



BERMUDA

MERCHANT SHIPPING (SEAFARER'S EMPLOYMENT) AMENDMENT
REGULATIONS 2019

BR 21 / 2019

TABLE OF CONTENTS

1	Citation
2	Amends Regulation 2
3	Amends Regulation 6
4	Amends Regulation 11
5	Inserts Regulations 13A, 13B and 13C
6	Amends Regulation 20
7	Amends Regulation 23
8	Inserts Schedule 1

The Minister responsible for Maritime Administration, in exercise of the powers conferred by sections 3, 38 and 39 of the Merchant Shipping Act 2002, makes the following Regulations:

Citation

1 These Regulations may be cited as the Merchant Shipping (Seafarer's Employment) Amendment Regulations 2019.

Amends Regulation 2

2 Regulation 2 of the Merchant Shipping (Seafarer's Employment) Regulations 2013, in these Regulations referred to as ("the principal Regulations") is amended—

- (a) by deleting "(1)"; and
- (b) by inserting the following definition in its proper alphabetical position—

MERCHANT SHIPPING (SEAFARER'S EMPLOYMENT) AMENDMENT
REGULATIONS 2019

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

Amends Regulation 6

3 Regulation 6(3) of the principal Regulations is amended by deleting “subparagraph” and substituting “paragraph”.

Amends Regulation 11

4 Regulation 11(5) of the principal Regulations is amended by deleting “subparagraphs” and substituting “paragraphs”.

Inserts Regulations 13A, 13B and 13C

5 The principal Regulations are amended by inserting the following Regulations next after Regulation 13—

“Contractual compensation

13A (1) The contractual compensation, where set out in the seafarer’s employment agreement and without prejudice to paragraph (3), shall be paid in full and without delay.

(2) There shall be no pressure to accept a payment less than the contractual amount.

(3) Where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship.

(4) The seafarer shall receive payment without prejudice to other legal rights, but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident.

(5) The claim for contractual compensation may be brought directly by the seafarer concerned.

Financial security

13B (1) Bermuda registered ships shall carry on board a certificate or other documentary evidence of financial security issued by the financial security provider.

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

(3) Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

MERCHANT SHIPPING (SEAFARER'S EMPLOYMENT) AMENDMENT
REGULATIONS 2019

(4) 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.

(5) The financial security shall provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.

(6) The certificate or other documentary evidence of financial security shall contain the information required in Annex A4-I of the Maritime Labour Convention, prescribed in the Schedule; it shall be in English or accompanied by an English translation.

Treatment of Contractual Claims

13C (1) The term "contractual claim" means any claim which relates to death or long-term disability of seafarers due to an occupational injury, illness or hazard as set out in national law, the seafarers' employment agreement or a collective agreement.

(2) The system of financial security, may be in the form of a social security scheme or insurance or fund or other similar arrangements; its form shall be determined by the Authority after consultation with the shipowners' and seafarers' organisations concerned.

(3) Any dispute relating to contractual claims relating to compensation referred to in Standard A4.2.1 paragraph 8 of the Maritime Labour Convention may be submitted by the parties to an arbitrator appointed under the Arbitration Act 1986, for decision."."

Amends Regulation 20

6 Regulation 20 of the principal Regulations is amended—

(a) by deleting paragraph (1) and substituting the following paragraphs—

"(1) Every ship to which these Regulations apply shall have in place, procedures that may be used by any seafarer serving in the ship, to make a complaint relating to any matter that is alleged to constitute a breach of the requirements of the Maritime Labour Convention.

(1A) The procedures shall be set out in writing and made available to every seafarer and they shall include—

- (a) the contact details for the Authority;
- (b) the contact details of the competent authority in the seafarer's country of residence; and
- (c) the identity of a person on board who can, on a confidential basis, provide impartial advice on a complaint or otherwise assist in following the procedures."; and"

MERCHANT SHIPPING (SEAFARER'S EMPLOYMENT) AMENDMENT
REGULATIONS 2019

- (b) in paragraph (4) by deleting the words "Bermuda Maritime Administration" wherever they occur and substituting "Authority".

Amends Regulation 23

7 Regulation 23(2) of the principal Regulations is amended by deleting "Maritime Administration" and substituting "Authority".

Inserts Schedule 1

8 The principal Regulations are amended by inserting the following, as a Schedule to the principal Regulations—

"SCHEDULE 1

(Regulation 13B)

ANNEX A4-I OF THE MARITIME LABOUR CONVENTION

Evidence of financial security under Regulation 4.2 of the Maritime Labour Convention

The certificate or other documentary evidence of financial security required under Standard A4.2.1, paragraph 14, 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' contractual claims;
- (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 A4.2.1. .

Made this 14th day of February 2019

Minister of Tourism and Transport

MERCHANT SHIPPING (SEAFARER'S EMPLOYMENT) AMENDMENT
REGULATIONS 2019

[Operative Date: 18 February 2019]