MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) REGULATIONS

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MERCHANT SHIPPING (MARITIME LABOUR CONVENTION) REGULATIONS

S.I. 117/2012

(SECTION 289)

[Commencement 20th August, 2013]

PART I
PRELIMINARY

Citation.

1. These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention) Regu-lations.

Interpretation.

2. In these Regulations —

Ch. 268.

"Act" means the Merchant Shipping Act;

"authorised officer" means a person appointed by the competent authority;

"Authority" means The Bahamas Maritime Authority;

"Bulletin" means The Bahamas Maritime Authority's Bulletins;

"competent authority" means —

(a) for the terms and conditions of employment, welfare and social protection and other related matters, the Director of Labour or a representative designated by the Director of Labour;

(b) for manning, hours of work and rest, accommodation, complaints on board a ship, and other related matters, the Director of The Bahamas Maritime Authority or a representative designated by the Director of The Bahamas Maritime Authority;

"Convention" means the Maritime Labour Convention 2006 adopted by the International Labour Organization at Geneva on the 23rd February, 2006 and ratified by The Bahamas on the 11th February 2008;

"declaration of maritime labour compliance" means the document referred to under regulation 7 which states —

(a) the Act, these regulations and any other relevant law which embodies the requirements of the Convention for the working and living conditions of seafearers; and

(b) the measures adopted by the shipowner to ensure ongoing compliance with the requirements of the Convention, and the measures proposed to ensure that there are continuous improvement on the ship;

"Director" means the Director of The Bahamas Maritime Authority;

"gross tonnage" means —

(a) for a ship having alternative tonnages, the higher of the tonnages; and

(b) for a ship having its tonnage determined both under Part II and regulation 16 of the Merchant Shipping (Tonnage) Regulations 1982, the tonnage determined under regulation 16;

"international voyage" means a voyage from a port in one country to a port in another country;

"maritime labour certificate" means a certificate, evidencing proof that the ship meets the requirements of the Convention, referred to under regulation 6;

"medical practitioner" includes those persons registered under the Medical Act; Ch. 224.

"Minister" means the Minister responsible for Maritime Affairs;

"passenger" means any person carried on board a ship except —

(a) the master and seafarers or any other person employed or engaged in any capacity on board the ship on the business of the ship;

(b) a child under one year of age;

"passenger ship" means a ship carrying more than 12 passengers;

"recognised organisation" means an organisation authorised by the Authority to carry out maritime labour inspections and to issue maritime labour certificates to Bahamian ships;

"seafarer" means a person, including the master, who is employed, engaged or works in any capacity on board a ship to which the Convention applies;

"seafarers' employment agreement" means the contract of employment and the articles of agreement for seafarers referred to under regulation 15;

"seafarer recruitment and placement service" means a person, company, institution, agency or other organisation, engaged in —

(a) the recruitment of seafarers on behalf of shipowners; or

(b) the placement of seafarers with shipowners;

"shipowner" includes an organisation or a person such as the manager, agent or bareboat charterer, who has responsibility for the ship and seafarers in accordance with these regulations;

"special purpose ship" means a ship constructed in compliance with the International Maritime Organization Code of Safety for Special Purpose Ships, 1983 or the Code of Safety for Special Purpose Ships, 2008;

"STCW Convention" means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended.

3. These Regulations apply to — Application.

(a) Bahamian ships engaged in commercial activities, except —

(i) ships engaged in fishing,

(ii) warships or naval ships, or

(iii) any other ship as determined by the Director;

(b) seafarers, except the categories of persons determined by the Director and specified in a Bulletin; or

(c) seafarer recruitment and placement services registered and licensed in The Bahamas.

PART II
CERTIFICATION

Declaration and certificate.

4. A shipowner shall not operate a ship except where the ship has been issued a valid —

(a) declaration of maritime labour compliance; and

(b) maritime labour certificate.

Carriage of documents.

5. (1) A shipowner shall ensure that the maritime labour certificate and the declaration of maritime labour compliance, accompanied by an English-language translation, if applicable, are at all times on board the ship.

(2) The maritime labour certificate and the declaration of maritime labour compliance shall be posted in a conspicuous place on board the ship.

(3) A copy of the maritime labour certificate and the declaration of maritime labour compliance shall be made available, upon request, to seafarers, flag State inspectors, authorised officers in port States, shipowners' and sea-farers' representatives and any other person as determined by the Authority.

Maritime labour certificate.

6. (1) A shipowner shall apply in writing to the recognised organisation for a maritime labour certificate.

(2) The recognised organisation may issue a maritime labour certificate in the form set out in the Schedule, subject to modification, if the recognised organisation is satisfied that the Bahamian ship is in compliance with these regulations and after inspection of the ship.

(3) The maritime labour certificate shall be valid for a period not exceeding 5 years.

(4) This regulation applies to —

(a) a Bahamian ship that is 500 gross tonnage or over and engaged in international voyages;

(b) any other ship —

(i) that is 500 gross tonnage or over,

(ii) in the territorial waters of The Bahamas, and

(iii) that flies the flag of a Member to the Convention.

Declaration of maritime labour compliance.

7. (1) A shipowner shall make application to the Authority for the completion and issue of Part I of the declaration of maritime labour compliance prior to the application for a maritime labour certificate.

(2) The Authority shall, on completion of Part I of the declaration of maritime labour compliance, forward to the shipowner the declaration of maritime labour compliance for the shipowner to complete Part II.

(3) The shipowner shall submit Part I and Part II of the declaration of maritime labour compliance, as set out in a Bulletin, to the recognised organisation for inspection prior to the issue of the maritime labour certificate.

(4) The declaration of maritime labour compliance shall be attached to the maritime labour certificate.

Interim maritime labour certificate.

8. (1) The recognised organisation may, on request, issue an interim maritime labour certificate where —

(a) a ship is on a delivery voyage;

(b) a ship is transferred to the Bahamian register; and

(c) a shipowner assumes responsibility for the operation of a ship from another shipowner.

(2) An interim maritime labour certificate is valid for a period not exceeding 6 months.

Renewal of certificate.

9. The recognised organisation may renew a maritime labour certificate, where the recognised organisation is satisfied, after inspection of the ship, that the ship is in compliance with these regulations.

Suspension, withdrawal or cancellation of declaration or certificate.

10. The recognised organisation may, by notice in writing, suspend, withdraw or cancel a declaration of maritime labour compliance and a maritime labour certificate, if the shipowner fails to comply with the requirements under the Convention and these regulations, or the required corrective action has not been taken.

PART III
MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON A SHIP

Minimum age for seafarer.

11. (1) Notwithstanding section 84 of the Act, a person under the age of 16 shall not be employed, engaged or work on a ship.

(2) Notwithstanding section 84 of the Act, a person under the age of 18 shall not be employed, engaged or work on a ship where the work may jeopardize their health and safety.

(3) The work referred to under paragraph (2) shall be determined by the competent authority as specified in a Bulletin.

(4) Notwithstanding section 84 of the Act, a seafarer under the age of 18 shall —

(a) not be employed, engaged or work as a cook on a ship; and

(b) not engage in night work except where the competent authority determines that —

(i) the effective training of a seafarer, in accordance with established programmes and schedules, may be impaired,

(ii) night work is the specific nature of the duty of a seafarer, or

(iii) the recognised training programme requires a seafarer under the age of 18 to perform duties at night and that the work will not be detrimental to the seafarer's health or well-being.

(5) For the purposes of this regulation, "night" means a period of at least 9 hours starting no later than midnight ships time and ending no earlier than 0500 ships time.

Medical certificate.

12. (1) A shipowner shall not permit a seafarer to work on board a ship except where that seafarer holds a valid medical certificate.

(2) A seafarer who has been issued a medical certificate shall carry that certificate on board during that seafarer's employment on the ship.

(3) The competent authority may permit the seafarer to be examined by a medical referee, where —

(a) a medical practitioner issues a medical certificate with restrictions imposed on the seafarer's ability to work; or

(b) a medical practitioner refuses to issue a medical certificate to the seafarer.

(4) The medical certificate issued under paragraph (1) shall —

(a) be in accordance with the STCW Convention and where seafarers are not covered by the STCW Convention, the medical certificate shall have similar requirements;

(b) state that the seafarer's hearing, sight and colour vision, where colour vision is a requirement for the work to be performed, are satisfactory; and

(c) state that the seafarer is not suffering from any medical condition that may —

(i) be affected by sea service,

(ii) render the seafarer unfit for sea service, or

(iii) endanger the health of persons on board the ship.

(5) The competent authority may in urgent cases, permit a seafarer to work without a valid medical certificate until the next port of call, where the seafarer may obtain a medical certificate from a qualified medical practitioner, provided that —

(a) the period of such permission shall not exceed 3 months; and

(b) the seafarer holds a medical certificate that is expired for a period set out in a Bulletin.

(6) Where the period of validity of a medical certificate expires during the course of the voyage, the medical certificate shall continue in force until the next port of call where the seafarer may obtain a medical certificate from a qualified medical practitioner, provided that the period shall not exceed 3 months.

(7) Except where a shorter period is required by the seafarer's duties or under the STCW Convention —

(a) a medical certificate shall be valid for a period of 2 years except the seafarer is under the age of 18, in which case the maximum period of validity shall be one year;

(b) a certification of colour vision shall be valid for a period of 6 years.

(8) A medical certificate for a seafarer working on a ship ordinarily engaged on international voyages shall be written in English.

Training and qualifications.

13. (1) A seafarer shall not be permitted to work on a ship except where that seafarer —

(a) has successfully completed training for personal safety;

(b) is trained or certified as competent or otherwise qualified to perform the seafarer's duties.

(2) The training and certification requirements under paragraph (1) shall be in accordance with the Merchant Shipping (Training, Certification, Manning and Watch-keeping) Regulations.

Recruitment and placement services.

14. (1) A seafarer recruitment and placement service shall —

(a) maintain, and make available for inspection by the Director of Labour, an up-to-date register of all seafarers recruited or placed by the service;

(b) ensure that a seafarer is informed of the seafarer's rights and duties under the seafarers' employment agreement prior to the seafarer's engagement;

(c) make proper arrangements for a seafarer to examine the seafarers' employment agreement prior to, and after the seafarers' employment agreement is signed;

(d) provide each seafarer with a copy of the seafarers' employment agreement;

(e) verify that seafarers recruited or placed by that service are qualified for the position;

(f) verify that the seafarers' employment agreement is in accordance with the relevant law and any

collective bargaining agreement which forms a part of the employment agreement;

(g) ensure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port;

(h) examine and respond to any complaint concerning the seafarers recruited and placed by the service and advise the Director of Labour of unresolved complaints;

(i) establish a system of protection, by way of insurance or an equivalent appropriate measure.

(2) No person shall impose fees or other charges on a seafarer for recruiting, placing or providing employment to the seafarer, except the cost of —

(a) obtaining a medical certificate;

(b) a seafarer's record book;

(c) a passport, or other travel documents, excluding the cost of visas; or

(d) any training required for a particular position on board the ship.

(3) No seafarer recruitment or placement service shall use any means, mechanisms or lists intended to prevent or deter any person from gaining employment for which they are qualified.

(4) Where the shipowner of a Bahamian ship employs a seafarer recruitment and placement service in a country in which the Convention does not apply, the shipowner shall ensure that those services meet the requirements under this regulation.

PART IV
CONDITIONS OF EMPLOYMENT

Seafarers' employment agreement.

15. (1) Notwithstanding the agreement ref-erred to under sections 80 to 83 of the Act, a shipowner shall enter into a seafarers' employment agreement with a seafarer whom the shipowner employs, engages or works on board the ship, and the shipowner and seafarer shall each have a signed original of the seafarers' employment agreement.

(2) The seafarers' employment agreement shall be signed by the seafarer and the shipowner or a repre-

sentative of the shipowner, and a copy of the seafarers' employment agreement shall be accessible for review by the authorised officers.

(3) A seafarer shall be permitted to examine and seek advice on the seafarers' employment agreement prior to signing the agreement.

(4) Where a seafarer is not an employee, the shipowner shall enter into contractual or similar arrangements to that of the seafarers' employment agreement under paragraph (1).

(5) A shipowner shall ensure that clear information as to the conditions of the seafarer's employment can be easily obtained on board the ship by the seafarer.

(6) A shipowner or the master shall ensure that every seafarer is given a document containing a record of the seafarer's employment on board the ship and that document shall not contain any statement as to the quality of the seafarer's work or their wages.

(7) The form of the document referred to under paragraph (6), the particulars to be recorded and the manner in which such particulars are to be entered shall be specified in a Bulletin.

(8) Where the language of the seafarers' employment agreement and any applicable collective bargaining agreement is not in English, the following documents shall be available in English —

(a) a copy of a standard form of the seafarers' employment agreement; and

(b) the parts of the collective bargaining agreement that are subject to port State inspection.

(9) The seafarers' employment agreement shall 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, and 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 deemed necessary by the competent authority.

(10) Where a collective bargaining agreement forms all or a part of a seafarers' employment agreement, a copy of that agreement shall be available on board the ship.

(11) For the purposes of this regulation, the minimum period of notice required to be given by the seafarer and shipowner for the early termination of a seafarers' employment agreement shall be 7 days except in exceptional circumstances, a seafarer may give a shorter notice period.

Wages.

16. (1) A seafarer shall be paid on a monthly basis in accordance with the seafarers' employment agreement and any applicable collective bargaining agreement.

(2) A seafarer 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 that agreed, including any deductions made.

(3) A shipowner shall establish a system for enabling a seafarer, at the time of the seafarer entering employment or during it, to allot, if the seafarer is in agreement with such allotments, a proportion of the seafarer's wages for remittance at regular intervals to their families by bank transfers or similar means.

(4) An allotment referred to under paragraph (3) shall be remitted, without undue delay, directly to the person nominated by the seafarer.

(5) A charge for service under paragraphs (3) and (4) shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall be at the prevailing market rate or the official published rate and not unfavourable to the seafarer and shall comply with the relevant law.

Hours of rest.

17. (1) The master shall, so far as is reason-ably practicable, ensure that the minimum number of hours of rest shall be observed for seafarers.

(2) The minimum hours of rest shall be not less than 10 hours in any 24-hour period and 77 hours in any 7-day period.

(3) The hours of rest referred to under paragraph (2) may be divided into no more than 2 periods, one of which shall be at least 6 hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

(4) Musters, fire-fighting and lifeboat drills, and mandatory drills, shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

(5) A seafarer shall have adequate compensatory rest periods, where that seafarer is on call and the seafarer's normal period of rest is disturbed by call-outs to work.

(6) If no collective bargaining agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award are inadequate, the competent authority shall determine such

provisions to ensure that the seafarers concerned have sufficient rest.

(7) A table with the shipboard working arrangements shall be posted in an easily accessible place on board the ship and the table shall contain, for every position at least —

(a) the schedule of service at sea and service in port; and

(b) the minimum hours of rest required under paragraph (2).

(8) The table referred to under paragraph (7), shall be in the form approved by the competent authority and in the working language of the ship and in English.

(9) A shipowner shall —

(a) maintain a record of a seafarer's daily hours of rest, in the form determined by the Authority and in the working language of the ship and in English; and

(b) give the seafarer a copy of the record pertaining to the seafarer's daily hours of rest, endorsed by the master or a person designated by the master and the seafarer.

(10) The Authority, in consultation with the Director of Labour, may authorise or register collective bargaining agreements permitting exceptions to the limits set out in the collective bargaining agreements.

(11) Without prejudice to the preceding paragraphs, the master may require a seafarer to perform any hours of work, where in the opinion of the master it is necessary in an emergency threatening the safety of the ship or any person on board the ship or damage to cargo or for the purpose of giving assistance to other ships or persons in distress at sea.

(12) For the purposes of this regulation —

(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.

Annual leave.

18. (1) A shipowner shall give annual leave, as provided under paragraph (3) to seafarers upon the completion of each 12 months of employment.

(2) A shipowner shall give shore leave to seafarers.

(3) Subject to any collective bargaining agreement 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.

(4) An agreement to forgo the minimum annual leave with pay under paragraph (3), except in cases provided for by the Director of Labour, is prohibited.

(5) Annual leave with pay entitlements shall be calculated on the basis set out in a Bulletin.

Repatriation.

19. (1) A shipowner shall repatriate a sea-farer at no cost to the seafarer —

(a) where the seafarers' employment agreement expires while the seafarer is abroad;

(b) upon the expiry of the period of notice given in accordance with the provisions of the seafarers' employment agreement, where the seafarers' employment agreement is terminated —

(i) by the shipowner, or

(ii) by the seafarer for reasons set out in a Bulletin;

(c) where the seafarer is no longer able to carry out the seafarer's duties under the employment agreement or cannot be expected to carry out the duties in the specific circumstances.

(2) A shipowner shall —

(a) not require a seafarer to make an advance payment towards the cost of repatriation at the beginning of the seafarer's employment; and

(b) not recover the cost of repatriation from the seafarers' wages or other entitlements,

except where, the seafarer has contravened the seafarer's employment obligations or collective bargaining agreements.

(3) A shipowner of a Bahamian ship shall provide the recognised organisation with evidence of financial security for the repatriation of seafarers.

(4) Notwithstanding the preceding paragraphs, a shipowner may recover the cost of repatriation under third-party contractual arrangements.

(5) Where a shipowner fails to make arrangements for, or to meet, the cost of repatriation of seafarers —

(a) the Authority will arrange for repatriation of the seafarers;

(b) costs incurred in repatriating seafarers shall be recoverable from the shipowner;

(c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided in paragraph (2);

(d) the ship or other ships of the shipowner may be detained by the Authority until the reimbursement has been made.

(6) A copy of this regulation, written in English, shall be carried on board a Bahamian ship and shall be available to seafarers.

Seafarer compensation for the ship's loss or foundering.

20. A shipowner shall compensate the seafarer for injury, loss or unemployment, where a ship is lost or has foundered.

Manning levels.

21. (1) A ship shall have a sufficient number of seafarers on board as determined by the Authority.

(2) A ship shall be manned in accordance with the safe manning document issued under the Merchant Shipping (Training, Certification, Manning and Watch-keeping) Regulations and ships to which the requirements of those regulations do not apply shall be manned by seafarers as determined by the Authority.

PART V
ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

Accommodation and recreational facilities.

22. (1) A shipowner shall provide and maintain safe and decent accommodation and recreational facilities for seafarers working or living on board the ship.

(2) For the purposes of these Regulations, a ship —

(a) constructed before the date of entry into force of the Convention shall comply with the relevant provisions of the Merchant Shipping (Crew Accommodation) Regulations, 1978;

(b) shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.

(3) The master or a person designated by the master shall —

(a) inspect the crew accommodation at intervals not exceeding 7 days;

(b) be accompanied by a minimum of one member of the crew during the inspection of the crew accommodation; and

(c) cause to be entered in the ship's official log book —

(i) the time and date of the inspection,

(ii) the names and ranks of the persons conducting the inspection, and

(iii) the particulars of the crew accommodation or any part of it that is not compliant with these regulations.

(4) The ship's official log book shall be made available for review by an authorised officer.

(5) For the purposes of these regulations —

(a) a ship shall be designed and constructed so that —

(i) where full and free movement is necessary, the seafarer's accommodation shall have a clear headroom of 203 centimetres or more provided that the Authority may permit reduction in headroom in any space, or part of any space, in such accommodation where the Authority is satisfied that such reduction is reasonable and will not result in discomfort to the seafarers,

(ii) the accommodation shall be adequately insulated,

(iii) in ships other than passenger ships, sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead,

(iv) in a passenger ship, and in a special purpose ship, the Authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways,

(v) there shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of a bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and be watertight and gas-tight,

(vi) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings shall be suitable for the purpose and conducive to ensuring a healthy environment,

(vii) proper lighting and sufficient drainage shall be provided,

(viii) accommodation and recreational and catering facilities shall meet the requirements set out in regulation 26,

(ix) a ship regularly trading to mosquito infested ports shall be fitted with appropriate devices;

(b) with regards to ventilation and heating —

(i) sleeping rooms and mess rooms shall be adequately ventilated,

(ii) ships shall be equipped with air conditioning for seafarer accommodation, for any separate radio room and for any centralized

machinery control room, except those regularly engaged in trade where temperate climatic conditions do not require this,

(iii) all sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation, and

(iv) adequate heat through an appropriate heating system shall be provided, except in ships exclusively on voyages in tropical climates;

(c) with regards lighting —

(i) subject to such special arrangement as may be permitted by the Authority for passenger ships, sleeping rooms and mess rooms shall be lit by natural and provided with adequate artificial light,

(ii) all seafarer accommodation shall comply with the standards of natural and artificial lighting specified in the Merchant Shipping (Crew Accommodation) Regulations, 1978;

(d) with regards to sanitary facilities —

(i) a seafarer shall have convenient access on the ship to sanitary facilities, with separate sanitary facilities being provided for men and women,

(ii) there shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre,

(iii) in a ship, a minimum of one toilet, one washbasin and one tub or shower or both for every 6 persons or less who do not have personal facilities shall be provided at a convenient location,

(iv) with the exception of a passenger ship, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in a private bathroom,

(v) in a passenger ship normally engaged on voyages of not exceeding 4 hours' duration, the Authority may approve special

arrangements or a reduction in the number of facilities required,

(vi) hot and cold running fresh water shall be available in all wash places.

(6) Where sleeping accommodation on board a ship is required —

(a) in a ship other than a passenger ship, an individual sleeping room shall be provided for each seafarer;

(b) subject to the minimum floor area requirements referred to under paragraph (7) —

(i) on ships of less than 3,000 gross tonnage other than a passenger ship and a special purpose ship, sleeping rooms may be occupied by a maximum of 2 seafarers,

(ii) on a passenger ship, sleeping rooms may be occupied by a maximum of 4 seafarers not carrying out the duties of a ships' officer,

(iii) on a passenger ship where seafarers perform the duty of petty officers, there shall be no more than 2 persons per sleeping room,

(iv) on special purpose ships sleeping rooms may accommodate more than 4 persons;

(c) separate sleeping rooms shall be provided for men and women;

(d) as far as practicable, sleeping rooms of seafarers shall be so arranged that watches are separated and that no seafarer working during the day shall share a room with watchkeepers;

(e) sleeping rooms shall be of adequate size and —

(i) for each occupant, the furniture, of smooth, hard material not liable to warp or corrode, shall include a clothes locker of ample space, with a minimum volume of 475 litres, and a drawer or equivalent space with a minimum volume of 56 litres; if the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker shall be 500 litres; it shall be fitted with a shelf and able to be locked by the occupant,

(ii) each sleeping room shall be provided with a table or desk, which may be of the fixed, drop-leaf or slide-out type, with comfort-table seating accommodation;

(f) berths shall meet the following standards —

(i) separate berth for each seafarer shall be provided,

(ii) the inside dimensions of a berth shall be a minimum of 198 centimetres by 80 centimetres,

(iii) there shall be adequate berth arrangements on board,

(iv) berths shall not be arranged in tiers of more than 2; if a berth is placed along the ship's side, there shall be only a single tier where a sidelight is situated above a berth,

(v) the lower berth in a double tier shall be a minimum of 30 centimetres above the floor; the upper berth shall be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams,

(vi) the framework and the lee-board, if any, of a berth shall be of approved material, hard, smooth, and not likely to corrode or to harbour vermin,

(vii) if tubular frames are used for the construction of berths, they shall be completely sealed and without perforations,

(viii) when one berth is placed over another, a dust-proof bottom shall be fitted beneath the bottom mattress or spring bottom of the upper berth,

(x) clean good quality bedding shall be supplied by a shipowner to seafarers during the sea-farers' service on board the ship, and the seafarers shall be responsible for the return of the bedding at times specified by the master on completion of service on the ship.

(7) Unless otherwise provided for in these Regulations, sleeping rooms shall have the following minimum floor areas —

(a) in single berth seafarers' sleeping rooms, the floor area shall be a minimum of —

(i) 4.5 square metres in ships not exceeding 3,000 gross tonnage,

(ii) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage,

(iii) 7 square metres in ships of 10,000 gross tonnage or more;

(b) in order to provide single berth sleeping rooms on ships of less than 3,000 gross tonnage, passenger ships and special purpose ships, the Authority may allow a reduced floor area;

(c) in ships not exceeding 3,000 gross tonnage, other than a passenger ship and a special purpose ship, where sleeping rooms are occupied by 2 seafarers, the floor area of such sleeping rooms shall be a minimum of 7 square metres;

(d) on a passenger ship and a special purpose ship the floor area of sleeping rooms for seafarers not performing the duties of a ships' officer shall be a minimum of—

(i) 7.5 square metres in rooms accommodating 2 persons,

(ii) 11.5 square metres in rooms accommodating 3 persons,

(iii) 14.5 square metres in rooms accommodating 4 persons;

(e) on a special purpose ship sleeping rooms where more than 4 seafarers are accommodated, the floor area shall be a minimum of 3.6 square metres per person;

(f) on a ship other than a passenger ship and special purpose ship, for seafarers who perform the duties of ships' officers where no private sitting room or day room is provided, the floor area per person shall be a minimum of —

(i) 7.5 square metres in ships not exceeding 3,000 gross tonnage,

(ii) 8.5 square metres in ships of 3,000 gross tonnage or more but not exceeding 10,000 gross tonnage,

(iii) 10 square metres in ships of 10,000 gross tonnage or more;

(g) on a passenger ship and a special purpose ship, the floor area for seafarers performing the duties of a ships' officer where no private sitting room or day room is provided, the floor area per person for a junior officer shall be a minimum of 7.5 square metres and for a senior officer a minimum of 8.5 square metres;

(h) the master, the chief engineer and the chief navigating officer, and where practicable, the second engineer officer, shall have, in addition to their sleeping rooms, an adjoining sitting room, day room or equivalent additional space.

(8) A mess room shall —

(a) be located apart from the sleeping rooms and as close as practicable to the galley;

(b) be of adequate size and comfort and properly furnished and equipped, including ongoing facilities for refreshment.

(9) A ship carrying 15 or more seafarers and engaged in a voyage exceeding 3 days duration shall be provided with separate accommodation for medical care and that accommodation shall be accessible, comfortable and conducive to the seafarer receiving prompt and adequate care.

(10) A shipowner shall provide laundry facilities for seafarers.

(11) A shipowner shall provide recreational facilities, amenities and services, for seafarers and a ship shall —

(a) have a space on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board;

(b) be provided with separate offices or a common ship's office for use by deck and engine departments.

(12) The Authority may permit fairly applied variations in respect of the requirements in this regulation on condition that such variations do not result in overall facilities less favourable than those which would result from the application of those requirements.

(13) The Authority may, exempt —

(a) ships not exceeding 200 gross tonnage from the following provisions of this regulation, where it is reasonable to do so, taking into account the size of the ship and the number of persons on board —

(i) paragraphs 5(b)(ii), 5(d)(iv) and 10, and

(ii) paragraph 7(a), (c), (d), (e), (f) and (g) in respect of floor area only;

(b) ships not exceeding 3000 gross tonnage from the provisions of paragraphs 7(a), 7(h), 8(a), 5(d)(ii) and 11(b); and

(c) special purpose ships from the provisions of paragraph 7(a).

Food and catering.

23. (1) A shipowner shall ensure that —

(a) the food and drinking water on board the ship are of suitable quantity, nutritional value and quality, for the number of seafarers on board and the duration and nature of the voyage;

(b) the catering department is organised and equipped to provide seafarers with adequate, varied and nutritious meals, prepared and served in hygienic conditions;

(c) catering staff are properly trained or instructed; and

(d) a seafarer engaged as a cook on board the ship shall complete a training course approved or recognised by the Authority, except where the Authority permits a non-fully qualified cook to serve on a specified ship for a limited period.

(2) A seafarer on board a ship shall, during the period of engagement, be provided with food free of charge.

(3) The master or a person designated by the master shall —

(a) inspect the following at intervals not exceeding 7 days —

(i) supplies of food and drinking water,

(ii) spaces and equipment used for the storage and handling of food and drinking water, and

(iii) galley and other equipment for the preparation and service of meals;

(b) be accompanied by a minimum of one member of the crew during the inspection referred to under subparagraph (a); and

(c) cause to be entered in the ship's official log book —

(i) the time and date of the inspection,

(ii) the names and ranks of the persons conducting the inspection, and

(iii) the particulars of the area inspected that is not compliant with these regulations.

PART VI
HEALTH PROTECTION, MEDICAL CARE, WELFARE AND SOCIAL PROTECTION

Medical care.

24. (1) A shipowner shall provide medical care, including essential dental care, and health protective measures for seafarers working on board the ship.

(2) A seafarer shall have access to prompt medical care at no cost to that seafarer while working on board the ship.

(3) A shipowner shall permit a seafarer to visit a medical practitioner or dentist in ports of call, where practicable, without delay and at no cost to the seafarer.

(4) A standard medical report form shall be adopted by the Minister of Health, and that form shall be used by the ships' master and on board and onshore medical personnel.

(5) The form referred to under paragraph (4) and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers.

(6) A medicine chest, medical equipment and a medical guide shall be carried and maintained on board a

ship and shall be inspected at intervals not exceeding 12 months.

(7) A ship carrying 100 or more persons and ordinarily engaged on international voyages exceeding 3 days duration shall have a qualified medical practitioner on board.

(8) Where a medical practitioner is not on board a ship, the shipowner shall ensure that a seafarer, who has satisfactorily completed training in medical care in accordance with the Merchant Shipping (Training, Certification, Manning and Watchkeeping) Regulations is in charge of medical care and administering medicine, and competent to provide medical first aid.

(9) The Minister of Health shall ensure by a prearranged system that medical advice by radio or satellite communication is available to a ship 24 hours a day.

Shipowners liability.

25. (1) A shipowner shall —

(a) be liable to bear the costs for seafarers working on board in respect of sickness and injury occurring between the date of commencing duty and the date upon which they are duly repatriated, or arising from their employment between those dates; and

(b) ensure that a seafarer is covered under an insurance scheme or any other financial security scheme regarding sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.

(2) A shipowner shall make the scheme or other financial security scheme referred to under paragraph (1)(b) available, at all times, for inspection by the Authority, an authorised officer and the seafarer.

(3) Where the seafarer is sick or injured and such sickness or injury results in incapacity for work, a shipowner shall —

(a) pay full wages as long as the sick or injured seafarer remains on board or until the seafarer has been repatriated; and

(b) pay wages in whole or in part in accordance with the seafarers' employment agreement, collective bargaining agreement or as provided for under the relevant laws, including the Employment Act and the Minimum Wages Act when the seafarer is repatriated or landed until the seafarer's recovery.

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(4) A shipowner shall pay wages in whole or in part to a seafarer no longer on board the ship for the period as set out in a Bulletin.

(5) A shipowner shall take measures for safeguarding property left on board the ship by a sick, injured or deceased seafarer and for returning the property to the seafarer or the seafarer's personal representatives.

(6) Notwithstanding the insurance scheme or other financial security scheme referred to under paragraph (1)(b), a shipowner shall not be liable for —

(a) injury incurred to the seafarer other than in the service of the ship;

(b) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer;

(c) sickness or infirmity intentionally concealed by the seafarer at the time of signing a seafarers' employment agreement.

Health and safety protection and accident prevention.

26. (1) A seafarer shall be provided with occupational health protection consistent with their right to live, work and train on board the ship in a safe and hygienic environment.

(2) The Authority may adopt and review at intervals the guidelines for the management of the seafarer's occupational safety and health on board the ship and the guidelines shall be published in a Bulletin.

(3) A shipowner shall adopt and promote, on board the ship, occupational safety and health management policies and programmes in accordance with the guidelines referred to under paragraph (2).

Social security.

27. (1) A seafarer who is a citizen of The Bahamas or is ordinarily resident in The Bahamas shall be covered under the social security scheme, specified under the National Insurance Act and set out in a Bulletin.

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(2) A shipowner who employs a seafarer, who is a citizen of The Bahamas or is ordinarily resident in The Bahamas, shall make the appropriate employer contributions to The Bahamas social security scheme referred to under paragraph (1).

(3) A shipowner, who employs seafarers from a country or territory that is not a party to the Convention, shall ensure that the seafarers are provided with access to social security protection as set out in a Bulletin.

(4) A seafarers' employment agreement or a collective bargaining agreement shall provide details of the agreed social security arrangements in accordance with the relevant laws.

PART VII
MISCELLANEOUS

Inspection and detention of Bahamian ships.

28. (1) An authorised officer may inspect any Bahamian ship and if the authorised officer is satisfied that the ship is not in compliance with these regulations, the authorised officer may detain the ship until the health and safety of the persons on board the ship is secured.

(2) An authorised officer shall not unreasonably detain or delay the ship.

Inspection and detention of foreign ships.

29. (1) An authorised officer may inspect any ship other than a Bahamian ship when the ship is in a Bahamian port and if the authorised officer is satisfied that the ship is not in compliance with these regulations, the authorised officer may —

(a) send a report to the government of the country in which the ship is registered, and a copy of the report to the Director-General of the International Labour Office; and

(b) where conditions on board are clearly hazardous to the safety or health of the seafarers —

(i) take the necessary measures to rectify those conditions, or

(ii) detain the ship:

Provided that the measures specified may be taken only when the ship has called at a Bahamian port in the normal course of business or for operational reasons.

(2) Where the authorised officer undertakes either of the measures specified in paragraph (1)(b), the authorised officer shall immediately notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(3) An authorised officer shall not in the exercise of his powers unreasonably detain or delay the ship.

On-board complaint procedures for Bahamian ships.

30. (1) A shipowner shall ensure that on-board complaint procedures, that may be used by seafarers to lodge complaints relating to any matter that is alleged to constitute a breach of the requirements of the Convention, is kept, at all times, on board the ship.

(2) A seafarer shall be provided with a copy of the on-board complaint procedures.

(3) A seafarer may report a complaint to the master and, where they consider it necessary, to the appropriate external authority.

(4) The on-board complaint procedures referred to under paragraph (1) shall include —

(a) the seafarer's right to representation;

(b) safeguards against victimization of the seafarer;

(c) contact information for the Director of Labour in The Bahamas and, where different, in the seafarers' country of residence; and

(d) the name of a person on board the ship who may provide seafarers with confidential and impartial advice and assist the seafarer with the on-board complaint procedures.

(5) A seafarer's right to legal remedies or alternative dispute resolution shall not be prejudiced by on-board complaint procedures.

Onshore seafarer complaint-handling procedures.

31. (1) A seafarer on a ship calling at a port in The Bahamas who alleges a breach of the requirements of the Convention, including seafarers' rights, may report such breach in the manner contained in a Bulletin to the competent authority.

(2) A seafarer who alleges a breach of the requirements of the Convention, including seafarers' rights, and the ship is not in The Bahamas may report such breach to

an authorised officer in the port at which the ship has called.

(3) An authorised officer, investigating a complaint made under paragraphs (1) and (2) shall give the master, the shipowner and any other person involved in the complaint, an opportunity to be heard.

(4) An authorised officer shall ensure that complaints made by seafarers are kept confidential.

Marine casualties.

32. Pursuant to section 241 of the Act, the Authority shall hold an inquiry into any serious marine casualty, resulting in injury or loss of life, which involves a ship that flies the flag of The Bahamas.

Guidance on Convention.

33. The competent authority may provide guidance on the Convention in Bulletins.

Penalty.

34. A person who contravenes the provisions of these regulations commits an offence and is liable on summary conviction to a fine of 500 dollars.

SCHEDULE

(Regulation 6(2))

MARITIME LABOUR CERTIFICATE

(Note: This Certificate shall have a Declaration of Maritime Labour Compliance attached)

Issued under the provisions of Article V and Title 5 of the Maritime Labour Convention, 2006 (referred to below as "the Convention") under the authority of the Government of the Commonwealth of The Bahamas

by _____
(full designation and address of the competent authority or recognised organisation duly authorised under the provisions of the Convention)

Particulars of the ship

Name of ship _____
Distinctive number or letters _____
Port of registry _____
Date of registry _____
Gross tonnage[1] _____
IMO number _____
Type of ship _____
Name and address of the shipowner[2] _____
_____
_____

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.

[1] For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

[2] Shipowner means the owner of the ship or another organisation or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organisations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

2. That the seafarers1 working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention. These national requirements are summarised in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until ……..……. subject to inspections in accordance with Standards A5.13 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued at……. On……. is attached. Completion date of the inspection on which this Certificate is based was……..Issued at…… on……...

Signature of the duly authorised official issuing the Certificate

(Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory intermediate inspection and if required, any additional inspection

This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

Intermediate inspection:
(to be completed between the second and third anniversary dates)

Signed…….
(Signature of authorised official)

Place…….…….
Date ……..
(Seal or stamp of the authority, as appropriate)

Additional endorsements (if required)
This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing

the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional inspection: (*if required*)	Signed…….. (Signature of authorised official) Place……..... Date…….. (Seal or stamp of the authority, as appropriate)
Additional inspection: (*if required*)	Signed…….. (Signature of authorised official) Place……..... Date…….. (Seal or stamp of the authority, as appropriate)
Additional inspection: (*if required*)	Signed…….. (Signature of authorised official) Place……..... Date…….. (Seal or stamp of the authority, as appropriate)