial security provided by each financial security provider.

(3) A breach of the duty in paragraph (1) is an offence by the shipowner [*punishable on summary conviction by a fine not exceeding level 4*].

(4) The shipowner must ensure that any certificate of shipowners' liability financial security in relation to the ship, if it is not in English, has with it an English translation.

(5) A breach of the duty in paragraph (4) is an offence by the shipowner [*punishable on summary conviction by a fine not exceeding level 4*].

(6) The shipowner and master of the ship must ensure that the certificate of shipowners' liability financial security in relation to the ship, together with any English translation, is displayed in a conspicuous place on board ship.

(7) Where the shipowners' liability financial security is provided by more than one financial security provider, paragraph (6) applies in relation to each certificate of shipowners' liability financial security provided by each financial security provider.

(8) A breach of the duty in paragraph (6) is an offence by the shipowner and master of the ship [*punishable on summary conviction by a fine not exceeding level 3 on the standard scale to come out*].

Termination of shipowners' liability financial security on notice to the Secretary of State

53G.—(1) The termination by a financial security provider of a shipowners' liability financial security before the end of its period of validity is effective only if at least 30 days' prior notice is given to the Secretary of State.

(2) A notice given under paragraph (1) must—

- (a) be in writing; and
- (b) include sufficient detail to enable the shipowners' liability financial security referred to in the notice to be identified.

Duty on financial security provider to notify Secretary of State where a shipowners' liability financial security is terminated

53H.—(1) A financial security provider who terminates a shipowners' liability financial security before the end of its period of validity must give notice in writing to that effect to the Secretary of State.

(2) A notice under paragraph (1) must include with it a copy of the certificate of shipowners' liability financial security which relates to the terminated shipowners' liability financial security.

(3) Failure to give notice under paragraph (1) within the period of 30 days beginning with the shipowners' liability financial security terminating is an offence [*punishable on summary conviction by a fine not exceeding level 4 on the standard scale*].

Duty on shipowner to notify seafarers if shipowners' liability financial security is to be terminated

53I.—(1) Where a shipowner becomes aware that the shipowners' liability financial security is to be terminated, the shipowner must give notice in writing to that effect to all seafarers who work on the ship to which the shipowners liability financial security relates.

(2) A notice under paragraph (1)—

- (a) must state the date on which the shipowners' liability financial security terminates; and

- (b) must be given as soon as reasonably practicable after the shipowner becomes aware that the shipowners' liability financial security is to be terminated.
- (3) A breach of paragraph (1) is an offence [*summary conviction, fine not exc. Lv 5*].

Interpretation of Part 10A

53J. In this Part—

“certificate of shipowners' liability financial security” means a certificate issued under regulation 53E;

“direct claim” means a claim for compensation submitted directly to a financial security provider by—

- (a) a seafarer who works, or has worked, on a ship to which a shipowners' liability financial security relates; or
- (b) where a seafarer who worked on the ship is deceased, the seafarer's personal representative,

in the event of death or long term disability of the seafarer due to occupational injury, illness or hazard;

“financial security provider” means provider of shipowners' liability financial security;

“shipowners' liability financial security” has the meaning given by regulation 53A(3).

PART 30B

Abandonment financial security requirement

Financial security requirement applicable to all ships

53K.—(1) A ship must not be operated unless—

- (a) in the case of a ship described in regulation 3(1)(a) or (b), there is in force abandonment financial security which complies with the requirements in regulation 53L; or
- (b) in the case of a ship in the category described in regulation 3(3), financial security is provided in accordance with paragraph 3 of standard A2.5.2 of the MLC (financial security for abandoned seafarers).

(2) A breach of paragraph (1) is an offence by the shipowner [*punishable on summary conviction by a fine not exceeding level 5 on the standard scale.*].

(3) “Abandonment financial security” in relation to a ship means a contract of insurance (or other form of security) which provides financial assistance to seafarers who work on the ship.

Requirements in respect of abandonment financial security

53L.—(1) In order to comply with the requirements in this regulation, an abandonment financial security must satisfy the following conditions.

(2) The abandonment financial security must provide that a seafarer is entitled to receive financial assistance if the seafarer—

- (a) has been abandoned; and
- (b) is or was working on the ship to which the abandonment financial security relates.

(3) The abandonment financial security must provide that a claim for relief may be made.

(4) Nothing in the abandonment financial security must restrict the seafarer's ability to enforce the right to make a claim for relief.

(5) The abandonment financial security must be of an amount which the shipowner reasonably considers adequate to cover—

- (a) up to four months unpaid wages under the abandoned seafarer's seafarer employment agreement;
- (b) the cost during the period of the seafarer's abandonment of—
 - (i) adequate food and drinking water;
 - (ii) suitable clothing;
 - (iii) necessary medical care;
 - (iv) fuel necessary for survival, including fuel for heating, cooking and the refrigeration of food supplies; and
 - (v) sufficient fuel to move the ship to a safe location in the event of danger to those on board;
- (c) the cost of repatriation, including the cost of—
 - (i) reasonable travel arrangements and any related costs of passage; and
 - (iii) transport of the seafarer's property; and
- (d) all expenses reasonably incurred by the seafarer as a result of being abandoned.

(7) For the purposes of this regulation—

“the period of the seafarer's abandonment” begins when the seafarer is abandoned and ends with the earliest of the following events—

- (a) the seafarer is in or is repatriated to—
 - (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 unreasonably refuses to be repatriated, or to co-operate with arrangements made for the seafarer's repatriation;
- (c) the abandonment security provider has used reasonable endeavours to contact the seafarer for a period of at least three months, but has been unable to make such contact;
- (d) the seafarer confirms in writing to the abandonment security provider that financial assistance is no longer required;
- (e) the seafarer dies;

“wages” has the same meaning as in Part 10 (see regulation 53 (interpretation of Part 10)).

Consideration of claims for relief and payment

53M.—(1) An abandonment security provider who receives a claim for relief must promptly decide whether the seafarer in respect of whom the claim is made is entitled to receive financial assistance.

(2) An abandonment security provider who decides that a seafarer is entitled to receive financial assistance, whether in relation to the whole or any part of a claim for relief, must promptly provide such assistance, irrespective of whether there are further elements of the claim yet to be decided upon.

(3) If paragraph (2) is not complied with, the abandonment security provider must pay interest on the unpaid amount at the rate of 20% per annum from the date that the decision to provide financial assistance was made.

(4) If an abandonment security provider does not decide within [10] days of receiving a claim for relief whether to provide financial assistance to the seafarer in respect of whom the claim is made, the abandonment security provider must without delay make an advance payment to the seafarer.

(5) The amount of the advance payment must, in the reasonable opinion of the abandonment security provider, be sufficient to provide for the seafarer's relief and maintenance until a decision on entitlement to financial assistance under the abandonment financial security has been made.

(6) If, in contravention of paragraph (4), an advance payment is not made, the abandonment security provider must pay interest on the amount of the unpaid advance payment at the rate of 20% per annum from the date that the advance payment became payable.

(7) Any advance payments which are made may be deducted from the financial assistance provided to the seafarer under the abandonment financial security.

(8) An abandonment security provider security who decides that a seafarer is not entitled to receive financial assistance under the abandonment financial security but who has made an advance payment to the seafarer, may recover the advance payment from the seafarer as a civil debt.

Subrogation

53N. Any rights which a seafarer has to bring proceedings against a shipowner in relation to any costs or expenses incurred by the seafarer as a result of being abandoned are transferred to and vested in each abandonment security provider who provided financial assistance to the seafarer under an abandonment financial security, limited to the amount of financial assistance provided.

Duty to issue certificate of abandonment financial security

53O.—(1) An abandonment security provider must issue to the shipowner a certificate ("certificate of abandonment financial security") in respect of each ship in relation to which it has provided abandonment financial security.

(2) A certificate of abandonment financial security must contain the information in Schedule 4.

(3) A breach of paragraph (1) or (2) is an offence by the abandonment security provider [*punishable on summary conviction by a fine not exceeding level 4 on the standard scale*].

Duty to carry and display certificate of abandonment financial security

53P.—(1) The shipowner must ensure that the certificate of abandonment financial security in relation to the ship is held on board.

(2) Where the abandonment financial security in relation to the ship is provided by more than one provider, the duty in paragraph (1) applies in relation to the certificate of abandonment financial security provided by each provider.

(3) A breach of paragraph (1) is an offence by the shipowner [*punishable on summary conviction by a fine not exceeding level 4*].

(4) The shipowner must ensure that the certificate of abandonment financial security in relation to the ship, if it is not in English, has with it an English translation.

(5) A breach of paragraph (4) is an offence by the shipowner [*punishable on summary conviction by a fine not exceeding level 4*].

(6) The shipowner and the master of a ship must ensure that a copy of the certificate of abandonment financial security in relation to the ship, along with any English translation, is displayed in a conspicuous place on board ship.

(7) Where the abandonment financial security is provided by more than one provider, the duty in paragraph (6) applies in relation to the certificate of abandonment financial security provided by each provider.

(8) A breach of paragraph (6) is an offence by the shipowner and the master of the ship [*punishable on summary conviction by a fine not exceeding level 3 on the standard scale to delete*].

Termination of abandonment financial security effective only where notice given

53Q.—(1) The termination of an abandonment financial security by the provider before the end of its period of validity is effective only if at least 30 days' prior notice is given to the Secretary of State.

(2) A notice given in accordance with paragraph (1) must—

- (a) be in writing; and
- (b) include sufficient information to enable the abandonment financial security to which the notice relates to be identified.

Duty on shipowner to notify if abandonment financial security is to be terminated

53R.—(1) Where a shipowner becomes aware that the abandonment financial security is to be terminated, the shipowner must give notice in writing to that effect to all seafarers who work on the ship to which the abandonment financial security relates.

(2) A notice under paragraph (1) must—

- (a) state the date on which the abandonment financial security terminates; and
- (b) be given as soon as reasonably practicable after the shipowner becomes aware that the abandonment financial security is to be terminated.

(3) A breach of paragraph (1) is an offence [*summary conviction, fine not exc. Lv 5*]

Abandonment

53S. For the purpose of this Part, a seafarer is abandoned if at any time the shipowner—

- (a) fails to make the provision required under regulation 19 (duty to repatriate seafarers) or 22 (duty pending repatriation) in relation to the seafarer;
- (b) having regard to the seafarer's personal circumstances and requirements, fails to make such provision as is necessary for the relief and maintenance of the seafarer, including failing to provide—
 - (i) adequate food or drinking water;
 - (ii) adequate accommodation;
 - (iii) fuel necessary for survival, including fuel for heating, cooking and the refrigeration of food supplies; or
 - (iv) necessary medical care; or
- (c) fails to pay any amount in respect of the seafarer's wages or other remuneration payable to the seafarer under a seafarer employment agreement for a period of at least two months.

Interpretation of Part 10B

53T. In this part—

“abandonment” has the meaning given in regulation 53S;

“abandonment financial security” has the meaning given by regulation 53K(3);
“abandonment security provider” means provider of abandonment financial security;
“claim for relief” means a claim under the abandonment financial security for financial assistance—

- (a) made by an abandoned seafarer who is or was working on the ship to which the abandonment financial security relates, or a person authorised by the seafarer to act on the seafarer’s behalf;
- (b) submitted directly to the abandonment security provider; and
- (c) supported by evidence showing that the seafarer is entitled to receive financial assistance under the abandonment financial security.”.

(7) In regulation 57(1) and (2)(a), for “A2.5” substitute “A2.5.1”.

(8) In regulation 59 (penalties)—

(a) in paragraph (2), at the end insert—

- “(g) regulation 53E(3);
- (h) regulation 53F (3) and (5);
- (i) regulation 53H(3)
- (j) regulation 53O(3); and
- (k) regulation 53P(3) and (5).”;

(b) in paragraph (3), at the end insert—

- “(j) regulation 53F(8); and
- (k) regulation 53P(8).”;

(c) in paragraph (5)—

- (i) in the words before sub-paragraph (a), for the words beginning with “on summary conviction” to “both”, substitute “in accordance with paragraph (6)”;
- (ii) in sub-paragraph (h) for “49(3)” substitute “53A(2)”;
- (iii) at the end, insert—
“(i) regulation 53D(1).”.

(9) After paragraph (5) insert—

“(6) The offences under the provisions listed in paragraph (5) are punishable—

(a) on summary conviction—

- (i) in England and Wales, by a fine;
- (ii) in Scotland or Northern Ireland, by a fine not exceeding level 5 on the standard scale; or

(b) on conviction on indictment, by imprisonment for a term not exceeding two years or to a fine, or both.”.

(10) After Schedule 2 insert—

“SCHEDULE 3

Regulation 53E

Information to be included in certificate of shipowners’ liability financial security

1. The name of the ship to which the shipowners’ liability financial security relates.
2. The port of registry of the ship.
3. The call sign of the ship.

4. The International Maritime Organisation number of the ship.
5. The name and address of the financial security provider.
6. The contact details of the person at the financial security provider responsible for handling claims made by seafarers.
7. The name of the shipowner.
8. The period of validity of the shipowners' liability financial security.
9. A declaration from the financial security provider that the shipowners' liability financial security meets the requirements of standard A4.2.1 of the MLC.”

SCHEDULE 4

Regulation 53O

Information to be included in certificate of abandonment financial security

1. The name of the ship to which the abandonment financial security relates.
2. The port of registry of the ship.
3. The call sign of the ship.
4. The International Maritime Organisation number of the ship.
5. The name and address of the abandonment security provider.
6. The contact details of the person at the abandonment security provider responsible for handling seafarers' claims for relief.
7. The name of the shipowner.
8. The period of validity of the abandonment financial security.
9. A declaration from the abandonment security provider that the abandonment financial security meets the requirements of standard A2.5.2 of the MLC.”.

PART 4

Miscellaneous amendments

Amendment of the Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998

3.—(1) The Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998(a) are amended as follows.

(2) In regulation 4 (commercially operated large vessels complying with Code of Practice)—

- (a) paragraph (1)(a) becomes paragraph (1);
- (b) paragraph (1)(b) becomes paragraph (1A);
- (c) in paragraph (3)—
 - (i) for “statutory instruments listed in Schedule 1 to these Regulations” substitute “following provisions”;

(a) S.I. 1998/2771.

(ii) after “Practice” insert—

“—

- (a) the statutory instruments listed in Schedule 1 to these Regulations; and
- (b) regulation 29(2) and 30 of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014^(a) (crew accommodation requirements and provision for certain older ships)”.

(3) In regulation 5 (commercially operated small vessels complying with a code of practice)^(b)—

(a) in paragraph (2), after sub-paragraph (a) insert—

“(aa) “Marine Guidance Note 490(M) Amendment 1” means the note described as such published by the Maritime and Coastguard Agency in September 2014;

(ab) “Marine Guidance Note 491(M) Amendment 1” means the note described as such published by the Maritime and Coastguard Agency in September 2014;”;

(b) for paragraph (3), substitute—

“(3) The following provisions do not apply to a vessel which satisfies the requirements in paragraph (3A)—

- (a) the statutory instruments listed in Schedule 2 to these Regulations;
- (b) Regulation 29(2) and 30 of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014 (crew accommodation requirements and provision for certain older ships).

(3A) The requirements are that the vessel—

- (a) has been examined in accordance with the applicable Code of Practice and has been issued with a small commercial vessel certificate; and
- (b) complies with the standards set out in—
 - (i) where the vessel has a gross tonnage of less than 200 tons, Annex 1 to Marine Guidance Note 490(M) Amendment 1; or
 - (ii) where the vessel has a gross tonnage of 200 tons or more but less than 500 tons, Annex 1 to Marine Guidance Note 491(M) Amendment 1.”;

(4) In Schedule 1 (statutory instruments disapplied in relation to large vessels complying with a code of practice), in the table—

- (a) in the first column, omit “Merchant Shipping (Maritime Labour Convention) Minimum Requirements for Seafarers etc.) Regulations 2014”; and
- (b) in the second column, omit “2014/1613”.

(5) In Schedule 2 (statutory instruments disapplied in relation to small vessels complying with a code of practice), in the table—

- (a) in the first column, omit “Merchant Shipping (Maritime Labour Convention) Minimum Requirements for Seafarers etc.) Regulations 2014”; and
- (b) in the second column, omit “2014/1613”.

Amendment of the Merchant Shipping (Maritime Labour Convention) Medical Certification Regulations 2010

4.—(1) The Merchant Shipping (Maritime Labour Convention) Medical Certification Regulations 2010^(c) are amended as follows.

(2) In regulation 8 (application for medical fitness certificate)—

(a) S.I. 2014/1613.
(b) Regulation 5 was amended by S.I. 2000/482.
(c) S.I. 2010/737. Regulation 8 was amended by S.I. 2014/1614.

- (a) after paragraph (2) insert—
- “(2A) A person applying for a medical fitness certificate must disclose to the medical practitioner to whom the application for the medical certificate is made—
- (a) existing medical conditions from which the person suffers (if any); and
- (b) medication which the person is taking (if any).
- (2B) Disclosure under paragraph (2A) must be made as soon as reasonably practicable.”;
- (b) after paragraph (3) insert—
- “(4) Regulation 12(4) (meaning of medical condition) applies to this regulation.”.

Amendment of the Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013

5.—(1) The Merchant Shipping (Maritime Labour Convention) (Survey and Certification) Regulations 2013(a) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “the United Kingdom Maritime Labour Convention standards”, for “standards specified in Merchant Shipping Notice 1848(M)” substitute “requirements imposed on shipowners, masters or employers in relation to United Kingdom ships of the provisions specified in column 2 of the instruments listed in column 1 of the table contained in the Schedule”;
- (b) in the definition of “pleasure vessel”—
- (i) in sub-paragraph (i) at the beginning, insert “in the case of a vessel wholly owned by—”;
- (ii) in paragraphs (aa) and (bb), omit “in the case of a vessel wholly owned by—”; and
- (iii) in the words after paragraph (b), for “paragraphs” substitute “paragraph”.
- (3) In regulation 11(2)(b) (certification of declaration of maritime compliance), in the words before paragraph (i) after “Compliance”, insert “as drawn up by the shipowner”;
- (4) Insert as a Schedule to the Regulations—

“SCHEDULE

Regulation 2

The United Kingdom Maritime Labour Convention standards

<i>Instrument</i>	<i>Provision</i>
A. Minimum age	
The Merchant Shipping (Maritime Labour Convention) Minimum Requirements for Seafarers etc.) Regulations 2014(b)	Part 2
B. Medical certification	
The Merchant Shipping (Maritime Labour Convention) (Medical Certification) Regulations 2010(c)	Regulation 7
C. Training and qualifications	
The Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2015(d)	Parts 2 and 3
D. Recruitment and placement	

(a) S.I. 2013/1785.
 (b) S.I. 2014/1613.
 (c) S.I. 2010/737.
 (d) S.I. 2015/782.

The Merchant Shipping (Maritime Labour Convention) Minimum Requirements for Seafarers etc.) Regulations 2014	Part 3
E. Seafarers employment agreements	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Part 4
F. Wages	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Part 5
G. Hours of work	
The Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2016	Regulations 4, 5, 8, 10 and 11
H. Entitlement to leave	
The Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2016	Regulations 14 and 16
I. Repatriation	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Part 6
J. Abandonment financial security	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Part 10B
K. Seafarer's compensation for ship's loss or foundering	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Regulation 48
L. Manning	
The Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2015	Part 4
M. Accommodation and recreational facilities	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Part 7
N. Food and catering	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Part 8
O. Medical care	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Part 9
The Merchant Shipping (Medical Stores) Regulations 1995(a)	Regulations 4 to 11
P. Shipowners' liability and seafarers compensation	
The Merchant Shipping (Maritime labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014	Parts 10 and 10A
Q. Health and safety	

(a) S.I. 1995/1802. Relevant amending instrument is S.I. 1996/2821.

The Merchant Shipping and Fishing Vessels (Health and Safety) (Employment of Young Persons) Regulations 1998(a)	Regulations 5, 6(1) to (5) and (8) and 9
The Merchant Shipping (Health and Safety at Work) Regulations 1997(b)	Regulations 4(1)(a), 5(1), 7, 12(1) and (2), 16(1)(b)(ii), 19(1)(b)(ii) and 20.

”.

Amendment of the Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014

6.—(1) The Merchant Shipping (Maritime Labour Convention) (Minimum Requirements for Seafarers etc.) Regulations 2014(c) are amended as follows.

- (2) In regulation 2(1) (interpretation), in the definition of “pleasure vessel”—
- (i) in sub-paragraph (i) at the beginning, insert “in the case of a vessel wholly owned by—”;
 - (ii) in paragraphs (aa) and (bb), omit “in the case of a vessel wholly owned by—”; and
 - (iii) in the words after paragraph (b), for “paragraphs” substitute “paragraph”.
- (3) In regulation 30 (application of certain regulations to older ships)—
- (a) before paragraph (1) insert—

“(A1) A ship the keel of which was laid or which was at a similar stage of construction 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 in Schedule 6 to the Merchant Shipping (Crew Accommodation) Regulations 1978(d) as if those Regulations had not been revoked;
 - (b) as respects crew accommodation which has been substantially reconstructed after that date but not on or after 11 July 1997, must comply with the requirements set out in Part 1 of the Merchant Shipping (Crew Accommodation) Regulations 1978, as if they had not been revoked;
 - (c) as respects crew accommodation which has been substantially reconstructed on or after 11 July 1997 but not on or after the date on which these Regulations come into force, must comply with the requirements set out in the Merchant Shipping Crew Accommodation) Regulations 1997(e).”;
 - (b) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), after “construction” insert “on or after 1st July 1979 but”;
 - (ii) in sub-paragraph (a), for “Schedule 6 to” substitute “Part 1 of”;
 - (iii) in sub-paragraph (b), for “before” substitute “not on or after”;
 - (c) in paragraph (4), after “paragraph” insert “(A1),”.
- (4) In regulation 50 (shipowners’ liability for wages following sickness or injury to seafarer)—
- (a) in paragraph (4)—
 - (i) in the words before sub-paragraph (a), omit “Subject to paragraphs (5) to (7)”;

(a) S.I. 1998/2411.

(b) S.I. 1997/2962. Relevant amending instruments are S.I. 1998/2411, S.I. 2001/54, S.I. 2014/1616 and S.I. 2015/1692.

(c) S.I. 2014/1613.

(d) S.I. 1978/795. Relevant amending instruments are S.I. 1979/491, S.I. 1984/41 and 1989/184. S.I. 1978/795 was revoked on 11th July 1997 by S.I. 1997/1508.

(e) S.I. 1997/1508. Amended by S.I. 2005/2114 and S.I. 2014/1614.

- (ii) in sub-paragraph (a), for “that period” substitute “the period of incapacity”;
- (iii) in sub-paragraph (b), for the words from “that period” to the end, substitute “the period of incapacity”;
- (b) for paragraph (5) substitute—
 - “(5) The “period of incapacity” begins on the day following the date of injury or the first day of sickness referred to in paragraph (1) and ends on—
 - (a) where the seafarer’s seafarer employment agreement is not for a definite period, the earlier of—
 - (i) the expiry of the period of 16 weeks beginning with that day; and
 - (ii) the date that the seafarer is again fit for work; or
 - (b) where the seafarer’s seafarer employment agreement is for a definite period, the earliest of—
 - (i) the expiry of the period of 16 weeks beginning with that day;
 - (ii) the date that the seafarer is again fit for work; and
 - (iii) the termination date included in that agreement.”;
- (c) in paragraph (7), for “referred to in paragraph (5)” substitute “of incapacity”;
- (d) in paragraph (11), for “This regulation does” substitute “Paragraphs (1) to (10) of this regulation do”;
- (e) after paragraph (10), insert—
 - “(12) A provision in a collective bargaining agreement may exclude or limit the operation of paragraphs (4) to (9) if the requirement in paragraph (13) is complied with.
 - (13) The requirement is that the collective bargaining agreement requires the shipowner to pay in whole or part an incapacitated seafarer the relevant amount for the period of incapacity.
 - (14) In this regulation—
 - “incapacitated seafarer” means a seafarer party to the collective bargaining agreement who would otherwise receive a payment by virtue of paragraph (4);
 - “relevant amount” means the basic wages that would have been payable under the incapacitated seafarer’s seafarer 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.”.

Amendment of the Merchant Shipping (Maritime Labour Convention) (Recruitment and Placement) Regulations 2014

7.—(1) The Merchant Shipping (Maritime Labour Convention) (Recruitment and Placement) Regulations 2014(a) are amended as follows.

- (2) In regulation 2(1) (interpretation), in the definition of “pleasure vessel”—
 - (i) in sub-paragraph (i) at the beginning, insert “in the case of a vessel wholly owned by—”;
 - (ii) in paragraphs (aa) and (bb), omit “in the case of a vessel wholly owned by—”; and
 - (iii) in the words after paragraph (b), for “paragraphs” substitute “paragraph”.
- (3) After regulation 7 insert—

(a) S.I. 2014/1615.

“Duty on employment agencies and businesses to have in place a complaints scheme

7A.—(1) This regulation applies to an employment agency or employment business which provides a service introducing or supplying a work-seeker to a hirer for the purpose of employment as a seafarer on a sea-going ship.

(2) The employment agency or employment business must have a complaints scheme.

(3) Where a relevant complaint cannot be resolved by the employment agency or employment business by the time that the seafarer making the complaint ceases to be employed or, as the case may be, represented by the employment agency or employment business, the employment agency or employment business must notify the Maritime and Coastguard Agency that the complaint is unresolved.

(4) In this regulation—

“complaints scheme” means a procedure in accordance with [Merchant Shipping Notice XXX] for [receiving, investigating and responding] to relevant complaints;

“relevant complaint” is a complaint made by a seafarer which relates to the activities of the employment agency or employment business.”.

(4) In regulation 8(1) (offences)—

- (a) omit “or” in the first place where it appears; and
- (b) after (6) insert “or 7A(2) or (3)”.

Name

Date

Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)