

## CONDITIONS OF EMPLOYMENT

### Regulation 2.1 – Seafarers’ employment agreements

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*Purpose: To ensure that seafarers have a fair employment agreement*

- 1. The terms and conditions for employment of a seafarer shall be set out or referred to in a clear written legally enforceable agreement and shall be consistent with the standards set out in the Code.
- 2. Seafarers’ employment agreements shall be agreed to by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and freely accepts them before signing.
- 3. To the extent compatible with the Member’s national law and practice, seafarers’ employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

### Standard A2.1 – Seafarers’ employment agreements

- 1. Each Member shall adopt laws or regulations requiring that ships that fly its flag comply with the following requirements:
  - (a) seafarers working on ships that fly its flag shall have a seafarers’ employment agreement signed by both the seafarer and the shipowner or a representative of the shipowner (or, where they are not employees, evidence of contractual or similar arrangements) providing them with decent working and living conditions on board the ship as required by this Convention;
  - (b) seafarers signing a seafarers’ employment agreement shall be given an opportunity to examine and seek advice on the agreement before signing, as well as such other facilities as are necessary to ensure that they have freely entered into an agreement with a sufficient understanding of their rights and responsibilities;
  - (c) the shipowner and seafarer concerned shall each have a signed original of the seafarers’ employment agreement;
  - (d) measures shall be taken to ensure that clear information as to the conditions of their employment can be easily obtained on board by seafarers, including the ship’s master, and that such information, including a copy of the seafarers’ employment agreement, is also accessible for review by officers of a competent authority, including those in ports to be visited; and

- (e) seafarers shall be given a document containing a record of their employment on board the ship.
- 2. Where a collective bargaining agreement forms all or part of a seafarers' employment agreement, a copy of that agreement shall be available on board. Where the language of the seafarers' employment agreement and any applicable collective bargaining agreement is not in English, the following shall also be available in English (except for ships engaged only in domestic voyages):
  - (a) a copy of a standard form of the agreement; and
  - (b) the portions of the collective bargaining agreement that are subject to a port State inspection under Regulation 5.2.
- 3. The document referred to in paragraph 1(e) of this Standard shall not contain any statement as to the quality of the seafarers' work or as to their wages. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered, shall be determined by national law.
- 4. Each Member shall adopt laws and regulations specifying the matters that are to be included in all seafarers' employment agreements governed by its national law. Seafarers' employment agreements shall in all cases contain the following particulars:
  - (a) the seafarer's full name, date of birth or age, and birthplace;
  - (b) the shipowner's name and address;
  - (c) the place where and date when the seafarers' employment agreement is entered into;
  - (d) the capacity in which the seafarer is to be employed;
  - (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them;
  - (f) the amount of paid annual leave or, where applicable, the formula used for calculating it;
  - (g) the termination of the agreement and the conditions thereof, including:
    - (i) if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;

- (ii) if the agreement has been made for a definite period, the date fixed for its expiry; and
    - (iii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;
  - (h) the health and social security protection benefits to be provided to the seafarer by the shipowner;
  - (i) the seafarer's entitlement to repatriation;
  - (j) reference to the collective bargaining agreement, if applicable; and
  - (k) any other particulars which national law may require.
- 5. Each Member shall adopt laws or regulations establishing minimum notice periods to be given by the seafarers and shipowners for the early termination of a seafarers' employment agreement. The duration of these minimum periods shall be determined after consultation with the shipowners' and seafarers' organizations concerned, but shall not be shorter than seven days.
- 6. A notice period shorter than the minimum may be given in circumstances which are recognized under national law or regulations or applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice. In determining those circumstances, each Member shall ensure that the need of the seafarer to terminate, without penalty, the employment agreement on shorter notice or without notice for compassionate or other urgent reasons is taken into account.
- 7. Each Member shall require that a seafarer's employment agreement shall continue to have effect while a seafarer is held captive on or off the 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. For the purpose of this paragraph, the term:
  - (a) *piracy* shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982;
  - (b) *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.

## **Guideline B2.1 – Seafarers' employment agreements**

### **Guideline B2.1.1 – Record of employment**

- 1. In determining the particulars to be recorded in the record of employment referred to in Standard A2.1, paragraph 1(e), each Member should ensure that this document contains sufficient information, with a translation in English, to facilitate the acquisition of further work or to satisfy the sea-service requirements for upgrading or promotion. A seafarers' discharge book may satisfy the requirements of paragraph 1(e) of that Standard.

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## **Regulation 2.2 – Wages**

*Purpose: To ensure that seafarers are paid for their services*

- 1. All seafarers shall be paid for their work regularly and in full in accordance with their employment agreements.

### **Standard A2.2 – Wages**

- 1. Each Member shall require that payments due to seafarers working on ships that fly its flag are made at no greater than monthly intervals and in accordance with any applicable collective agreement.
- 2. Seafarers shall be given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.
- 3. Each Member shall require that shipowners take measures, such as those set out in paragraph 4 of this Standard, to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries.
- 4. Measures to ensure that seafarers are able to transmit their earnings to their families include:
  - (a) a system for enabling seafarers, at the time of their entering employment or during it, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families by bank transfers or similar means; and
  - (b) a requirement that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers.

- 5. Any charge for the service under paragraphs 3 and 4 of this Standard shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall, in accordance with national laws or regulations, be at the prevailing market rate or the official published rate and not unfavourable to the seafarer.
- 6. Each Member that adopts national laws or regulations governing seafarers' wages shall give due consideration to the guidance provided in Part B of the Code.
- 7. 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 applicable national laws, including the remittance of any allotments as provided in paragraph 4 of this 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. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

## **Guideline B2.2 – Wages**

### **Guideline B2.2.1 – Specific definitions**

- 1. For the purpose of this Guideline, the term:
  - (a) *able seafarer* means any seafarer who is deemed competent to perform any duty which may be required of a rating serving in the deck department, other than the duties of a supervisory or specialist rating, or who is defined as such by national laws, regulations or practice, or by collective agreement;
  - (b) *basic pay or wages* means the pay, however composed, for normal hours of work; it does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration;
  - (c) *consolidated wage* means a wage or salary which includes the basic pay and other pay-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation;
  - (d) *hours of work* means time during which seafarers are required to do work on account of the ship;
  - (e) *overtime* means time worked in excess of the normal hours of work.

## Guideline B2.2.2 – Calculation and payment

- 1. For seafarers whose remuneration includes separate compensation for overtime worked:
  - (a) for the purpose of calculating wages, the normal hours of work at sea and in port should not exceed eight hours per day;
  - (b) for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should be prescribed by national laws or regulations, if not determined by collective agreements, but should not exceed 48 hours per week; collective agreements may provide for a different but not less favourable treatment;
  - (c) the rate or rates of compensation for overtime, which should be not less than one and one-quarter times the basic pay or wages per hour, should be prescribed by national laws or regulations or by collective agreements, if applicable; and
  - (d) records of all overtime worked should be maintained by the master, or a person assigned by the master, and endorsed by the seafarer at no greater than monthly intervals.
  
- 2. For seafarers whose wages are fully or partially consolidated:
  - (a) the seafarers' employment agreement should specify clearly, where appropriate, the number of hours of work expected of the seafarer in return for this remuneration, and any additional allowances which might be due in addition to the consolidated wage, and in which circumstances;
  - (b) where hourly overtime is payable for hours worked in excess of those covered by the consolidated wage, the hourly rate should be not less than one and one quarter times the basic rate corresponding to the normal hours of work as defined in paragraph 1 of this Guideline; the same principle should be applied to the overtime hours included in the consolidated wage;
  - (c) remuneration for that portion of the fully or partially consolidated wage representing the normal hours of work as defined in paragraph 1(a) of this Guideline should be no less than the applicable minimum wage; and
  - (d) for seafarers whose wages are partially consolidated, records of all overtime worked should be maintained and endorsed as provided for in paragraph 1(d) of this Guideline.

- 3. National laws or regulations or collective agreements may provide for compensation for overtime or for work performed on the weekly day of rest and on public holidays by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided.
- 4. National laws and regulations adopted after consulting the representative shipowners' and seafarers' organizations or, as appropriate, collective agreements should take into account the following principles:
  - (a) equal remuneration for work of equal value should apply to all seafarers employed on the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin;
  - (b) the seafarers' employment agreement specifying the applicable wages or wage rates should be carried on board the ship; information on the amount of wages or wage rates should be made available to each seafarer, either by providing at least one signed copy of the relevant information to the seafarer in a language which the seafarer understands, or by posting a copy of the agreement in a place accessible to seafarers or by some other appropriate means;
  - (c) wages should be paid in legal tender; where appropriate, they may be paid by bank transfer, bank cheque, postal cheque or money order;
  - (d) on termination of engagement all remuneration due should be paid without undue delay;
  - (e) adequate penalties or other appropriate remedies should be imposed by the competent authority where shipowners unduly delay, or fail to make, payment of all remuneration due;
  - (f) wages should be paid directly to seafarers' designated bank accounts unless they request otherwise in writing;
  - (g) subject to subparagraph (h) of this paragraph, the shipowner should impose no limit on seafarers' freedom to dispose of their remuneration;
  - (h) deduction from remuneration should be permitted only if:
    - (i) there is an express provision in national laws or regulations or in an applicable collective agreement and the seafarer has been informed, in the manner deemed most appropriate by the competent authority, of the conditions for such deductions; and

- (ii) the deductions do not in total exceed the limit that may have been established by national laws or regulations or collective agreements or court decisions for making such deductions;
  - (i) no deductions should be made from a seafarer's remuneration in respect of obtaining or retaining employment;
  - (j) monetary fines against seafarers other than those authorized by national laws or regulations, collective agreements or other measures should be prohibited;
  - (k) the competent authority should have the power to inspect stores and services provided on board ship to ensure that fair and reasonable prices are applied for the benefit of the seafarers concerned; and
  - (l) to the extent that seafarers' claims for wages and other sums due in respect of their employment are not secured in accordance with the provisions of the International Convention on Maritime Liens and Mortgages, 1993, such claims should be protected in accordance with the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173).
- 5. Each Member should, after consulting with representative shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Guideline.

### **Guideline B2.2.3 – Minimum wages**

- 1. Without prejudice to the principle of free collective bargaining, each Member should, after consulting representative shipowners' and seafarers' organizations, establish procedures for determining minimum wages for seafarers. Representative shipowners' and seafarers' organizations should participate in the operation of such procedures.
- 2. When establishing such procedures and in fixing minimum wages, due regard should be given to international labour standards concerning minimum wage fixing, as well as the following principles:
  - (a) the level of minimum wages should take into account the nature of maritime employment, crewing levels of ships, and seafarers' normal hours of work; and
  - (b) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers.
- 3. The competent authority should ensure:



- a) by means of a system of supervision and sanctions, that wages are paid at not less than the rate or rates fixed; and
- b) that any seafarers who have been paid at a rate lower than the minimum wage are enabled to recover, by an inexpensive and expeditious judicial or other procedure, the amount by which they have been underpaid.

#### **Guideline B2.2.4 – Minimum monthly basic pay or wage figure for able seafarers**

- 1. The basic pay or wages for a calendar month of service for an able seafarer should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the International Labour Office. Upon a decision of the Governing Body, the Director-General shall notify any revised amount to the Members of the Organization.
- 2. Nothing in this Guideline should be deemed to prejudice arrangements agreed between shipowners or their organizations and seafarers' organizations with regard to the regulation of standard minimum terms and conditions of employment, provided such terms and conditions are recognized by the competent authority.

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#### **Regulation 2.3 – Hours of work and hours of rest**

*Purpose: To ensure that seafarers have regulated hours of work or hours of rest*

- 1. Each Member shall ensure that the hours of work or hours of rest for seafarers are regulated.
- 2. Each Member shall establish maximum hours of work or minimum hours of rest over given periods that are consistent with the provisions in the Code.

#### **Standard A2.3 – Hours of work and hours of rest**

- 1. For the purpose of this Standard, the term:
  - (a) *hours of work* means time during which seafarers are required to do work on account of the ship;
  - (b) *hours of rest* means time outside hours of work; this term does not include short breaks.
- 2. Each Member shall within the limits set out in paragraphs 5 to 8 of this Standard fix either a maximum number of hours of work which shall not be exceeded in a given period of time, or a minimum number of hours of rest which shall be provided in a given period of time.

- 3. Each Member acknowledges that the normal working hours' standard for seafarers, like that for other workers, shall be based on an eight-hour day with one day of rest per week and rest on public holidays. However, this shall not prevent the Member from having procedures to authorize or register a collective agreement which determines seafarers' normal working hours on a basis no less favourable than this standard.
- 4. In determining the national standards, each Member shall take account of the danger posed by the fatigue of seafarers, especially those whose duties involve navigational safety and the safe and secure operation of the ship.
- 5. The limits on hours of work or rest shall be as follows:
  - (a) maximum hours of work shall not exceed:
    - (i) 14 hours in any 24-hour period; and
    - (ii) 72 hours in any seven-day period; or
  - (b) minimum hours of rest shall not be less than:
    - (i) ten hours in any 24-hour period; and
    - (ii) 77 hours in any seven-day period.
- 6. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.
- 7. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments, shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.
- 8. When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.
- 9. If no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award in respect of paragraph 7 or 8 of this Standard are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.
- 10. Each Member shall require the posting, in an easily accessible place, of a table with the shipboard working arrangements, which shall contain for every position at least:
  - (a) the schedule of service at sea and service in port; and

- (b) the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements.
- 11. The table referred to in paragraph 10 of this Standard shall be established in a standardized format in the working language or languages of the ship and in English.
- 12. Each Member shall require that records of seafarers' daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with paragraphs 5 to 11 inclusive of this Standard. The records shall be in a standardized format established by the competent authority taking into account any available guidelines of the International Labour Organization or shall be in any standard format prepared by the Organization. They shall be in the languages required by paragraph 11 of this Standard. The seafarers shall receive a copy of the records pertaining to them which shall be endorsed by the master, or a person authorized by the master, and by the seafarers.
- 13. Nothing in paragraphs 5 and 6 of this Standard shall prevent a Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the provisions of this Standard but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages.
- 14. Nothing in this Standard shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. Accordingly, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

## **Guideline B2.3 – Hours of work and hours of rest**

### **Guideline B2.3.1 – Young seafarers**

- 1. At sea and in port the following provisions should apply to all young seafarers under the age of 18:
  - (a) working hours should not exceed eight hours per day and 40 hours per week and overtime should be worked only where unavoidable for safety reasons;
  - (b) sufficient time should be allowed for all meals, and a break of at least one hour for the main meal of the day should be assured; and

- (c) a 15-minute rest period as soon as possible following each two hours of continuous work should be allowed.
- 2. Exceptionally, the provisions of paragraph 1 of this Guideline need not be applied if:
  - (a) they are impracticable for young seafarers in the deck, engine room and catering departments assigned to watchkeeping duties or working on a rostered shiftwork system; or
  - (b) the effective training of young seafarers in accordance with established programmes and schedules would be impaired.
- 3. Such exceptional situations should be recorded, with reasons, and signed by the master.
- 4. Paragraph 1 of this Guideline does not exempt young seafarers from the general obligation on all seafarers to work during any emergency as provided for in Standard A2.3, paragraph 14.

## **Regulation 2.4 – Entitlement to leave**

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*Purpose: To ensure that seafarers have adequate leave*

- 1. Each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code.
- 2. Seafarers shall be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.

## **Standard A2.4 – Entitlement to leave**

- 1. Each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave.
- 2. Subject to any collective agreement or laws or regulations providing for an appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. The manner in which the length of service is calculated shall be determined by the competent authority or through the appropriate machinery in each country. Justified absences from work shall not be considered as annual leave.
- 3. Any agreement to forgo the minimum annual leave with pay prescribed in this Standard, except in cases provided for by the competent authority, shall be prohibited.

## **Guideline B2.4 – Entitlement to leave**

### **Guideline B2.4.1 – Calculation of entitlement**

- 1. Under conditions as determined by the competent authority or through the appropriate machinery in each country, service off-articles should be counted as part of the period of service.
- 2. Under conditions as determined by the competent authority or in an applicable collective agreement, absence from work to attend an approved maritime vocational training course or for such reasons as illness or injury or for maternity should be counted as part of the period of service.
- 3. The level of pay during annual leave should be at the seafarer's normal level of remuneration provided for by national laws or regulations or in the applicable seafarers' employment agreement. For seafarers employed for periods shorter than one year or in the event of termination of the employment relationship, entitlement to leave should be calculated on a pro-rata basis.
- 4. The following should not be counted as part of annual leave with pay:
  - (a) public and customary holidays recognized as such in the flag State, whether or not they fall during the annual leave with pay;
  - (b) periods of incapacity for work resulting from illness or injury or from maternity, under conditions as determined by the competent authority or through the appropriate machinery in each country;
  - (c) temporary shore leave granted to a seafarer while under an employment agreement; and
  - (d) compensatory leave of any kind, under conditions as determined by the competent authority or through the appropriate machinery in each country.

### **Guideline B2.4.2 – Taking of annual leave**

- 1. The time at which annual leave is to be taken should, unless it is fixed by regulation, collective agreement, arbitration award or other means consistent with national practice, be determined by the shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives.
- 2. Seafarers should in principle have the right to take annual leave in the place with which they have a substantial connection, which would normally be the same as the place to which they are entitled to be repatriated. Seafarers should not be required without their consent to take annual leave due to them in

another place except under the provisions of a seafarers' employment agreement or of national laws or regulations.

- 3. If seafarers are required to take their annual leave from a place other than that permitted by paragraph 2 of this Guideline, they should be entitled to free transportation to the place where they were engaged or recruited, whichever is nearer their home; subsistence and other costs directly involved should be for the account of the shipowner; the travel time involved should not be deducted from the annual leave with pay due to the seafarer.
- 4. A seafarer taking annual leave should be recalled only in cases of extreme emergency and with the seafarer's consent.

### **Guideline B2.4.3 – Division and accumulation**

- 1. The division of the annual leave with pay into parts, or the accumulation of such annual leave due in respect of one year together with a subsequent period of leave, may be authorized by the competent authority or through the appropriate machinery in each country.
- 2. Subject to paragraph 1 of this Guideline and unless otherwise provided in an agreement applicable to the shipowner and the seafarer concerned, the annual leave with pay recommended in this Guideline should consist of an uninterrupted period.

### **Guideline B2.4.4 – Young seafarers**

- 1. Special measures should be considered with respect to young seafarers under the age of 18 who have served six months or any other shorter period of time under a collective agreement or seafarers' employment agreement without leave on a foreign-going ship which has not returned to their country of residence in that time, and will not return in the subsequent three months of the voyage. Such measures could consist of their repatriation at no expense to themselves to the place of original engagement in their country of residence for the purpose of taking any leave earned during the voyage.

## **Regulation 2.5 – Repatriation**

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*Purpose: To ensure that seafarers are able to return home*

- 1. Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code.
- 2. Each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.

## Standard A2.5.1 – Repatriation

- 1. Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:
  - (a) if the seafarers' employment agreement expires while they are abroad;
  - (b) when the seafarers' employment agreement is terminated:
    - (i) by the shipowner; or
    - (ii) by the seafarer for justified reasons; and also
  - (c) when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances.
- 2. Each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing:
  - (a) the circumstances in which seafarers are entitled to repatriation in accordance with paragraph 1(b) and (c) of this Standard;
  - (b) the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months; and
  - (c) the precise entitlements to be accorded by shipowners for repatriation, including those relating to the destinations of repatriation, the mode of transport, the items of expense to be covered and other arrangements to be made by shipowners.
- 3. Each Member shall prohibit shipowners from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarer has been found, in accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer's employment obligations.
- 4. National laws and regulations shall not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.
- 5. If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated:

- (a) the competent authority of the Member whose flag the ship flies shall arrange for repatriation of the seafarers concerned; if it fails to do so, the State from which the seafarers are to be repatriated or the State of which they are a national may arrange for their repatriation and recover the cost from the Member whose flag the ship flies;
  - (b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member whose flag the ship flies;
  - (c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in paragraph 3 of this Standard.
- 6. Taking into account applicable international instruments, including the International Convention on Arrest of Ships, 1999, a Member which has paid the cost of repatriation pursuant to this Code may detain, or request the detention of, the ships of the shipowner concerned until the reimbursement has been made in accordance with paragraph 5 of this Standard.
- 7. Each Member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.
- 8. In particular, a Member shall not refuse the right of repatriation to any seafarer because of the financial circumstances of a shipowner or because of the shipowner's inability or unwillingness to replace a seafarer.
- 9. Each Member shall require that ships that fly its flag carry and make available to seafarers a copy of the applicable national provisions regarding repatriation written in an appropriate language.

### **Standard A2.5.2 – Financial security**

- 1. In implementation of Regulation 2.5, paragraph 2, this Standard establishes requirements to ensure the provision of an expeditious and effective financial security system to assist seafarers in the event of their abandonment.
- 2. For the purposes of this Standard, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers' employment agreement, the shipowner:
  - (a) fails to cover the cost of the seafarer's repatriation; or
  - (b) has left the seafarer without the necessary maintenance and support; or
  - (c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.



- 3. Each Member shall ensure that a financial security system meeting the requirements of this Standard is in place for ships flying its flag. The financial security system may be in the form of a social security scheme or insurance or a national fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.
- 4. The financial security system shall provide direct access, sufficient coverage and expedited financial assistance, in accordance with this Standard, to any abandoned seafarer on a ship flying the flag of the Member.
- 5. For the purposes of paragraph 2(b) of this Standard, necessary maintenance and support of seafarers shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.
- 6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.
- 7. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation.
- 8. 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 in accordance with paragraph 2 above.
- 9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:
  - (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 law of the flag State, 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 10; 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.

- 10. 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.
- 11. 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 competent authority of the flag State.
- 12. If the provider of insurance or other financial security has made any payment to any seafarer in accordance with this Standard, 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.
- 13. Nothing in this Standard shall prejudice any right of recourse of the insurer or provider of financial security against third parties.
- 14. The provisions in this Standard 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. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising from any rights, claims or remedies that may be the subject of compensation under the present Standard.

## **Guideline B2.5 – Repatriation**

### **Guideline B2.5.1 – Entitlement**

- 1. Seafarers should be entitled to repatriation:
  - (a) in the case covered by Standard A2.5, paragraph 1(a), upon the expiry of the period of notice given in accordance with the provisions of the seafarers' employment agreement;
  - (b) in the cases covered by Standard A2.5, paragraph 1(b) and (c):
    - (i) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;
    - (ii) in the event of shipwreck;

- (iii) in the event of the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;
  - (iv) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers' employment agreements, to which the seafarer does not consent to go; and
  - (v) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.
- 2. In determining the maximum duration of service periods on board following which a seafarer is entitled to repatriation, in accordance with this Code, account should be taken of factors affecting the seafarers' working environment. Each Member should seek, wherever possible, to reduce these periods in the light of technological changes and developments and might be guided by any recommendations made on the matter by the Joint Maritime Commission.
- 3. The costs to be borne by the shipowner for repatriation under Standard A2.5 should include at least the following:
  - (a) passage to the destination selected for repatriation in accordance with paragraph 6 of this Guideline;
  - (b) accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;
  - (c) pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination, if provided for by national laws or regulations or collective agreements;
  - (d) transportation of 30 kg of the seafarers' personal luggage to the repatriation destination; and
  - (e) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.
- 4. Time spent awaiting repatriation and repatriation travel time should not be deducted from paid leave accrued to the seafarers.

- 5. Shipowners should be required to continue to cover the costs of repatriation until the seafarers concerned are landed at a destination prescribed pursuant to this Code or are provided with suitable employment on board a ship proceeding to one of those destinations.
- 6. Each Member should require that shipowners take responsibility for repatriation arrangements by appropriate and expeditious means. The normal mode of transport should be by air. The Member should prescribe the destinations to which seafarers may be repatriated. The destinations should include the countries with which seafarers may be deemed to have a substantial connection including:
  - (a) the place at which the seafarer agreed to enter into the engagement;
  - (b) the place stipulated by collective agreement;
  - (c) the seafarer's country of residence; or
  - (d) such other place as may be mutually agreed at the time of engagement.
- 7. Seafarers should have the right to choose from among the prescribed destinations the place to which they are to be repatriated.
- 8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

### **Guideline B2.5.2 – Implementation by Members**

- 1. Every possible practical assistance should be given to a seafarer stranded in a foreign port pending repatriation and in the event of delay in the repatriation of the seafarer, the competent authority in the foreign port should ensure that the consular or local representative of the flag State and the seafarer's State of nationality or State of residence, as appropriate, is informed immediately.
- 2. Each Member should have regard to whether proper provision is made:
  - (a) for the return of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port for reasons for which they are not responsible:
    - (i) to the port at which the seafarer concerned was engaged; or
    - (ii) to a port in the seafarer's State of nationality or State of residence, as appropriate; or

- (iii) to another port agreed upon between the seafarer and the master or shipowner, with the approval of the competent authority or under other appropriate safeguards;
  - (b) for medical care and maintenance of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port in consequence of sickness or injury incurred in the service of the ship and not due to their own wilful misconduct.
- 3. If, after young seafarers under the age of 18 have served on a ship for at least four months during their first foreign-going voyage, it becomes apparent that they are unsuited to life at sea, they should be given the opportunity of being repatriated at no expense to themselves from the first suitable port of call in which there are consular services of the flag State, or the State of nationality or residence of the young seafarer. Notification of any such repatriation, with the reasons therefor, should be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment.

### **Guideline B2.5.3 – Financial security**

- 1. In implementation of paragraph 8 of Standard A2.5.2, 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 recognized as justified.

## **Regulation 2.6 – Seafarer compensation for the ship's loss or foundering**

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*Purpose: To ensure that seafarers are compensated when a ship is lost or has foundered*

- 1. Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering.

### **Standard A2.6 – Seafarer compensation for the ship's loss or foundering**

- 1. Each Member shall make rules ensuring that, in every case of loss or foundering of any ship, the shipowner shall pay to each seafarer on board an indemnity against unemployment resulting from such loss or foundering.
- 2. The rules referred to in paragraph 1 of this Standard shall be without prejudice to any other rights a seafarer may have under the national law of the Member concerned for losses or injuries arising from a ship's loss or foundering.

## **Guideline B2.6 – Seafarer compensation for the ship’s loss or foundering**

### **Guideline B2.6.1 – Calculation of indemnity against unemployment**

- 1. The indemnity against unemployment resulting from a ship’s foundering or loss should be paid for the days during which the seafarer remains in fact unemployed at the same rate as the wages payable under the employment agreement, but the total indemnity payable to any one seafarer may be limited to two months’ wages.
- 2. Each Member should ensure that seafarers have the same legal remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

## **Regulation 2.7 – Manning levels**

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*Purpose: To ensure that seafarers work on board ships with sufficient personnel for the safe, efficient and secure operation of the ship*

- 1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about seafarer fatigue and the particular nature and conditions of the voyage.

### **Standard A2.7 – Manning levels**

- 1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers on board to ensure that ships are operated safely, efficiently and with due regard to security. Every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or an equivalent issued by the competent authority, and to comply with the standards of this Convention.
- 2. When determining, approving or revising manning levels, the competent authority shall take into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue, as well as the principles in applicable international instruments, especially those of the International Maritime Organization, on manning levels.
- 3. When determining manning levels, the competent authority shall take into account all the requirements within Regulation 3.2 and Standard A3.2 concerning food and catering.

## **Guideline B2.7 – Manning levels**

### **Guideline B2.7.1 – Dispute settlement**

- 1. Each Member should maintain, or satisfy itself that there is maintained, efficient machinery for the investigation and settlement of complaints or disputes concerning the manning levels on a ship.
- 2. Representatives of shipowners' and seafarers' organizations should participate, with or without other persons or authorities, in the operation of such machinery.

## **Regulation 2.8 – Career and skill development and opportunities for seafarers' employment**

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*Purpose: To promote career and skill development and employment opportunities for seafarers*

- 1. Each Member shall have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in its territory.

### **Standard A2.8 – Career and skill development and employment opportunities for seafarers**

- 1. Each Member shall have national policies that encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce.
- 2. The aim of the policies referred to in paragraph 1 of this Standard shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.
- 3. Each Member shall, after consulting the shipowners' and seafarers' organizations concerned, establish clear objectives for the vocational guidance, education and training of seafarers whose duties on board ship primarily relate to the safe operation and navigation of the ship, including ongoing training.

### **Guideline B2.8 – Career and skill development and employment opportunities for seafarers**

#### **Guideline B2.8.1 – Measures to promote career and skill development and employment opportunities for seafarers**

- 1. Measures to achieve the objectives set out in Standard A2.8 might include:
  - (a) agreements providing for career development and skills training with a shipowner or an organization of shipowners; or

- (b) arrangements for promoting employment through the establishment and maintenance of registers or lists, by categories, of qualified seafarers; or
- (c) promotion of opportunities, both on board and ashore, for further training and education of seafarers to provide for skill development and portable competencies in order to secure and retain decent work, to improve individual employment prospects and to meet the changing technology and labour market conditions of the maritime industry.

### **Guideline B2.8.2 – Register of seafarers**

- 1. Where registers or lists govern the employment of seafarers, these registers or lists should include all occupational categories of seafarers in a manner determined by national law or practice or by collective agreement.
  - 2. Seafarers on such a register or list should have priority of engagement for seafaring.
  - 3. Seafarers on such a register or list should be required to be available for work in a manner to be determined by national law or practice or by collective agreement.
  - 4. To the extent that national laws or regulations permit, the number of seafarers on such registers or lists should be periodically reviewed so as to achieve levels adapted to the needs of the maritime industry.
  - 5. When a reduction in the number of seafarers on such a register or list becomes necessary, all appropriate measures should be taken to prevent or minimize detrimental effects on seafarers, account being taken of the economic and social situation of the country concerned.
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