



BERMUDA

MERCHANT SHIPPING (REPATRIATION) AMENDMENT REGULATIONS 2019

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	Annex A2-I of the Maritime Labour Convention

The Minister responsible for Maritime Administration, in exercise of the power conferred by sections 3 and 84 of the Merchant Shipping Act 2002, makes the following Regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Repatriation) Amendment Regulations 2019.

Amends Regulation 2

2 Regulation 2 of the Merchant Shipping (Repatriation) Regulations 2013 in these Regulations referred to as ("the principal Regulations") is amended—

(a) by inserting the following definition in its proper alphabetical position—

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“Authority” means the Bermuda Shipping and Maritime Authority or (BSMA); and”

(b) in the definition of “repatriation destination” by deleting the word “either”.

Amends Regulation 3

3 Regulation 3(1)(a) of the principal Regulations is amended—

(a) by deleting “;” where it first occurs; and

(b) in sub-paragraph (iv) by deleting “.” and substituting “; and”.

Amends Regulation 4

4 Regulation 4 of the principal Regulations is amended—

(a) by inserting the following paragraphs next after paragraph 2—

“(2A) A copy of the evidence of financial security shall be posted in a conspicuous place on board, where seafarers have access.

(2B) Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.”; and”

(b) in paragraph (3) by deleting “Maritime Administration” and substituting “Authority”.

Inserts Regulations 4A and 4B

5 The principal Regulations are amended by inserting the following Regulations next after Regulation 4—

“Financial security system

4A (1) A certificate or other documentary evidence of financial security shall contain the information required in Annex A2-I of the Maritime Labour Convention prescribed in the Schedule; it shall be in English or accompanied by an English translation.

(2) Assistance provided by the financial security system shall be granted promptly upon request made by the seafarer or the seafarer’s nominated representative and supported by the necessary justification of entitlement under Regulation 4B.

(3) If time is needed to check the validity of certain aspects of the request of the seafarer or the seafarer’s nominated representative, this should not prevent the seafarer from immediately receiving such part of the assistance requested, as is recognised as justified.

(4) The financial security system shall be sufficient to cover the following—

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- (a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national laws of Bermuda, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
- (b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 5; and
- (c) the essential needs of the seafarer including such items as: adequate food, clothing, where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home.

(5) The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.

(6) The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days, to the Registrar of the Authority.

(7) If the provider of insurance or other financial security has made any payment to any seafarer in accordance with these Regulations, such provider shall, up to the amount it has paid and in accordance with the applicable law, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.

(8) Nothing in these Regulations shall prejudice any right of recourse of the insurer or provider of financial security against third parties.

(9) These Regulations are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned.

Abandonment of seafarer

4B A seafarer shall be deemed to have been abandoned where, in violation of the requirements of the Maritime Labour Convention or the terms of the seafarers' employment agreement, the shipowner—

- (a) fails to cover the cost of the seafarer's repatriation;
- (b) has left the seafarer without the necessary maintenance and support; or

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- (c) has otherwise unilaterally severed ties with the seafarer including failure to pay contractual wages for a period of at least two months.”.”

Amends Regulation 6

6 Regulation 6(1)(c)(ii) of the principal Regulations is amended by deleting “.”.

Amends Regulation 7

7 Regulation 7(2) of the principal Regulations is amended by deleting “sub-paragraph” and substituting “paragraph”.

Amends Regulation 10

8 Regulation 10(2) of the principal Regulations is amended by deleting “Maritime Administration” and substituting “Authority”.

Inserts Schedule

9 The principal Regulations are amended by inserting the Schedule to these Regulations as a Schedule to the principal Regulations.

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SCHEDULE

(Regulation 4A)

ANNEX A2-I OF THE MARITIME LABOUR CONVENTION

Evidence of financial security under Regulation 2.5, paragraph 2 of the Maritime Labour Convention

The certificate or other documentary evidence referred to in Standard A2.5.2, paragraph 7, shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' request for relief;
- (g) name of the shipowner;
- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A2.5.2.

Made this 14th day of February 2019

Minister of Tourism and Transport

[Operative Date: 18 February 2019]