

SAINT CHRISTOPHER AND NEVIS

STATUTORY RULES AND ORDERS

No. 4 of 2024

Merchant Shipping (Maritime Labour Convention 2006) (Amendment) Regulations, 2024

In exercise of the powers conferred by section 456 of the Merchant Shipping Act, Cap. 7.05, the Minister responsible for Maritime Affairs makes these Regulations

[Published 22nd February 2024, Official Gazette No. 10 of 2024]

1. Citation.

These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention 2006) (Amendment) Regulations, 2024.

2. Interpretation.

In these Regulations

“principal Regulations” means the Merchant Shipping (Maritime Labour Convention 2006) Regulations, 2013, set out as the Twentieth Schedule of the Merchant Shipping Act, Cap. 7.05.

3. Amendment of Regulation 2.

Regulation 2 of the principal Regulations is amended by inserting the following new definitions in the correct alphabetical order

“armed robbery against ships” means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State’s internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above;

“piracy” consists of any of the following acts

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed;
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b);

“Standard” refers to the Standards set out under the Maritime Labour Convention, 2006;”.

4. Amendment of Regulation 7.

Regulation 7 of the principal Regulations is amended by inserting new sub-regulations (13) and (14) as follows

“(13) Pursuant to sub-regulation 7(1), Shipowners shall ensure that a seafarer’s employment agreement continues to have effect while a seafarer is held captive on or off a ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it.

(14) Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers’ employment agreement, relevant collective bargaining agreement or laws, including the remittance of any allotments as provided in paragraph 4 of the Standard, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Standard A2.5.1 or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations.”.

5. Amendment of regulation 11.

Regulation 11 of the principal Regulations is amended

- (a) by replacing sub-regulation (4) as follows;

“(4) All ships that fly the flag of Saint Christopher and Nevis shall provide the Director with evidence of financial security to ensure that the seafarers are duly repatriated, in accordance with Standard A2.5.2 as amended, which evidence shall also be available onboard the vessel for inspection at all times.”.

- (b) by replacing sub-regulation (9) as follows;

“(9) The entitlement to repatriation may lapse if the seafarers concerned do not claim it within fourteen days from the time he or she is in a condition to be repatriated, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships.”.

6. Amendment of regulation 18.

Regulation 18 of the principal Regulations is amended by

- (a) replacing sub-regulations (5) and (6) with the following new sub-regulations

“(5) The liability of the shipowner under sub-regulation 18(4) shall not be less than sixteen (16) weeks from the day of injury or the commencement of the sickness and shall cease from the time at which the seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers’ compensation for accidents.

(6) The liability of the shipowner to pay wages in whole or in part in respect of a seafarer no longer onboard shall not be less than sixteen (16) weeks from the day of the injury or the commencement of the sickness and shall cease from the time at which the seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.”.

(b) inserting the following new sub-regulations (9) and (10) as follows

“(9) Subject to sub-section 18(3), all ships that fly the flag of Saint Christopher and Nevis shall provide the Director with evidence of financial security to assure compensation, as defined in Standard A4.2.2, meets the following minimum requirements

- (a) the contractual compensation, where set out in the seafarer's employment agreement and without prejudice to subparagraph (c) of this paragraph, shall be paid in full and without delay;
- (b) there shall be no pressure to accept a payment less than the contractual amount;
- (c) 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;
- (d) in accordance with Regulation 4.2, paragraph 2, of the Maritime Labour Convention, 2006, 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; and
- (e) the claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary.

(10) Shipowners shall ensure that seafarers receive prior notification, of a period not less than 30 days, if a shipowner's financial security is to be cancelled or terminated.”.

7. Amendment of Regulation 19.

Regulation 19 of the principal Regulations is amended by

(a) replacing sub-regulation (6) as follows

“(6) The Director shall ensure that the implications for health and safety are taken into account, particularly in the following areas;

- (a) emergency and accident response;
- (b) the effects of drug and alcohol dependency;
- (c) HIV/AIDS protection and prevention; and
- (d) harassment and bullying.”.

(b) inserting a new sub-regulation (10) and (11) as follows

“(10) The Director shall promote and may request investigations into the causes and circumstances of all occupational accidents and occupational injuries and diseases resulting in loss of life or serious personal injury, and such other cases as may be specified in national laws or regulations.

(11) Consideration should be given to including the following as subjects of investigation:

- (i) working environment, such as working surfaces, layout of machinery, means of access, lighting and methods of work;
- (ii) incidence in different age groups of occupational accidents and occupational injuries and diseases;
- (iii) special physiological or psychological problems created by the shipboard environment;
- (iv) problems arising from physical stress on board a ship, in particular as a consequence of increased workload;
- (v) problems arising from and effects of technical developments and their influence on the composition of crews; and
- (vi) problems arising from any human failures.”.

8. Amendment of regulation 21.

Regulation 21 of the principal Regulations is amended by inserting a new sub-regulation (5) and (6) as follows

“(5) All ships which fly the flag of Saint Christopher and Nevis shall be issued with a Declaration of Maritime Labour Convention, Part I with a validity period not exceeding 5 years.

(6) Upon the renewal inspection under this convention, a new or amended Declaration of Maritime Labour Convention, Part I with a validity period not exceeding 5 years shall be issued and be available on board for inspection at all times.”.

Made this 9th day of February, 2024.

MARSHA HENDERSON

Minister responsible for Maritime Affairs