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The Gazette of the Democratic Socialist Republic of Sri Lanka  
EXTRAORDINARY

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**PART I : SECTION (I) — GENERAL**  
**Government Notifications**

L.D.B 3/2013 (ii)

**MERCHANT SHIPPING ACT, No. 52 OF 1971**

REGULATIONS made by the Minister of Ports, Shipping and Aviation under section 321 of the Merchant Shipping Act, No. 52 of 1971 read with section 126 and 127 of the said Act.

NIMAL SIRIPALA DE SILVA,  
Minister of Ports, Shipping and Aviation.

Colombo,  
05th August, 2022.

**Regulations**

- (1) These regulations may be cited as the Merchant Shipping (Maritime Labour) Regulations, No. 11 of 2022 and shall come into operation on 4th February, 2023.
- (2) The purpose of these regulations shall be to give effect to the Maritime Labour Convention, 2006 (in these regulations referred to as the “Convention”) as amended from time to time and any subsequent amendment made to such Convention.



PART I

**Applicability of these Regulations**

2. (1) Subject to the provisions of the sub-regulations (2) and (3) of this regulation, these regulations shall apply to—
- (a) ships which are entitled to fly Sri Lanka flag where ever they may be;
  - (b) any other foreign ships while they are in Sri Lanka waters;
  - (c) seafarers on a ship referred to in paragraph (a) or (b); and
  - (d) a seafarer recruitment and placement service providers operating in Sri Lanka.
- (2) Except as expressly provided otherwise, these regulations do not apply to-
- (a) ships which navigate exclusively in inland water, waters within or closely adjacent to, sheltered waters;
  - (b) ships not ordinarily engaged in commercial activities;
  - (c) ship engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks;
  - (d) warships or naval auxiliaries;
  - (e) ships to which the Merchant Shipping (Small Commercial Vessels) Regulations, 2017 apply; and
  - (f) ships to which Launches Ordinance (Chapter 199) apply.
- (3) (a) Where the Director-General of Merchant Shipping (hereinafter referred to as the Director-General) determines from time to time that it would not be reasonable or practicable to apply any provision of these regulations to any Sri Lanka ship, of less than 200 gross tonnage and not engaged in international voyages, the Director-General may exempt that ship or particular categories of ships either generally or for such time or such voyage as the Director-General shall determine.
- (b) The Director-General may, in granting any exemption under sub-regulation (3)(a) impose such conditions on the Sri Lanka ship or particular categories of Sri Lanka ships as the Director-General thinks fit.
  - (c) Without prejudice to the generality of paragraphs (a) and (b) of sub-regulation (3), the conditions may include a requirement that the provisions of any other written law, the terms of any seafarer's employment agreement or collective agreement or other measures, be complied with in lieu of any provision of these regulations or Part A of the Code of the Convention.
  - (d) The Director-General may exempt a ship from some or all of the requirements of Standard A3.1 of the Convention, where such exemption is expressly permitted by Standard A3.1(accommodation and recreational facilities) of the Convention.
  - (e) The Director-General may only grant an exemption under paragraph (d) of sub-regulation (3), if he considers it reasonable and practicable to do so, having regard to—

- (i) the space available on the ship;
  - (ii) the effect of the exemption on the structure of the ship;
  - (iii) the effect of the exemption on the safety of the persons on board the ship;
  - (iv) the effect of the exemption on discomfort to the seafarers; and
  - (v) satisfactory alternative arrangements.
- (f) The Director-General may exempt a ship of less than 3000 gross tonnage engaged in coastal waters of Sri Lanka from any of the requirements specified in Standard A2.5.2 of the Convention.
- (g) An exemption under this regulation—
- (i) shall be given in writing;
  - (ii) shall be granted on such terms as the Director-General may specify; and
  - (iii) may be altered or cancelled by the Director-General giving written notice to the shipowner.
- (h) Exemptions granted under paragraphs (a) and (d) of sub-regulation (3) shall be communicated by the Director-General to the Director-General of the International Labour Organization.

## PART II

### **Minimum Requirements for Seafarers to Work on Ships**

3. (1) A person below the age of sixteen shall not be employed or engaged or work on a ship.
- (2) No seafarer under the age of eighteen shall be employed or engaged or work as a ship's cook.
- (3) Any person who contravenes sub-regulations (1) and (2) commits an offence and on conviction thereof shall be liable to a fine not exceeding five hundred thousand rupees.
4. (1) Subject to sub-regulation (2), a seafarer under the age of eighteen years shall not be employed, engaged or work on board a ship at night.
- (2) The provisions of sub-regulation (1) shall not apply, where -
- (a) the effective training of the seafarer is in accordance with established programmes and schedules, are impaired by its application; or
  - (b) the specific nature of the duty or of a recognized training programme requires that the seafarer performs duties at night and, the work to be carried out -
    - (i) forms part of the training for deck officer under Regulations II/1 and II/3 of the STCW Convention;

- (ii) forms part of the training for engineer officer under Regulation III/1 of the STCW Convention;
  - (iii) forms part of the training for navigational watch rating under Regulation II/4 of the STCW Convention;
  - (iv) forms part of the training for engine room watch rating under Regulation III/4 of the STCW Convention;
  - (v) forms part of the training for rating as able seafarer deck under Regulation II/5 of the STCW Convention;
  - (vi) forms part of the training for rating as able seafarer engine under Regulation III/5 of the STCW Convention;
  - (vii) forms part of the training for electro-technical officer under Regulation III/6 of the STCW Convention;
  - (viii) forms part of the training for electro-technical rating under Regulation III/7 of the STCW Convention;
  - (ix) forms part of the training for radio personnel under Regulation IV/2 of the STCW Convention; and
  - (x) forms part of the training for alternative certification under Regulation VII of the STCW Convention.
- (3) In this regulation, “night” means a period—
- (i) the duration of which is not less than nine consecutive hours; and
  - (ii) which starts not later than midnight and ends not earlier than 5 a.m. (local time).
- (4) A person under the age of eighteen shall not carry out any work—
- (a) that has to be carried out in a high-pressure atmosphere and that would expose the seafarer to risks of high pressure and decompression;
  - (b) that involves taking care of or coming into contact with patients on board the ship;
  - (c) that would expose the seafarer to electrical voltage of over 1000 volts;
  - (d) that would expose the seafarer to—
    - (i) shocks that could cause back pain to, or damage to the spine of, the seafarer; or
    - (ii) low-frequency vibration; or
  - (e) that involves the handling of—
    - (i) any substance listed in the Dangerous Goods List of the IMDG Code; or
    - (ii) any noxious liquid listed in Chapter 17 of the IBC Code,

and any other work which is likely to jeopardize a person’s health or safety as may be specified in implementation standards issued under section 321A of the Act.
- (5) Any person who contravenes sub-regulations (1) and (4) commits an offence and on conviction thereof shall be liable to a fine not exceeding five hundred thousand rupees.

5. (1) A shipowner shall not permit a seafarer to work on board a ship except where that seafarer holds a valid medical fitness certificate attesting that they are medically fit to perform the duties they are to carry out at sea.
- (2) A valid medical fitness certificate issued to a seafarer in accordance with the requirements of STCW Convention as amended shall be considered as meeting the requirements of sub-regulation (1).
- (3) A seafarer who has been issued with a valid medical fitness certificate shall carry that certificate on board during the term of that seafarer's employment on a ship.
- (4) The medical fitness certificate issued under sub-regulation (1) shall;
  - (a) state that the seafarer's hearing, sight and colour vision, where colour vision is a requirement for the work to be performed, are all satisfactory; and
  - (b) state that the seafarer is not suffering from any medical condition that is likely to be aggravated by sea service or to, render the seafarer unfit for sea service, or to endanger the health of persons on board the ship.
- (5)
  - (a) The medical fitness certificate referred in sub-regulation (1) shall only be issued by a medical practitioner approved by the Director-General or by a medical practitioner approved by the State whose flag the ship flies.
  - (b) In the case of a certificate solely concerning eyesight, such certificate shall be issued by a person approved by the Director-General or by a person approved by the State whose flag the ship flies as qualified to issue such a certificate.
  - (c) The medical practitioners shall enjoy full professional independence in exercising their medical judgment in undertaking medical examination procedures.
- (6) The approved medical practitioners and all other persons concerned with the conduct of medical fitness examinations of seafarer candidates and serving seafarers shall follow the ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, including any subsequent versions, and any other applicable international guidelines published by the ILO, the IMO or the WHO.
- (7) The Director-General shall establish provisions for recognizing medical practitioners as approved medical practitioners and shall establish monitoring and evaluation provisions for such medical practitioners.
- (8) A seafarer may be permitted to be examined by government special medical consultant, where a medical practitioner issues a medical certificate with restrictions imposed on the seafarer's ability to work, in particular with respect to time, field of work or trading area or where an approved medical practitioner refuses to issue a medical certificate to the seafarer.
- (9) The Director-General may in urgent cases, permit a seafarer to work without a valid medical fitness certificate until the next port of call, where the seafarer may obtain a medical fitness certificate from a qualified medical practitioner, provided that-
  - (a) the period of such permission shall not exceed three months; and
  - (b) the seafarer is in possession of the expired medical fitness certificate of recent date.
- (10) Where the period of validity of a medical fitness certificate expires during the course of the voyage, the medical

fitness certificate shall continue in force, until the next port of call where the seafarer may obtain a medical fitness certificate from a qualified medical practitioner, provided that the period shall not exceed three months.

(11) Except where a shorter period is required by reasons of the specific duties to be performed by the seafarer concerned or under the STCW Convention,

(a) a medical fitness certificate shall be valid for a maximum period of two years unless the seafarer is under the age of eighteen or over the age of fifty-five, in which cases the maximum period of validity shall be one year;

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

(12) Any person who contravenes the provisions of this regulation commits an offence and on conviction thereof shall be liable to a fine not exceeding one million rupees.

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

(a) has successfully completed training for personal safety on board the ship; and

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

(2) The training and certification requirements referred to in sub-regulation (1) of this regulation shall be in accordance with STCW Convention.

7. (1) No person shall, directly or indirectly, carry on the business, in Sri Lanka, of recruitment and placement of any seafarer on behalf of an employer or ship owner of Sri Lanka or foreign ship, unless he is registered and certified under this regulation.

(2) A seafarer recruitment and placement service provider operating in Sri Lanka for providing Sri Lankan seafarers for Sri Lanka Ships or foreign flagged ships shall conform to the standards set out in A 1.4 of the Convention.

(3) A person who wishes to employ a seafarer on a Sri Lanka ship shall-

(a) select a seafarer from a seafarer recruitment and placement service provider who operates in Sri Lanka and supplies citizens of Sri Lanka as seafarers;

(b) select a seafarer from a seafarer recruitment and placement service provider who operates in the Convention State; or

(c) select a seafarer from a seafarer recruitment and placement service provider who does not operate in the Convention State and complies with the requirements of Regulation 1.4 and Standard A 1.4 of the convention.

(4) (a) A person shall not engage in seafarer recruitment and placement service except under authority of a Certificate of Authorization issued by the Director-General.

(b) A person who wishes to engage in the seafarer recruitment and placement service shall make an application in a form as may be determined by the Director-General.

(c) upon the receipt of an application under paragraph (b), the Director-General shall, on consideration of the matters contained in the application either issue a certificate of Authorization for the establishment of seafarer

recruitment and placement service or for the reasons to be recorded by his refuse to issue a Certificate of Authorization.

(d) such certificate of Authorization shall, subject to sub-regulation (6), unless, revoked, suspended or withdrawn earlier, be valid five years from the date of issue and shall be subject to such terms and conditions specified therein.

(5) A seafarer recruitment and placement service provider shall-

(a) not use means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified;

(b) not impose fees or other charges borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a medical fitness certificate, Continuous Discharge Certificate and a passport or other similar personal travel document, not including however the cost of visas, which shall be borne by the shipowner;

(c) maintain an up-to-date register of all seafarers recruited or placed through the service and keeps the register available for inspection by the Director-General;

(d) ensure that seafarers are informed of their rights and duties under their employment agreements prior to or in the process of engagement and that proper arrangements are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;

(e) verify that seafarers recruited or placed by the service provider are qualified and hold the documents necessary for the job concerned, and that the seafarers' employment agreements are in accordance with these regulations and regulations of the flag State and any collective bargaining agreement that forms part of the employment agreement;

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

(g) publish any costs which a seafarer is expected to bear in the recruitment process;

(h) ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost;

(i) maintain up-to-date lists of the ships for which they provide seafarers and ensure that there is a means by which the seafarer recruitment and placement service can be contacted in an emergency at all hours;

(j) ensure that its management and staff are adequately trained and have relevant knowledge of the maritime industry to the extent of the duties assigned to them in this context;

(k) ensure that any incident or casualty on-board causing injury (excluding minor injuries) or death, disappearance, loss overboard or homicide by or of a Sri Lankan National, is reported to the Director-General, at the earliest and not later than twenty- four hours of the receipt of such information;

(l) ensure, that all mandatory certificates and documents submitted for employment are up to date and have not been fraudulently obtained and that employment references are verified;

- (m) ensure that seafarers are not subject to exploitation by their personnel with regard to offer of engagement on particular ships or by particular companies;
  - (n) ensure that the seafarers are informed of any particular condition applicable to the jobs for which they are to be engaged and of the particular ship owners policies relating to their employment;
  - (o) endeavour that the death compensation or disability compensation are paid by the ship owner without undue delay;
  - (p) have procedures:
    - (i) to verify that labour conditions on ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organization; and
    - (ii) to supply seafarers, as a matter of policy, only to shipowners that offer terms and conditions of employment to seafarers who comply with these regulations or collective agreements.
  - (q) ensure that the procedures followed while dealing with cases of incompetence or indiscipline are consistent with the principles of natural justice, the law of the land and practice and, wherever applicable, with collective bargaining agreements;
  - (r) ensure that a copy of the certificate of authorisation granted under these regulations is prominently displayed at the premises of the recruitment and placement service at a place accessible to public;
  - (s) ensure that it sends the reminder to the Director-General for its annual verification, three months before its due date and be prepared for the same;
  - (t) examine and responds to any complaint concerning the service's activities and advises the Director-General of any unresolved complaint; and
  - (u) establish a system of protection, by way of a bank guarantee as prescribed in sub-regulation (11) to compensate a seafarer for monetary loss that the seafarer may incur as a result of-
    - (i) a failure of the recruitment and placement service to meet its obligations to the seafarer, or
    - (ii) a failure of the shipowner under the seafarers' employment agreement, to meet its obligations to the seafarer.
- (6) (a) Certificate of Authorisation referred to in sub-regulation (4) of this regulation shall only be issued after an initial verification by the Director-General that the service concerned meets the requirements of this regulation and any other relevant requirements of Sri Lankan law.
- (b) Certificate of Authorisation shall be subject to annual verification by the issuing authority within three months before and after the anniversary date. If no annual verification is conducted within the time frame given above, the Certificate of Authorization shall become invalid and new Certificate of Authorisation shall be obtained after an initial verification. Annual verification shall include a general inspection of the seafarer recruitment and placement service provider including document verification to ensure the compliance of this regulation.



- (c) If the Director-General is satisfied that a seafarer recruitment and placement service provider has failed to comply with any provision of this regulation, the Director-General may, after giving an opportunity to make representations in writing, suspend or withdraw the Certificate of Authorisation.
- (d) The Director-General may charge a fee to any person seeking to issue or renewal of a Certificate of Authorization and to conduct initial and annual verifications.
- (e) The Certificate of Authorisation shall be drawn in a form as may be determined by the Director- General.
- (7) (a) The register referred to in paragraph (c) of sub-regulation (5) of this regulation shall include, but not be limited to, the seafarers' —
- (i) qualifications;
  - (ii) record of employment;
  - (iii) personal data relevant to employment; and
  - (iv) medical data relevant to employment,
- and shall contain full and complete records of all seafarers to whom the seafarer recruitment and placement service has provided any recruitment and placement service providers.
- (b) The register may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.
- (c) The register shall be maintained with due regard to the right to privacy and the need to protect confidentiality.
- (d) The register shall be kept for at least one year from the date of creation and at least one year after the date on which the seafarer recruitment and placement service provider last provides services to any applicant.
- (8) The Director-General shall investigate, if necessary, of complaints concerning the activities of seafarer recruitment and placement services.
- (9) The Director-General or an officer authorised by the Director-General may, at any time, for the purposes of this regulation —
- (a) enter and inspect any premises of any seafarer recruitment and placement service provider;
  - (b) require and enforce the production of any book, certificate or document relating to any ship, seafarer or seafarer recruitment and placement service provider; and
  - (c) summon any person before him and require him to answer questions.
- (10) (a) The recruitment and placement service provider shall furnish a monthly report by the 1st of every succeeding month in a form as may be determined by the Director-General.
- (b) If the recruitment and placement service provider fails to furnish the report referred in paragraph (a), within the specified period, the Director-General may suspend, revoke or withdraw the Certificate of Authorisation issued under this regulation.

- (11) (a) A seafarer recruitment and placement service provider operating in Sri Lanka shall provide a bank guarantee in favour of the Director-General in accordance with the following table:-

<i>Serial number</i>	<i>Number of seafarers placed on foreign flag ships</i>	<i>Amount of Bank Guarantee in Sri Lankan Rupees</i>
1	Up to 50	1.5 million
2	51-250	2.5 million
3	251-500	3 million
4	501 and above	5 million

- (b) The bank guarantee shall be drawn on a commercial bank in Sri Lanka.
- (c) The duration of a bank guarantee required by the Director-General shall not exceed a period of one year at any given time.
- (d) In case of any change in the number of jobs, the recruitment and placement service provider shall furnish requisite bank guarantee along with the application.
- (12) The bank guarantee shall cover the following, namely:-
- (a) the cost of the repatriation of a stranded seafarer, which includes the cost of such travel by appropriate and expeditious means normally by air and provision for food, clothing, accommodation of the seafarer until arrival at the seafarer's home, necessary medical care, passage and transport of personal effect, the transportation of the mortal remains of a seafarer in the event of his death;
- (b) the cost of repatriation of an abandoned seafarer, which includes the cost of such travel by appropriate and expeditious means, normally by air, and provision for food, clothing, drinking water supply, essential fuel for survival on board the ship, accommodation of the seafarers from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effect, the transportation of the mortal remains of a seafarer in the event of his death and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home;
- (c) any monetary loss including the outstanding wages and other entitlements due from the ship owner to the seafarer that they may incur as a result of the failure of a recruitment and placement service or the relevant ship owner to meet its obligation under the seafarers employment agreement or the relevant collective bargaining agreement.
- (13) If any change in the agreement or the contract between ship owners or employer and recruitment and placement service, the recruitment and placement service provider shall intimate the same to the Director-General along with the copy of agreement as the case may be, along with requisite bank guarantee.
- (14) The recruitment and placement service provider shall inform the Director-General, of any change in its place of business, within seven days of such change, failing which the Director-General may suspend, revoke or withdraw the Certificate of Authorisation issued to the recruitment and placement service provider.
- (15) Any person who contravenes sub-regulations (1) and (3) commits an offence and shall be liable on conviction to a fine not exceeding one million rupees or to imprisonment for a term not exceeding six months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding two million rupees or to imprisonment for a term not exceeding twelve months or to both.

PART III

**Conditions of Employment**

8. (1) No person shall work as a seafarer on board a ship unless that person has a seafarers' employment agreement signed by both the seafarer and the ship owner or a representative of the ship owner.
- (2) The shipowner, the master and the employer of a seafarer on a ship shall ensure that seafarers signing a seafarers' employment agreement shall be given an opportunity to examine and seek advice on the agreement before signing, and 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.
- (3) The ship owner and seafarer concerned shall each have a signed original of the seafarers' employment agreement.
- (4) The shipowner, the master and the employer of a seafarer on a ship shall ensure that the information on the conditions of employment including a clear legible copy of each seafarer's employment agreement relating to the ship can be easily obtained on board the ship by each seafarer employed on the ship and is accessible for review by the Director-General or any other entity so notified including port state authorities in ports to be visited.
- (5) Where a collective bargaining agreement forms all or part of the seafarers' employment agreement of any seafarer, the shipowner, the master and the employer of a seafarer on a ship shall ensure that a copy of that agreement is available on board the ship.
- (6) All seafarers' employment agreements shall in all cases contain the following particulars:
  - (a) the seafarer's full name, date of birth or age, and place of birth;
  - (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) the number of hours of work for the corresponding wage and any additional.
- (7) The ship owner or its approved recruitment and placement service provider shall file the articles of agreement signed with the seafarer to the shipping officer within one week of signing.
- (8) (a) A seafarer shall, before being discharged from the ship on which the seafarer has worked, be given a record of the seafarer's employment on board the ship that complies with paragraph (b) below.
- (b) The record of employment –
- (i) shall not contain any statement as to the quality of the seafarers' work or as to their wages; and
  - (ii) shall contain sufficient information to facilitate seafarer to acquire further work, or to satisfy the sea service requirements for the seafarer's upgrading or promotion.
- (c) In the case of a Sri Lankan Seafarer, the Continuous Discharge Certificate issued by Director-General shall consider as the record of employment of that seafarer and the Master of the ship that a Sri Lankan seafarer works shall endorse the Continuous Discharge Certificate.
- (9) (a) The minimum period of notice to be given by the seafarers and ship owners for the early termination of a seafarers' employment agreement shall be in accordance with the collective bargaining agreement or seafarer employment agreement, but in any case, shall not be shorter than seven days.
- (b) A period of notice shorter than the minimum period as in paragraph (a) may be given in circumstances which are recognised under the applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice and in determining these circumstances, it shall be ensured by the ship owner 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.
- (10) Where a seafarer is held captive on or off a ship as a result of an act of piracy or armed robbery against the ship, the seafarer's employment agreement continues to have effect during the period of captivity, regardless of whether —
- (a) the date fixed for the expiry of the seafarer's employment agreement has passed; or
  - (b) either party to the seafarer's employment agreement has given notice to suspend or terminate it in pursuant to sub-regulation (9).
- (11) Any person who employs a seafarer or enters into a seafarer's employment agreement with a seafarer in contravention of this regulation commits an offence and shall be liable on conviction to a fine not exceeding one million rupees or to imprisonment for a term not exceeding six months or to both and, in the case of a second or subsequent conviction, to a fine not exceeding two million rupees or to imprisonment for a term not exceeding twelve months or to both.
9. (1) The shipowner and the employer of a seafarer on board a ship shall ensure that every seafarer on board the ship is paid—

- (a) at intervals no greater than a month; and
  - (b) in full in accordance with the seafarer's employment agreement or any collective agreement applicable to that seafarer's employment on board the ship.
- (2) The shipowner and the employer of a seafarer on board a ship shall ensure that every seafarer on board the ship is given a monthly account of the payments due and the amounts paid, including—
- (a) wages;
  - (b) additional payments; and
  - (c) the rate of exchange used where payment has been made in foreign currency.
- (3) The shipowner and the employer of a seafarer on board a ship shall ensure that the seafarer is provided with a means to transmit all or part of the seafarer's wages and additional payments to the seafarer's family or dependents or legal beneficiaries, and that those means of transmission include —
- (a) a system for enabling a seafarer, at the time of the seafarer's starting work on board the ship or during it, to allot, if the seafarer so desires, a proportion of the seafarer's wages for remittance at regular intervals to the seafarer's family 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 seafarer.
- (4) The shipowner and the employer of a seafarer on board a ship shall ensure that—
- (a) any charge for a service provided to the seafarer as set out in sub-regulation (3) is reasonable in amount; and
  - (b) the rate of currency exchange is—
    - (i) at the prevailing market rate or official published rate prescribed by the Central Bank of Sri Lanka or rate according to the national laws of the State whose flag the ship flies, and
    - (ii) not unfavourable to the seafarer.
- (5) The wages included in the collective bargaining agreement or the Seafarers' Employment Agreement shall be in accordance with the guidelines B2.2.2 (calculation and payment) and B2.2.3(minimum wages) of the Convention.
- (6) Owners of Sri Lankan ships shall maintain record of payrolls or electronic record sheets relevant to wages of seafarers on board their ships.
- (7) Where a seafarer is held captive on or off a ship as a result of an act of piracy or armed robbery against the ship, the seafarer's wages and other entitlements under —
- (a) the seafarer's employment agreement;
  - (b) any applicable collective bargaining agreement; or
  - (c) any written law,

shall continue to be paid during the entire period of captivity and until —

- (d) the date on which the seafarer is released and duly repatriated in accordance with these regulations; or
- (e) the date of the seafarer's death, if the seafarer dies while in captivity.

(8) Any person who contravenes provisions of this regulation commits an offence and on conviction thereof shall be liable to a fine not exceeding five hundred thousand rupees.

10.(1) For the purpose of these regulations, the term-

- (a) "hours of work" means time during which seafarers are required to do work on account of the ship; and
  - (b) "hours of rest" means time outside the hours of work but does not include short breaks or meal breaks up to one hour during the hours of work.
- (2) The normal working hours standard for seafarers shall not exceed an eight-hour day with one day rest per week and rest on public holidays as per collective bargaining agreement or seafarers' employment agreement.
- (3) The ship owner shall adopt minimum hours of the rest which shall be;
- (a) not less than ten hours in any twenty-four hour period; and
  - (b) not less than seventy-seven hours in any seven days in period.
- (4) Minimum ten 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 fourteen hours.
- (5) Musters, fire fighting and life boat drills, and drills prescribed by the national regulations of Sri Lanka and by international conventions on board the ship shall be conducted in a manner-
- (a) that minimizes the disruption of any rest period; and
  - (b) that does not induce fatigue to any seafarer on board the ship.
- (6) 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.
- (7) The Director-General may, in accordance with standards A2.3 of the Convention and section A-VIII/1 of the STCW Convention, permit Sri Lanka ship an exception to the requirements on hours of rest under sub-regulation (3) and (4). Such exceptions shall, as far as possible, follow the provisions of the standards A 2.3 of the Convention 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.
- (8) (a) Nothing in this regulation 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.

- (b) In such case, the master shall suspend the schedule of hours of work 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.
- (9) (a) The master of the ship shall-
- (i) compile a table with the shipboard working arrangements that complies with paragraph (b); and
  - (ii) display the table in a conspicuous position on board the ship, which is accessible to seafarers on it.
- (b) The table shall-
- (i) contain, in respect of each seafarer on board the ship-
    - (A) a schedule of service at sea and service in port; and
    - (B) the minimum hours of rest; and
  - (ii) be presented -
    - (A) in a standardized format as may be determined by the Director-General;
    - (B) in the working language of the crew of the ship; and
    - (C) if the working language is not English, also in English.
- (c) The master shall;
- (i) maintain a record of daily hours of rest of every seafarer on board the ship that the endorsed by-
    - (A) the master or a person authorized by the master; and
    - (B) the seafarer; and
  - (ii) provide each seafarer with a copy of the record relating to the seafarer.
- (d) The record referred to in paragraph (c) shall be in a standardized format as may be determined by the Director-General.
- (10) (a) The following requirements shall be complied with in relation to a seafarer under the age of 18 years employed to work on board a ship—
- (i) the working hours of the seafarer shall not exceed—
    - (A) 8 hours in any 24-hour period; and
    - (B) 40 hours in any 7-day period;
  - (ii) there shall be—

(A) sufficient time for meals; and

(B) a break of at least 1 hour for the main meal of a day; and

(iii) there shall be a 15-minute rest period as soon as practicable after every 2 hours of continuous work.

(b) paragraph (a) does not apply if—

(i) the seafarer is assigned to watchkeeping duties or working on a rostered shiftwork system in the deck department, engine room department or catering department, and it is impracticable for the requirements to be complied with;

(ii) it is necessary for the seafarer to work for extra working hours to—

(A) ensure the immediate safety of the ship, or a person or cargo on board the ship; or

(B) give assistance to any other ship or a person in distress at sea; or

(iii) the training for the seafarer in accordance with an approved training programme would be impaired.

(c) Where a seafarer exceeds the number of hours of work required to work as specified in sub regulation (10)(a) because of conditions specified in sub regulation (10)(b), the master of the ship concerned shall compile and sign a record containing the following particulars—

(i) the duration of the extra working hours; and

(ii) the circumstances under which the working hours of the seafarer are exceeded.

(11) Any person who contravenes provisions of this regulation commits an offence and on conviction thereof shall be liable to a fine not exceeding one million rupees.

11.(1) The shipowner, master and employer of a seafarer shall ensure that—

(a) the seafarer takes paid annual leave at a minimum of 2.5 calendar days per month of continuous service with the shipowner which shall be in addition to leave that the seafarer is entitled under sub-regulation (4); and

(b) within the operational requirements of the seafarer's position, the seafarer is granted shore leave to benefit their health and well-being.

(2) Any agreement to forgo the minimum annual leave with pay as set out in sub-regulation (1), except in cases provided for by the Director-General, is prohibited. The Director-General shall forgo the minimum annual leave as set out in sub-regulation (1) for the trainees in order to complete their sea time or onboard training in accordance with training agreements.

(3) A seafarer who has served a shipowner for a period shorter than twelve months of continuous service in any year or in the event of termination of employment otherwise than for misconduct, shall be entitled to annual leave in proportion to the number of completed months of service in that year.

(4) Leave of absence granted for the following purposes shall not be counted as part of a seafarer's annual leave;



- (a) public and customary holidays, 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;
  - (c) temporary shore leave by agreement between the shipowner and the seafarer under the seafarer's employment agreement;
  - (d) seafarer in transit to or from a ship, or on active standby for immediate deployment; and
  - (e) time spent awaiting repatriation and repatriation travel time.
- (5) If an employment relationship terminates when a seafarer has not taken all paid annual leave due under sub-regulation (1), the shipowner or employer may replace the seafarer's minimum paid annual leave allowance required by sub-regulation (1) with a payment in lieu.
- (6) A seafarer shall be entitled to take annual leave in the place to which he has a substantial connection or is entitled to be repatriated.
- (7) No person shall require a seafarer to take annual leave in a place otherwise than that provided in the seafarer's employment agreement unless;
- (a) the seafarer gives his consent;
  - (b) the shipowner bears the costs of transporting the seafarer to the place where he was engaged or recruited, whichever is nearer his home; and
  - (c) the shipowner bears the subsistence and all other directly related costs.
- (8) No person shall recall a seafarer who is on paid annual leave except in cases of extreme emergency as may be determined by the Director-General from time to time and provided that the seafarer's consent has been obtained.
- (9) In calculating the proportionate annual leave under sub-regulation (3), any fraction of a day which is less than one-half of a day shall be disregarded and where the fraction of the day is one-half or more it shall be regarded as one day.
- (10) Seafarers under the age of eighteen 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 shall be repatriated, 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.
12. (1) The shipowner and employer of a seafarer on board a Sri Lanka ship shall ensure that the seafarer is repatriated at no cost to the seafarer if the seafarer has been on board for a period not exceeding 12 months and-
- (a) the seafarers' employment agreement expires while the seafarer is abroad;
  - (b) the seafarers' employment agreement is terminated by the shipowner;
  - (c) the seafarers' employment agreement is terminated by the seafarer in accordance with the terms of the agreement;

- (d) the seafarer is no longer able to carry out the seafarers duties under the seafarers employment agreement or can't expected to carried them out in the specific circumstances,including in the following circumstances;
- (i) the seafarer has an illness, injury or medical condition which requires their repatriation when found medically fit to travel;
  - (ii) shipwreck;
  - (iii) the shipowner is not able to fulfill its legal or contractual obligations to the seafarer following insolvency, the sale of the ship or a change in the ship's registration; or
  - (iv) the ship is bound for a war zone to which the seafarer does not consent to go; and
- (e) where the seafarer is released from captivity after being held captive on or off a ship as a result of an act of piracy or armed robbery against the ship.
- (2) (a) Where there is a duty on a shipowner to provide for the repatriation of a seafarer under sub-regulation (1), a seafarer is entitled to be repatriated as far as practicable by the mode of air transport to the destination provided for in the seafarer employment agreement, or such other place as may subsequently be agreed with the shipowner.
- (b) If the seafarer employment agreement does not identify a destination, and there has been no agreement between the seafarer and the shipowner as to the destination, the seafarer is entitled to repatriation to the seafarer's choice of the following destinations—
- (i) the place at which the seafarer entered into the seafarer's employment agreement; or
  - (ii) the seafarer's country of residence.
- (3) Where there is a duty on a shipowner to provide for the repatriation of a seafarer under sub-regulation (1), that duty ends, except where that seafarer held captive on or off the ship as a result of acts of piracy or armed robbery against such a ship, when—
- (a) the seafarer is repatriated in accordance with sub-regulation (2);
  - (b) the shipowner makes reasonable arrangements for repatriation which are unsuccessful because of the seafarer's misconduct;
  - (c) the shipowner has used reasonable endeavours to contact the seafarer for a period of three months or more, but has been unable to make such contact;
  - (d) the seafarer confirms in writing to the shipowner that repatriation is not required; or
  - (e) the seafarer is dead.
- (4) The costs to be borne by the shipowner for repatriation under this regulation should include at least the following:
- (a) passage to the destination selected for repatriation in accordance with sub-regulation (2) of this regulation;
  - (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;
  - (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.
- (5) (a) A seafarer under the age of eighteen years who is found to be unsuited to life at sea after having served on a ship for at least 4 months during his first foreign-going voyage, shall be given the opportunity to be repatriated at no expense to himself and in accordance with this section from the first suitable port of call in which there are consular services of Sri Lanka or of the state of his nationality or residence.
- (b) A shipowner shall notify the authority of the state which issued the papers enabling the seafarer referred in sub-regulation (5a) concerned to take up seagoing employment, of such repatriation referred to in subsection (5a) and the reasons therefor.
- (6) (a) Subject to sub-regulation 6(b), a shipowner shall not enter into an agreement with a seafarer under which the seafarer shall make payment in respect of sub-regulation 4 of this regulation.
- (b) A seafarer employment agreement may provide that the seafarer shall reimburse repatriation costs where the agreement is terminated because of the seafarer's serious misconduct.
- (c) If a seafarer employment agreement contains provision described in sub-regulation 6(b) and that obligation arises, a deduction equivalent to those costs may be made from the wages due to the seafarer under that agreement.
- (d) If a seafarer employment agreement does not contain provision such as that described in sub-regulation 6(b), the shipowner may only recover the costs described in sub-regulation (4)(or damages in respect of such costs) where the agreement is terminated because of the seafarer's serious misconduct.
- (7) A ship shall not be operated unless—
- (a) in the case of a Sri Lanka ship, there is in force a contract of insurance or other financial security adequate to ensure that the shipowner shall be able to meet any liabilities arising from the duties in regulations 12(1) and 12(4); or
  - (b) in the case of a foreign ship, financial security is provided in accordance with paragraph 2 of Regulation 2.5 (repatriation) of the Convention.
- (8) (a) If a shipowner of a Sri Lanka ship fails to comply with provision required under regulation 12(1) or 12(4), the Director-General shall recover costs incurred from the shipowner.
- (b) If a shipowner of a ship which is a foreign ship fails to make arrangements for and meet the cost of the repatriation of the seafarer in accordance with the requirements of the Convention as implemented by the flag State of that ship, or the minimum requirements of the Convention, the Director-General shall recover costs incurred from the shipowner and may detain until the costs have been fully reimbursed.
- (c) the shipowner and employer of a seafarer who is a Sri Lankan national, and the competent authority of the flag State of the ship on which the seafarer has been employed or engaged inwork, fail to make arrangements for and meet the cost of the repatriation of the seafarer in accordance with the requirements of the Convention

as implemented by the flag State of that ship, or the minimum requirements of the Convention, the Director-General shall recover costs incurred from the shipowner and may request from the flag state or port state the detention of the ship until the costs of repatriation have been fully reimbursed.

- (d) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in sub-regulation 6(d).
  - (9) A shipowner of a Sri Lanka ship shall ensure that a copy of this regulation written in English shall be carried on board a ship and is available to seafarers. In the case of a foreign ship, applicable regulations shall be available on board in the working language of the ship.
  - (10) Sri Lanka Ports Authority shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, and their replacement on board.
  - (11) In particular, the right of repatriation to any seafarers shall not be refused due to financial circumstances of the ship owner or for the inability of the ship owner or unwillingness to replace a seafarer.
- 13.(1) A seafarer is “abandoned” in relation to a ship if the shipowner—
- (a) fails to make the provision required under regulation 12; or
  - (b) having regard to the seafarer’s personal circumstances and requirements, leaves the seafarer without necessary maintenance and support, including leaving the seafarer without—
    - (i) adequate food;
    - (ii) drinking water supplies;
    - (iii) accommodation;
    - (iv) essential fuel for survival on board the ship; or
    - (v) necessary medical care; or
  - (c) unilaterally severs ties with the seafarer, including failing to pay any amount in respect of wages payable to the seafarer under the seafarer’s seafarer employment agreement for a period of at least two months.
- (2) An abandoned seafarer ceases to be abandoned in relation to a ship if, after the end of the relevant period, the seafarer continues, resumes or takes up new employment on board the ship or is engaged on board the ship.
- (3) The “relevant period” begins with the day on which the seafarer is abandoned and ends with the earliest of the following events—
- (a) the seafarer’s arrival in or at—
    - (i) the seafarer’s country of residence;
    - (ii) the destination provided in the seafarer’s seafarer employment agreement as being that to which the seafarer should be returned in the event that the seafarer is repatriated; or

(iii) such place as the seafarer has agreed in advance with—

(i) the abandonment security provider; or

(ii) any person who has made provision for the seafarer's repatriation;

(b) the seafarer refusing unreasonably to be repatriated, or to co-operate with arrangements made for the seafarer's repatriation;

(c) the expiry of a period of 3 months during which the abandonment security provider has used reasonable endeavours to contact the seafarer but has been unable to make such contact;

(d) the abandonment security provider receives written confirmation from the seafarer that financial assistance is no longer required;

(e) the death of the seafarer.

14. (1) A ship shall not be operated unless—

(a) in the case of a Sri Lanka ship, an abandonment security is in force in relation to the ship; or

(b) in the case of a foreign ship, financial security is in place for the ship in accordance with paragraph 3 of standard A2.5.2 of the Convention (financial security for abandoned seafarers).

(2) Any shipowner who contravenes sub-regulation (1) commits an offence and on conviction thereof shall be liable to a fine not exceeding one million rupees.

15. (1) "Abandonment security" means a contract of insurance or other form of security relating to a ship that—

(a) provides financial assurance of an amount which the shipowner reasonably considers adequate to cover the items in sub-regulation (2)(a) to (d) for any seafarer who is abandoned in relation to the ship; and

(b) provides that any seafarer who is abandoned in relation to the ship is entitled to—

(i) make an abandonment claim; and

(ii) receive financial assistance in respect of the items in sub-regulation (2)(a) to (d).

(2) The items referred to in sub-regulation (1)(a) and (b)(ii) are—

(a) up to four months' unpaid wages relating to work undertaken by the seafarer before the end of the relevant period;

(b) the cost during the relevant period of—

(i) adequate food;

(ii) drinking water supplies;

(iii) clothing, where necessary;

(iv) accommodation;

(v) essential fuel for survival on board the ship;

(vi) necessary medical care;

(c) the cost of repatriation, including —

(i) the cost of appropriate travel arrangements and any related costs of passage, but this may be limited to travel or passage that is completed before the seafarer ceases to be abandoned; and

(ii) the cost of transport of the seafarer's personal effects; and

(d) all other expenses reasonably incurred by the seafarer before the end of the relevant period as a result of being abandoned.

(3) In this regulation—

“abandonment claim” is a claim for financial assistance that—

(a) is submitted directly to the abandonment security provider by—

(i) an abandoned seafarer; or

(ii) a person authorised by the seafarer to act on the seafarer's behalf; and

(b) is supported by evidence showing that the seafarer is abandoned;

16.(1) This regulation applies where an abandonment claim is made.

(2) The abandonment security provider to whom the abandonment claim is made shall within seven days of receipt of the claim determine whether the seafarer is entitled to receive financial assistance.

(3) An abandonment security provider who determines that a seafarer is entitled to receive financial assistance, whether in relation to the whole or any part of an abandonment claim, shall within 14 days of receipt of the claim provide such assistance, whether or not there are further parts of the claim yet to be determined.

(4) An abandonment security provider who in contravention of sub-regulation (2) fails to determine whether a seafarer is entitled to receive financial assistance in relation to the whole or part of an abandonment claim shall within 14 days of receipt of the claim provide financial assistance in the amount claimed by the seafarer.

(5) Where, in contravention of sub-regulations (3) or (4) financial assistance is not provided, the abandonment security provider shall pay interest on the unpaid amount at the rate of 20% per year from the date of receipt of the claim.

(6) An abandonment security provider who—

(a) has provided financial assistance to a seafarer under sub-regulation (3); and

(b) subsequently determines that the seafarer was not entitled to receive the financial assistance, may recover as a civil debt the amount of the financial assistance less any interest payable under sub-regulation (5).

- (7) Any person who contravenes provisions of this regulation commits an offence and on conviction thereof shall be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding 1 year or to both.
- (8) In this regulation abandonment claim shall have the same meaning as in regulation 15.
17. Any rights which a seafarer has (or but for the payment of that sum would have had) against the shipowner as a result of being abandoned are, with respect to financial assistance, transferred to and vested in the abandonment security provider.
- 18.(1) The shipowner and the master;
- (a) of a Sri Lanka ship shall ensure that, for abandonment security in force in relation to the ship, an abandonment security document issued by the abandonment security provider containing the information specified in Appendix A-2-1 of the Convention is carried on board;
- (b) of a foreign ship shall ensure that, in force certificate or other documentary evidence of financial security issued by the financial security provider in relation to the ship, containing the information specified in Appendix A-2-1 of the Convention is carried on board.
- (c) ensure that the documents referred to in sub-regulations (1a) and (1b) above is not in English, has with it an English translation; and
- (d) ensure that the document referred to in paragraph (a) above, together with any English translation, is displayed in a conspicuous place on board ship.
- (2) Any person who contravenes sub-regulation (1) commits an offence and on conviction thereof shall be liable to a fine not exceeding one million rupees or to imprisonment for a term not exceeding one year or to both.
- 19.(1) The termination by an abandonment security provider of an abandonment security before the end of its period of validity is effective only if the abandonment security provider gives at least thirty days' prior notice to the Director-General.
- (2) A notice under sub-regulation (1) shall—
- (a) be in writing; and
- (b) include a copy of the abandonment security document.
- 20.(1) Where the shipowner becomes aware that any abandonment security that relates to a ship is to be, or has been, terminated before the end of its period of validity, the shipowner shall give notice to that effect to all seafarers who work on the ship during the notification period.
- (2) A notice under sub-regulation (1) shall—
- (a) be in writing;
- (b) state the date on which the abandonment security is to be or was terminated; and

- (c) be given as soon as reasonably practicable after the shipowner becomes aware that the abandonment security is to be or was terminated.
- (3) In this regulation, the “notification period” means the period —
- (a) beginning with the date on which the shipowner becomes aware that the abandonment security is to be, or has been, terminated before the end of its period of validity; and
- (b) ending with on the date that the shipowner becomes aware that the abandonment security has been replaced or reinstated.”.
- 21.(1) This regulation applies in relation to a seafarer working on board a ship which founders or is lost.
- (2) If the loss or foundering of the ship causes the seafarer to become unemployed, the shipowner shall pay to the seafarer an amount equivalent to the wages which would otherwise have been payable under the seafarer employment agreement for every day on which the seafarer is unemployed in the two-month period commencing on the day following the day on which the loss or foundering occurred.
- (3) If the loss or foundering of the ship causes the seafarer to suffer injury or loss (other than the loss of wages referred to in sub-regulation (2), the shipowner shall pay compensation to the seafarer as specified in the seafarer employment agreement.
- (4) In relation to loss (of possessions) other than personal injury or death, the duty in sub-regulation (3) is limited to the amount specified (if any) in the seafarer employment agreement.
- (5) A seafarer may recover any sum due from the shipowner under sub-regulations (2) or (3) as a civil debt.
22. (1) The ship owner shall ensure that each ship shall employ on board as per the minimum safe manning document issued by the Director-General in accordance with the Merchant Shipping (Minimum Safe Manning) Regulations, 2016 published in the *Gazette* No. 1987/19 of October 4, 2016 so that the 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.
- (2) The ship owner shall ensure that every ship is 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 as specified by the Director-General.
- (3) The Director-General shall also take into account all the requirements of regulation 24 in determining manning levels.

#### PART IV

#### **Accommodation, Recreational facilities, Food and Catering**

23. (1) The shipowner of a ship shall ensure that crew accommodation on the ship –
- (a) has decent accommodation and recreational facilities for seafarers working or living onboard, or both, consistent with promoting the seafarers’ health and well-being.;



- (b) if the ship was constructed before the date on which these regulations come into force, is constructed and equipped in accordance with the requirements (if any) relating to ship construction and equipment set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92) and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133).
- (2) Accommodation and recreational facilities referred in sub-regulation (1) (a) shall in accordance with the implementation standards published related to it by the Director-General.
- (3) The master of the ship, or an officer appointed by the master for that purpose, shall, at intervals not exceeding seven days and accompanied by at least one member of the crew, inspect the crew accommodation to ensure it is clean, decently habitable and maintained in a good state of repair.
- (4) The master of the ship, or an officer appointed by the master for that purpose, shall record the findings of inspections undertaken pursuant to sub-regulation (2) in the official log book of the ship specifying—
- (a) the time and date of the inspection;
- (b) the name and rank of each person making the inspection; and
- (c) particulars of any respect in which the crew accommodation was found by any of the persons making the inspection not to comply with these Regulations.
- 24.(1) The shipowner and the master of a ship shall ensure that food and drinking water are provided on board the ship which—
- (a) are suitable in respect of quantity, quality and, in relation to food, nutritional value and variety, taking account of—
- (i) the number of seafarers on board and the character, nature and duration of the voyage; and
- (ii) the different religious requirements and cultural practices in relation to food of the seafarers on board;
- (b) do not contain anything which is likely to cause sickness or injury to health or which renders any food or drinking water unpalatable; and
- (c) are otherwise fit for consumption.
- (2) The shipowner and master of a ship shall ensure that;
- (a) food and drinking water provided in accordance with sub-regulation (1) are provided free of charge to all seafarers while they are on board.
- (b) the catering department on the ship is organised and equipped so as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions;
- (c) seafarers whose normal duties include the preparation and storage of food, the service of meals to seafarers on board the ship or other work in the galley or in areas where food is stored or handled are properly trained or instructed for their positions;

- (d) any person processing food in the galley has been trained or instructed in areas including food and personal hygiene and the handling and storage of food on board ship.
- (3) Shipowner and master shall ensure that seafarers who are engaged as ships' cooks are trained, qualified and found competent for the position in accordance with requirements set out in these regulations and hold a Certificate of Proficiency as a Ship's Cook issued by the Director-General in the case of a Sri Lanka ship and regulations of the flag state in the case of a foreign ship.
- (4) The master of a ship shall ensure that, not less than once a week—
- (a) the supplies of food and drinking water on board are inspected to check compliance with sub-regulations (1) and (2) of this regulation; and
- (b) the catering department and its equipment are inspected to check compliance with sub-regulation (2).
- (5) An inspection under sub-regulation (4) shall be carried out by—
- (a) the master of the ship; or
- (b) a person authorised by the master,
- (c) together with a member of the catering staff.
- (6) The master of the ship shall ensure that the results of any inspection under sub-regulation (4) are recorded in the official logbook of the ship.
25. (1) A ship operating with a prescribed manning of more than ten shall not proceed to sea unless a qualified ships' cook is on board.
- (2) In circumstances of exceptional necessity the Director-General may grant an exemption from the requirement in sub-regulation (1)—
- (a) until the next port of call, or
- (b) for a period not exceeding one month,
- Provided if there is a person on board the ship who is trained or instructed in areas including food and personal hygiene and safe handling and storage of food on board the ship.
- (3) A seafarer to be qualified as ship's Cook and for the issuance of Certificate of Proficiency as a ship's Cook by the Director-General, the seafarer shall;
- (a) be not less than eighteen years of age;
- (b) hold a valid Medical Certificate issued in accordance with the Merchant Shipping (Standards of Training, Certification and Watch Keeping for Seafarers) Regulations, 2016 published in the *Gazette* No. 1987/19 of October 4, 2016.

- (c) has completed an approved training programme which meets the requirements for a ship's cook set out in standard A3.2 of the Convention; and
- (d) has undergone approved training in Personal Survival Techniques, Fire Prevention and Fire Fighting, Elementary First Aid, Personal Safety and Social Responsibilities and Security Awareness in accordance with the Merchant Shipping (Standards of Training, Certification and Watch Keeping for Seafarers) Regulations, 2016 published in the *Gazette* No. 1987/19 of October 4, 2016.
- (4) A seafarer to follow the approved training programme referred in sub-regulation (3), that seafarer shall have fulfilled the eligibility criteria prescribed in the Code of Practice for examination issued by the Director-General.
- (5) A record of all certificates of proficiency issued under this regulation and of the suspension, cancellation or alteration of, and any other matters affecting, any such certificate shall be kept by the Director-General.
- (6) Means of verification of all certificates of proficiency issued under this regulation shall be provided by the Director-General.
- (7) (a) The certificate of proficiency referred to in regulation 24(3) shall be valid for a period not exceeding five years from the date of issue.
- (b) A seafarer who has a minimum three months of sea service in the area of food and catering on board ships during the preceding five years is eligible to revalidate the certificate of proficiency as ship's cook.
- (c) A seafarer who has not gained the sea service as prescribed in sub regulation (b) shall undergo relevant refresher and updating training programme to revalidate the certificate of proficiency.
- (d) For the revalidation of the certificate of proficiency as ship's cook, a seafarer shall submit a valid medical certificate issued in accordance with the Merchant Shipping (Standards of Training, Certification and Watch Keeping for Seafarers) Regulations, 2016 published in the *Gazette* No. 1987/19 of October 4, 2016.
- (8) Existing certificates of compliance as a ship's Cook which is in force and not suspended on the date when these Regulations come into force, has effect as if it were a certificate of proficiency as a ship's cook issued under this regulation.
26. Any person who contravenes any provisions of this part commits an offence and on conviction thereof shall be liable to a fine not exceeding one million rupees.

## PART V

### **Health Protection, Medical Care, Welfare and Social Security Protection**

27. (1) The shipowner, master and employer of a seafarer on a ship shall ensure that—
- (a) seafarers are given health protection and medical care, including essential dental care, which is as comparable as possible to that generally available to workers ashore including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise;

- (b) seafarers are given the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;
  - (c) seafarers are provided with measures of a preventive character such as health promotion and health education programmes,
  - (d) seafarers' medical information is kept confidential and only used to facilitate the treatment of the seafarer;
  - (e) a medicine chest and medical equipment are carried on board in accordance with the requirements prescribed by the implementation standards published by the Director-General in relation to ships of that description;
- (2) A ship shall not be operated unless a qualified medical doctor is carried on board if the ship;
- (a) carries hundred persons or more; and
  - (b) is engaged on an international voyage lasting more than seventy-two hours.
- (3) Ships which do not require to carry a qualified medical doctor on board under sub regulation (2), and ordinarily are capable of reaching qualified medical care and medical facilities within eight hours shall be required to have at least one seafarer on board who has satisfactorily completed training in medical first aid that meets the requirements of STCW Convention.
- (4) Ships which do not require to carry a qualified medical doctor on board under sub regulation (2), and ordinarily are not capable of reaching qualified medical care and medical facilities within eight hours shall be required to have at least one seafarer on board who has satisfactorily completed training in medical care that meets the requirements of STCW Convention.
- (5) Seafarers referred to in sub regulations (3) and (4) shall undergo, at intervals not exceeding five years, refresher courses to enable them to maintain and increase their knowledge and skills and to keep up-to-date with new developments.
- (6) The shipowner and the employer of a seafarer on a ship shall ensure that medical and dental care provided to a seafarer on board a ship in accordance with this regulation are provided free of charge to all seafarers while they are on board or landed in a foreign port.
- (7) Ships' masters of Sri Lanka ships and relevant onshore and on-board medical personnel shall use the standard medical form as may be determined by the Director-General with respect to medical examination. The form, when completed and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers.
- (8) The medicine chest and its contents, as well as the medical equipment and medical guide carried on board, shall be properly maintained and inspected at regular intervals, not exceeding 12 months, by persons designated by the Director-General, who should ensure that the labeling, expiry dates and conditions of storage of all medicines and directions for their use are checked and all equipment functioning as required.
- (9) Pursuant to sub regulation (8) approved medical practitioners or registered pharmacist shall be considered as designated persons.
- (10) (a) A Sri Lankan shipowner; and  
(b) The shipping agent licensed under the Licensing of Shipping Agent Act no 10 of 1972 and who engages in

crew matters of a foreign ship when in a port of Sri Lanka, shall take such measures as are necessary and practicable to ensure that seafarers employed on such ships have access when in port to;

- (i) outpatient treatment for sickness and injury;
- (ii) hospitalisation when necessary; and
- (iii) facilities for dental treatment.

- (11) (a) The ship owner shall ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice is available on all twenty-four hours of a day.
- (12) Such medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, shall be available free of charge to all ships irrespective of the flag that they fly.
- (13) The shipowner and the master of a ship shall ensure that following publications as amended from time to time are carried on board the ship;
- (a) the “International Medical Guide for Ships” published by the World Health Organisation;
  - (b) the “Medical First Aid Guide for use in accidents Involving dangerous Goods (MFAG)” published by the International Maritime Organisation;
  - (c) the “International Code of Signals” published by the International Maritime Organisation;
  - (d) a complete and up-to-date list of radio stations through which medical advice can be obtained; and
  - (e) if equipped with a system of satellite communication, an up-to-date and complete list of coast earth stations through which medical advice can be obtained.
- (14) Any person who contravenes provisions of this regulation commits an offence and on conviction thereof shall be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding 1 year or to both.
28. (1) ship shall not be operated unless there is in force in relation to the ship a contract of insurance (or other form of security) which provides financial assurance of an amount which the shipowner reasonably considers adequate to ensure that the shipowner will be able to meet any liabilities the shipowner may have, including liabilities under seafarer employment agreements, to provide compensation in the event of death or long term disability to seafarers arising from occupational injury, illness or hazard.
- (2) Any person who contravenes sub-regulation (1) commits an offence and on conviction thereof shall be liable to a fine not exceeding one million rupees or to imprisonment for a term not exceeding 1 year or to both.
29. (1) Subject to sub-regulation (11), this regulation applies in relation to a seafarer who suffers sickness or injury which—
- (a) first occurs during a period—
    - (i) which starts on the date on which the seafarer’s seafarer employment agreement commences and ends on the date on which the shipowner’s duty to make provision for the repatriation of that seafarer under regulation 12; or
    - (ii) which starts after a period referred to in sub-regulation (1) (a) (i) but is caused by circumstances or events arising during that period;

- (b) does not first occur during a period of leave, other than shore leave; and
- (c) results in the seafarer's incapacity for work.
- (2) If a seafarer falling within sub-regulation (1)(a)(i) does not receive the wages payable under the seafarer employment agreement in respect of the period specified in sub-regulation (3), the shipowner shall pay to the seafarer a sum equal to the difference between—
- (a) any sums received by the seafarer in respect of wages for that period under that agreement; and
- (b) the wages which would have been payable to the seafarer under that agreement if the seafarer had remained fit for work throughout that period, and (where the agreement would otherwise have terminated during that period) if the agreement had continued on the same terms throughout that period.
- (3) The period referred to in sub-regulation (2) is a period—
- (a) starting on the date of the injury or the first day of the sickness; and
- (b) ending on the date on which the duty to repatriate the seafarer under regulation 12 or, if such a duty does not arise, the date on which the seafarer leaves the ship.
- (4) Subject to sub-regulations (5) to (7), if a seafarer falling within sub-regulation (1) is incapable of work after the date on which the duty to repatriate the seafarer under regulation 12 (or if such a duty does not arise, the date on which the seafarer leaves the ship), and the seafarer does not receive the basic wages payable under the seafarer employment agreement for the period starting on that date and ending on the date on which the seafarer is again fit for work, the shipowner shall pay to the seafarer a sum equal to the difference between—
- (a) any sums received by the seafarer in respect of basic wages for that period under that agreement; and
- (b) the basic wages which would have been payable to the seafarer under that agreement if the seafarer had remained fit for work throughout that period, and (where the agreement would otherwise have terminated during that period) if the agreement had continued on the same terms throughout that period.
- (5) The duty in sub-regulation (4) ends on the expiry of the period of sixteen weeks commencing on the day following the date of the injury or the first day of the sickness referred to in sub-regulation (1).
- (6) The duty in sub-regulation (4) is conditional upon the seafarer applying for all relevant social security benefits payable in consequence of—
- (a) the seafarer's incapacity for work; and
- (b) the sickness or injury which resulted in the incapacity for work, under this regulation or the laws or arrangements in the country to which the seafarer is repatriated.
- (7) If the seafarer receives social security benefits of the kind described in sub-regulation (6) in respect of the period referred to in sub-regulation (5) or any part of that period—
- (a) the amount which the shipowner shall pay to the seafarer under sub-regulation (4) is to be reduced by that amount; and

- (b) the shipowner may recover as a civil debt any payments already made to the seafarer to the extent that they exceed such reduced amounts.
- (8) The seafarer shall on request provide information to the shipowner as to the amounts received by the seafarer in social security benefits during the period referred to in sub-regulation (5).
- (9) The sums payable to the seafarer under sub-regulations (2) and (4) shall be paid in the same manner and at the same frequency as wages are (or, as the case may be, were) payable under the seafarer employment agreement.
- (10) The seafarer may recover any sum due from the shipowner under sub-regulations (2) or (4) as a civil debt.
- (11) This regulation does not apply to a seafarer where—
- (a) the injury referred to in sub-regulation (1) was sustained while the seafarer was not at work;
  - (b) the injury or sickness referred to in sub-regulation (1) was sustained or arose due to the seafarer's willful misconduct; or
  - (c) the sickness or incapacity for work existed at the time when the seafarer entered the seafarer employment agreement, and the seafarer deliberately concealed the sickness or incapacity from the shipowner.
30. Shipowner of a ship shall safeguard property left on board the ship by a sick, injured or deceased seafarer and return it to the seafarer or the seafarer's next of kin
- 31.(1) Subject to sub-regulation (2), if a seafarer dies while—
- (a) on board a ship on which the seafarer works; or
  - (b) on shore leave in a country other than the seafarer's country of residence, the shipowner shall meet any expenses reasonably incurred in connection with the seafarer's burial or cremation.
- (2) The duty in sub-regulation (1) does not apply to expenses which are met by a public authority.
- (3) Where the seafarer's personal representatives incur costs in meeting expenses which should be met by the shipowner under sub-regulation (1), whether by incurring such costs directly or by reimbursing another person who has incurred those costs, those representatives may recover those costs from the shipowner as a civil debt.
32. (1) A ship shall not be operated unless—
- (a) in the case of a Sri Lanka ship, a shipowner's security is in force in relation to the ship; or
  - (b) in the case of a foreign ship, financial security to assure compensation in the event of death or long-term disability of seafarers arising from occupational illness, injury or hazard is provided in relation to the ship in accordance with paragraph 1 of standard A 4.2.1 of the Convention.
- (2) Any person who contravenes sub-regulation (1) commits an offence and on conviction thereof shall be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding 1 year or to both.

- (3) “Shipowner’s security” shall be in the form of insurance policy or other form of security relating to a ship that;
- (a) provides financial assurance of an amount which the shipowner reasonably considers adequate to ensure that the shipowner will be able to meet any liabilities that the shipowner may have, including liabilities under seafarer employment agreements or collective agreements, to provide compensation in the event of death or long-term disability to seafarers arising from occupational injury, illness or hazard;
  - (b) shall comply with the requirements set out in paragraph 8 (a), (b), (c), (d) and (e) and 13 of standard A 4.2.1 of the Convention; and
  - (c) shall not be terminated before the expiry date of the security, unless the security provider has given to the Director-General at least thirty days prior notice in writing.
- (4) A shipowner’s security provider shall pay the contractual compensation to the seafarer, or the seafarer’s personal representative, within seven days beginning with the date on which it is established that the shipowner is liable for the contractual compensation either by agreement between—
- (i) the shipowner’s security provider; and
  - (ii) the seafarer or the seafarer’s personal representative;
- (5) A shipowner’s security provider who fails to comply with sub-regulation (4) shall pay to the seafarer, or the seafarer’s personal representative, interest on the unpaid amount at the rate of 20% per year beginning with the date that the shipowner’s security provider became satisfied of the shipowner’s liability.
- (6) In this regulation, “claim for contractual compensation” means a claim for compensation in the event of death or long-term disability of a seafarer arising from occupational injury, illness or hazard where the compensation payable in respect of the claim is set out in the seafarer’s seafarer employment agreement, and “contractual compensation” is to be construed accordingly.
- (7) Where a shipowner becomes aware that any shipowner’s security that relates to the ship is to be, or has been, terminated before the end of its period of validity, the shipowner shall give written notice within thirty days to that effect to all seafarers who work on the ship during the notification period.
- (8) A notice under sub-regulation (7) shall—
- (a) be in writing; and
  - (b) include a copy of the shipowner’s security document.
- (9) If a shipowner’s security provider terminates a shipowner’s security before the end of its period of validity, the shipowner’s security provider shall give notice to that effect to the Director-General.
- (10) A notice under sub-regulation (9) shall—
- (a) be in writing; and
  - (b) include a copy of the shipowner’s security document.
- (11) Where a shipowner becomes aware that any shipowner’s security that relates to the ship is to be, or has been, terminated before the end of its period of validity, the shipowner shall give notice to that effect to all seafarers who work on the ship during the notification period.



- (12) A notice under sub-regulation (11) shall—
- (a) be in writing;
  - (b) state the date on which the shipowner's security is to be or was terminated; and
  - (c) be given as soon as reasonably practicable after the shipowner becomes aware that the shipowner's security is to be or was terminated.
- (13) (a) A ship shall –
- (i) carry on board, in respect of shipowner's security referred in sub-regulation (1), a certificate or other documentary evidence issued by each provider of the security ; and
  - (ii) have the copy of the certificate or other documentary evidence displayed in a conspicuous place on board the ship, which is accessible to seafarers on board the ship.
- (b) the certificate or other documentary evidence
- (i) shall contain the particulars and information set out in Appendix A 4-1 of the Convention; and
  - (ii) shall be in English or accompanied by an English translation.
- 33.(1) It shall be the duty of the shipowner to develop, implement and promote on board occupational health and safety measures to prevent occupational accidents, injuries and diseases as are specified in sub-regulation (2).
- (2) The occupational health and safety measures referred to in sub-regulation (1) shall either -
- (a) meet the requirements of an approved ship safety management system under the International Safety Management Code; or
  - (b) include all of the following:
    - (i) provision and maintenance of plant, machinery and equipment and systems of work that are, so far as is reasonably practicable, safe and without risk to health;
    - (ii) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risk to health in connection with the use, handling, stowage and transport of articles and substances of dangerous nature;
    - (iii) provision of necessary personal protective equipment for seafarers;
    - (iv) requirements for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board occupational accidents;
    - (v) duties of the master or a person designated by the master, or both, to take specific responsibility for the implementation of and compliance with the ship's occupational safety and health policy and programme; and
    - (vi) the authority of the ship's seafarers appointed or elected as safety representatives to participate in meetings of the ship's safety committee. Such a committee shall be established on board a ship on which there are five or more seafarers.

- (3) A shipowner shall provide on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection. Such programmes shall take into account the ILO code of practice entitled Accident prevention on board ship at sea and in port, 1996, and subsequent versions and other related ILO and other international standards and guidelines and codes of practice regarding occupational safety and health protection, including any exposure levels that they may identify.

Account should also be taken of the latest version of the Guidance on eliminating shipboard harassment and bullying jointly published by the International Chamber of Shipping and the International Transport Workers' Federation.

- (4) On board programmes referred in sub-regulation (3) shall in the form of training and instruction which shall;
- be repeated periodically where appropriate;
  - take into account any new or changed risks to the health or safety of these seafarer concerned; and
  - take place during the working hours of the seafarer concerned.
- (5) Shipowners shall pay special attention to the safety and health of seafarers under the age of 18 years.
- (6) A shipowner shall conduct a risk evaluation in relation to the management of occupational health and safety on board the ship.
- (7) The risk evaluation referred to in sub-regulation (6) shall cover;
- the avoidance of risks, which among other things include the combating of risks at source and the replacement of dangerous practices, substances or equipment by non-dangerous or less dangerous practices, substances or equipment;
  - the evaluation of unavoidable risks and the taking of action to reduce them; and
  - the review of appropriate statistical information from the shipowner's ships and such general statistics as may be provided by the Director-General from time to time
- (8) The shipowner shall ensure that the risk evaluation referred to in sub-regulation (6) is reviewed;
- at suitable intervals; or
  - whenever there is any significant change in the working conditions on board the ship.
- (9) (a) It shall be the duty of a shipowner and master to report to the Director-General any occupational accident, injury or disease arising from service on board any ship.
- (b) The report shall be made in a form as may be determined by the Director-General.
- (10) The Director-General shall ensure;
- comprehensive statistics of such reported accidents and diseases are kept, analysed and published and, where appropriate, followed up by research into general trends and into the hazards identified; and
  - occupational accidents are investigated.

(11) Any person who contravenes any provisions of this part commits an offence and on conviction thereof shall be liable to a fine not exceeding five hundred thousand rupees.

34. (1) This regulation applies to—

- a) Sri Lankan seafarers employed on board ships which are entitled to fly Sri Lankan flag;
  - b) Sri Lankan seafarers employed on board foreign flagged ships;
  - c) licensed Seafarers Recruitment and Placement service providers operating in Sri Lanka; and
  - d) owners of Sri Lanka registered ships.
- (2) Seafarers who are ordinarily resident in Sri Lanka and employed on ships that are entitled to fly Sri Lankan flag shall enjoy the Social Security protection set out in the provisions of Employees' Provident Fund Act, No. 15 of 1958 as amended and Employees' Trust Fund Act, No. 46 of 1980 as amended.
- (3) The seafarers who are ordinarily resident in Sri Lanka and employed on foreign flagged ships may enjoy the protection set out in the social security scheme adopted by Sri Lanka Social Security Board under the Social Security Board Act, No. 17 of 1996.
- (4) The dependents of the seafarers referred to in sub regulation (3) shall also be covered by the social security protection enjoyed by the seafarers concerned.
- (5) To achieve social security the following branches of social security protections may be adopted, namely.-
- (a) medical care;
  - (b) sickness benefit;
  - (c) unemployment benefit;
  - (d) old-age benefit;
  - (e) employment injury benefit;
  - (f) family benefit;
  - (g) maternity benefit;
  - (h) invalidity benefit; and
  - (i) survivors' benefit.
- (6) The social security protection referred to in sub regulation (2) and (3) shall be in addition to the protection provided under other regulations of these regulations.
- (7) The Director-General shall establish social security protection progressively for all its seafarers serving on board Sri Lankan ships or on board other flag state ships as per the national circumstances.
- (8) The shipowner or employer of a Sri Lankan Seafarer who employed on a foreign flagged ship shall contribute to the social security scheme referred in sub regulation (3) as follows;

- (a) Sri Lankan officers, 50 USD; and
- (b) Sri Lankan seafarers other than officers, 40 USD.
- (9) The Licensed Seafarers Recruitment and Placement service provider who provides a Sri Lankan Seafarer for foreign flag ships shall ensure that the contributions referred in sub regulation (8) are being collected and credited to the social security scheme and submit a monthly report the Director-General in the form determined by the Director-General.
- (10) The Director-General shall ensure that applicable contributions from Seafarers Recruitment and Placement service providers are being deposited to the social security scheme referred in sub regulation (3).
- (11) Seafarer's employment agreement or the collecting bargaining agreement shall provide details of the social security arrangement prescribed under this regulation.
- (12) The Director-General shall publish the implementation standard with regard to the Social Security protection referred in sub regulation (3).
- (13) Provisions of the Collective Bargaining Agreement and Contract of employment which prevail at the time of imposing these Regulations will be valid only for such period of Contract and immediately after the expiry of the agreement, these Regulations shall apply.
- (14) Where any Seafarers Recruitment and Placement service provider who is registered and certified under the regulation 7 of these regulations violates the provisions of this regulation, the Director-General may, after an inquiry, take steps to suspend or cancel the certificate of authorization issued under the regulation 7 of these regulations.
- (15) Any person who contravenes provisions of this regulation commits an offence and on conviction thereof shall be liable to a fine not exceeding one million rupees or to imprisonment for a term not exceeding 1 year or to both.

## PART VI

### Compliance and Enforcement

35. (1) The Director-General shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with the Convention ensuring that the working and living conditions for seafarers on ships that fly Sri Lanka flag meet, and continue to meet, the standards in the Convention.
- (2) (a) The Director-General may delegate the inspection and certification referred in sub-regulation (1) to Recognised Organisations that has been recognized in accordance with the provisions of the Code for Recognised Organisations adopted by the IMO.
- (b) The Director-General shall conclude a written agreement with any organization that it recognizes for purposes of an authorization. The Director-General shall accept the agreement drawn in accordance with the Code for Recognised Organisation.

- (c) Any authorizations granted with respect to inspections shall, as a minimum, empower the recognized organization to require the rectification of deficiencies that it identifies in seafarers' working and living conditions and to carry out inspections in this regard at the request of a port State.
  - (d) The Director-General shall provide the International Labour Office with a current list of any recognized organizations authorized to act on its behalf and shall keep the list up to date. The list shall specify the functions that the recognized organizations have been authorized to carry out.
  - (e) The recognized organizations shall maintain records of the services performed by them such that they are able to demonstrate achievement of the required standards in the items covered by the services. A report containing such inspections shall be communicated to the Director-General in every six months period.
- (3) A maritime labour certificate, complemented by a declaration of maritime Labour compliance, shall constitute *prima facie* evidence that the ship has been duly inspected by the-Director-General and that the requirements of the Convention relating to working and living conditions of the seafarers have been met to the extent so certified.
- (4) Director-General shall publish an annual report on inspections conducted on Sri Lanka ships within a reasonable time, not exceeding six months, after the end of the year.
- (5) A ship that flies the flag of Sri Lanka shall carry on board a copy of the Convention.
36. (1) This regulation shall apply to;
- (a) ships of five hundred gross tonnage or over which are entitled to fly Sri Lanka flag and engaged in international voyages;
  - (b) ships of five hundred gross tonnage or over which are entitled to fly Sri Lanka flag and operating from a port, or between ports, in another country; and
  - (c) any other foreign ships while they are in Sri Lanka waters.
- (2) A ship to which this regulation applies shall not proceed to sea, unless there is in force in respect of it;
- (a) a maritime labour certificate; or
  - (b) an interim maritime labour certificate.
- (3) A ship shall carry on board the maritime labour certificate referred in sub-regulation (2) and have a copy of the certificate displayed in a conspicuous position on board the ship, which is accessible to crew members on it.
- (4) (a) The maritime labour certificate referred in sub-regulation (2) shall have the declaration of maritime labour compliance (herein after referred to as "DMLC") attached to it.
- (b) The DMLC shall consist of two parts:
- (i) Part I: Drawn up by the Director-General which shall;
    - (ia) identify the list of matters to be inspected in accordance with paragraph 1 of the StandardA5.1.3of Convention;
    - (ib) identify the national requirements embodying the relevant provisions of the Convention by

providing a reference to the relevant national legal provisions as well as, to the extent necessary, concise information on the main content of the national requirements;

- (ic) refer to ship-type specific requirements under national legislation;
- (id) record any substantially equivalent provisions adopted pursuant to paragraph 3 of Article VI of the Convention; and
- (ie) clearly indicate any exemption granted by the Director-General as provided in Title 3 of the Convention; and

(ii) Part II: Drawn up by the shipowner shall identify the measures adopted to ensure ongoing compliance with the national requirements between inspections and the measures proposed to ensure that there is continuous improvement.

- (5) A ship to which this regulation applies is subject to the following inspections by the Director-General or by a recognised organization.
- (a) before a maritime labour certificate is first issued in relation to the ship, an initial inspection;
  - (b) within five years of the first issue of a Maritime Labour Certificate, and thereafter at intervals which shall be no more than five years, a renewal inspection; and
  - (c) between the second and third anniversary dates of a maritime labour certificate being issued, an intermediate inspection.
- (6) In this regulation—
- (a) “initial inspection” means an inspection by which the Director General or Recognised Organisation ascertains whether the ship meets the standards of the Convention.
  - (b) “renewal inspection” means an inspection by which the Director General or Recognised Organisation ascertains whether the ship continues to meet the standards of the Convention.
  - (c) “intermediate inspection” means an inspection by which the Director General or Recognised Organisation ascertains whether the ship continues to meet the standards of the Convention.
- (7) The Director-General, or a recognized organization shall issue a maritime labour certificate to a ship if the Director-General or the recognised organisation is satisfied after the completion of an initial or renewal inspection subject to;
- (a) a Declaration of Maritime Labour Compliance review and approval have been completed by the Director-General or the recognized organisation that inspects the ship; and
  - (b) deficiencies have been rectified or a plan for rectification has been accepted.
- (8) (a) A maritime labour certificate issued under sub-regulation (7) shall be valid for a period not exceeding five years from the date of issue.

- (b) The validity of the maritime labour certificate shall be subject to an intermediate inspection by the Director-General or the recognised organisation duly authorized for this purpose to verify;
- (i) ongoing compliance with the Convention;
  - (ii) amendments to the DMLC Part I and Part II (if any) have been effectively implemented; and
  - (iii) that rectification to previous deficiencies have been completed.
- (c) The scope of the intermediate inspection shall be the same as for initial inspection and shall be carried out between the second and the third anniversary date of the certificate.
- (d) The anniversary date means the day and month of each year which will correspond to the date of expiry of the maritime labour certificate.
- (9) When the renewal inspection has been completed within three months before the expiry of the existing Maritime labour certificate, the new Maritime labour certificate shall be valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate.
- (10) When the renewal inspection is completed more than three months before the expiry date of the existing Maritime labour certificate, the new Maritime labour certificate shall be valid for a period not exceeding five years from the date of completion of the renewal inspection.
- (11) Where, after a renewal inspection is completed prior to the expiry of a Maritime labour certificate, the ship is found to continue to meet provisions of these regulations and the requirements of the Convention, but a new certificate cannot immediately be issued at the renewal inspection and made available on board that ship, the Director-General or a recognized organisation, may extend the validity of the Maritime labour certificate for a further period not exceeding five months from the expiry date of the existing Maritime Labour certificate, and endorse the Maritime labour certificate accordingly. The new Maritime labour certificate shall be valid for a period not exceeding five years starting from the relevant dates prescribed in sub-regulations (9) and (10).
- (12) When the renewal inspection has been completed after the expiry of the existing Maritime labour certificate, the new Maritime labour certificate shall be valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate.
- (13) The maritime labour certificate of a ship ceases to be valid;
- (a) the ship ceases to be registered in Sri Lanka;
  - (b) the person identified on the certificate as the shipowner of the ship ceases to assume responsibility for the operation of the ship;
  - (c) a substantial change has been made to the structure or equipment of the accommodation for seafarers, the recreational and communications facilities for seafarers, or the food and catering facilities of the ship; or
  - (d) the certificate does not bear an endorsement for intermediate inspection.
- (14) (a) Interim maritime labour convention certificate may be issued:
- (i) to a new ship on delivery;

- (ii) when a ship changes flag; or
  - (iii) when a Shipowner assumes the responsibility for the operation of a ship which is new to that Shipowner.
- (b) An interim maritime labour certificate may be issued for a period not exceeding six months by the Director-General or a recognized organization duly authorized by the Director-General for this purpose. No subsequent Interim maritime labour convention certificate shall be issued, nor shall the existing Interim maritime labour convention certificate be extended.
- (c) An interim maritime labour certificate shall only be issued following verification that:
- (i) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I of the Convention, taking into account verification of items under paragraphs (ii), (iii) and (iv) of sub-regulation 14(c);
  - (ii) the Shipowner has demonstrated to the Director-General or a recognized organization duly authorized by the Director-General that the ship has adequate procedures to comply with the Convention;
  - (iii) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
  - (iv) relevant information has been submitted to the Director-General to produce a declaration of maritime labour compliance.
- (d) An inspection in accordance with sub-regulation (7) of this regulation shall be carried out prior to expiry of the interim certificate to enable issue of the full-term maritime labour certificate.
- (15) (a) The shipowner of a ship shall, by written application, request the Director-General to issue a part I of DMLC in respect of the ship.
- (b) The shipowner shall provide to the Director-General the documents and information specified by the Director-General.
- (16) (a) Before a ship is initially inspected for compliance with Convention, a DMLC Part II review shall be completed by the Director-General or an recognised organisation authorized by the Director-General that will inspect the ship.
- (b) The scope of the review is to verify that the DMLC Part II, provided by the Shipowner, addresses the requirements in the DMLC Part I, issued by the Director-General, including measures for initial and ongoing compliance.
- (c) The Director-General or a recognised organisation authorized by the Director-General that inspect the ship shall issue documentary evidence to reflect that a DMLC Part II review has been completed.
- (17) (a) The shipowner or the master of a ship shall ensure that the results of all subsequent inspections or other verifications carried out with respect to the ship concerned and any significant deficiencies found during any such verification shall be recorded, together with the date when the deficiencies were found to have been remedied.



- (b) The record referred to in paragraph (a) of sub-regulation (17), accompanied by an English-language translation where it is not in English, shall, be inscribed upon or appended to the declaration of maritime labour compliance or made available in some other way to seafarers, flag State inspectors, authorized officers in port States and shipowners' and seafarers' representatives.
- (18) The maritime labour certificate, the interim maritime labour certificate and the declaration of maritime labour compliance shall be drawn up in forms as may be determined by the Director-General.
37. (1) The Director-General shall maintain a system of inspection (in these regulations referred to as the "Flag State Inspection") of the conditions for seafarers on ships that fly the flag of Sri Lanka which shall include verification that the measures relating to working and living conditions as set out in the declaration of maritime labour compliance, where applicable, are being followed, and that the requirements of these regulations are met.
- (2) Flag State Inspection of ships more than 500GT which are entitled to fly Sri Lanka flag shall take once in every three years and shall be conducted by authorized officers.
- (3) Flag state inspection of ships less than 500GT which are entitled to fly Sri Lanka flag shall be conducted by authorized officers once in every year to verify that the applicable requirements of these regulations are met.
- (4) Authorized officers referred in sub-regulation (2) shall have as a minimum following qualifications and training:
- (a) certificate of competency as master(unlimited) or chief engineer (unlimited) and having maintained their technical knowledge of ships and their operation since gaining their certificate of competency;
- (b) have served for a period of not less than three years at sea as master or chief engineer on ships of 500GT or more engaged in international voyages; and
- (c) should have appropriate practical and theoretical knowledge of ships, their operation and the provisions of these regulations necessary to perform their duties as flag State surveyors obtained through documented training programmes;
- (d) Other personnel assisting in the performance of such work should have education, training and supervision commensurate with the tasks they are authorized to perform.
- (5) On receiving a complaint or obtaining evidence that a ship that flies the flag of Sri Lanka does not conform to the requirements of the Convention or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the Director-General shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.
- (6) The Director-General shall keep the source of the complaint or evidence confidential.
- (7) For the purposes of sub-regulations (1) and(5)of this regulation, an authorized officer or an inspector appointed under the Act (herein after referred to as "authorized officer") shall board a ship freely without previous notice and inspect that ship, and;
- (a) carry out an examination or a test in respect of any part of, or any equipment or thing on, the ship;
- (b) require the shipowner or the master of the ship, or a seafarer on board the ship, to produce the documents and provide the information specified by the authorized officer;

- (c) examine and copy any document referred to in paragraph (b);
- (d) take measurements and photographs, and make records, as the authorized officer considers necessary;
- (e) take or remove, for the purpose of analysis, samples of products, cargoes, provisions, drinking water, materials and substances on board the ship;
- (f) following an inspection, to bring immediately to the attention of the shipowner, the operator of the ship or the master, deficiencies which may affect the health and safety of those on board ship;
- (g) alert, if applicable, the recognized organization of any deficiencies.
- (8) If the authorized officer identifies, from an inspection of a ship—
- (a) any deficiency in complying with applicable provisions of these regulations; or
- (b) any deficiency in implementing the compliance measures.
- the authorized officer shall, by written notice to the shipowner and the master of the ship, require the deficiency to be rectified within the time specified in the notice.
- (9) (a) If any deficiency referred in sub-regulation (8) constitutes a serious or repeated breach of any provisions of these regulations; or represents a significant danger to the safety, health or security of the seafarers on board the ship, the authorized officer shall;
- (i) by written notice to the shipowner and the master of the ship, direct that the ship shall not proceed to sea until the deficiency has been rectified; and
- (ii) take steps to prohibit the ship from proceeding to sea in contravention of the direction.
- (b) All reasonable efforts shall be taken by the authorized officer to avoid a ship being unreasonably detained or delayed.
- (10) (a) If the shipowner of a ship is aggrieved by a decision of the Director-General under sub-regulation (9), the shipowner may, within 30 working days after receiving notice of the decision, appeal to the Secretary of the Ministry of Minister to whom implementation of the Act (hereinafter referred to as the “Secretary”) is assigned, against the decision.
- (b) The appeal does not affect the operation of the decision unless the Secretary directs otherwise in writing.
- (11) In the case of;
- (a) the Director-General has issued a written notice in respect of a ship under sub-regulation (9); and
- (b) a deficiency specified in the notice is not rectified in accordance with the notice, the Director-General shall, by written notice to the shipowner and the master of the ship, withdraw the maritime labour certificate, interim maritime labour certificate or compliance report issued in respect of the ship. In the case of a ship of less than 500GT, relevant statutory certificate issued shall be withdrawn.

- (12) (a) On receiving a notice under sub-regulation (11), the shipowner and the master of the ship shall deliver the certificate and reports to the Director-General immediately.
- (b) The shipowner or the master of the ship may, after the deficiency has been rectified, apply to the Director-General for the return of the certificate or report and the Director-General shall return them after an inspection of the subject ship.
- (13) (a) The authorized officer shall prepare a report on an inspection carried out under sub-regulations (2) and (3) and submit to the Director-General;
- (b) The report shall set out—
- (i) the date of commencement and completion of the inspection; and
- (ii) the details of any deficiency identified and the date when the deficiency is rectified.
- (c) One copy of the report shall be furnished to the master of the ship and another copy shall be posted on the ship's notice board for the information of the seafarers and, upon request, sent to their representatives.
- (d) The Director-General shall maintain records of inspections and shall publish an annual report on inspection activities within reasonable time, not exceeding six months, after the end of the year.
- (14) Authorized officer shall have the discretion to give advice instead of instituting or recommending proceedings when there is no clear breach of the requirements of these regulations that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches.
- (15) Authorized officer shall treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations and give no intimation to the shipowner, the shipowner's representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.
- (16) Authorized officer shall not be entrusted with duties which might, because of their number or nature, interfere with effective inspection or prejudice in any way their authority or impartiality in their relations with shipowners, seafarers or other interested parties.

In particular, the authorised officer shall -

- (a) be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect; and
- (b) subject to appropriate sanctions or disciplinary measures, not reveal, even after leaving service, any commercial secrets or confidential working processes or information of a personal nature which may come to their knowledge in the course of their duties.
- (17) Authorized officer shall have the status and conditions of service to ensure that the inspection is carried out independently and without external influences.
- (18) The Government shall be liable to pay compensation for any loss or damage from the wrongful exercise of the authorized officers' powers.

38. (1) Every foreign ship calling, in the normal course of its business or for operational reasons, in the ports of Sri Lanka may be subject to an inspection, carried out by authorized officers of the Director-General to review compliance with the requirements of the Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.
- (2) A valid maritime labour certificate and declaration of maritime labour compliance shall be accepted as prima facie evidence of compliance with the requirements of the Convention (including seafarers' rights). Accordingly, inspection in ports shall, except in the circumstances specified below in sub-regulation (4), be limited to a review of the certificate and declaration.
- (3) The Director-General shall establish an effective port State inspection and monitoring system to help ensure that the working and living conditions for seafarers on foreign ships entering a port of Sri Lanka meet the requirements of the Convention (including seafarers' rights).
- (4) Where the Director-General or an authorized officer, having come on board to carry out an inspection and requested, where applicable, the maritime labour certificate and the declaration of maritime labour compliance, finds that:
- (a) the required documents are not produced or maintained or are falsely maintained or that the documents produced do not contain the information required by the Convention or are otherwise invalid; or
  - (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of the Convention; or
  - (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with the Convention; or
  - (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of the Convention;
- a more detailed inspection may be carried out to ascertain the working and living conditions on board the ship. Such inspection shall in any case be carried out where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of the Convention (including seafarers' rights).
- (5) Where a more detailed inspection is carried out on a foreign ship in the circumstances set out in sub-regulation 4(a), 4(b) or 4(c), it shall in principle cover the matters listed in Appendix A5-III of the Convention, which in the declaration of maritime labour compliance.
- (6) In the case of a complaint under paragraph 4(d), the inspection shall generally be limited to matters within the scope of the complaint, although a complaint, or its investigation, may provide clear grounds for a detailed inspection in accordance with sub-regulation 4(b). For the purpose of sub-regulation 4(d), complaint means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board.
- (7) Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of the Convention, the authorized officer shall forthwith bring the deficiencies to the

attention of the master of the ship, with required deadlines for their rectification. In the event that such deficiencies are considered by the authorized officer to be significant, or if they relate to a complaint made in accordance with sub-regulation 4(d), the authorized officer shall bring the deficiencies to the attention of the:

- (a) flag State; and
  - (b) provide the competent authorities of the next port of call with the relevant information.
- (8) A copy of the officer's report, which shall be accompanied by any reply received from the competent authorities of the flag State within the prescribed deadline, may be transmitted to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties which might be interested in availing themselves of relevant recourse procedures.
- (9) Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of the Convention and:
- (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
  - (b) the non-conformity constitutes a serious or repeated breach of the requirements of the Convention (including seafarers' rights);

the authorized officer shall take steps to ensure that the ship does not proceed to sea until any non-conformities that fall within the scope of subparagraph (a) or (b) of this sub-regulation have been rectified, or until the authorized officer has accepted a plan of action to rectify such non-conformities and is satisfied that the plan will be implemented in an expeditious manner. If the ship is prevented from sailing, the authorized officer shall forthwith notify the flag State accordingly and invite a representative of the flag State to be present, if possible, requesting the flag State to reply within a prescribed deadline.

- (10) All possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is found to be unduly detained or delayed, compensation shall be paid for any loss or damage suffered. The burden of proof in each case shall be on the complainant.
39. (1) The Director-General shall ensure that seafarers on ships calling at a port or place in Sri Lanka who allege a breach of the requirements of this Convention (including seafarers' rights) have the right to report such a complaint to the Director-General in order to facilitate a prompt and practical means of redress.
- (2) Upon receipt of a complaint referred in sub-regulation (1), the Director-General or the authorized officer shall undertake an initial investigation.
  - (3) Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the on-board complaint procedures provided under Regulation 5.1.5 of the Convention have been explored. The authorized officer may also conduct a more detailed inspection in accordance with the regulation 38 of these regulations.
  - (4) In the event that the investigation or the inspection provided under this regulation reveals a non-conformity that falls within the scope of sub-regulation (9) of regulation 38, the provisions of that sub-regulation shall be applied.

- (5) Where the provisions of sub-regulation 4 of this regulation do not apply, and the complaint has not been resolved at the ship-board level, the Director-General or the authorized officer shall forthwith notify the State of the flag that the subject ship flying, seeking, within a prescribed deadline, advice and a corrective plan of action.
- (6) Where the complaint has not been resolved following action taken in accordance with sub-regulation(5) of this regulation, the Director-General shall transmit a copy of the authorized officer's report to the International Labour Office. The report must be accompanied by any reply received within the prescribed deadline from the competent authority of the State of the flag that the subject ship flying.
- (7) The Director-General shall take appropriate steps to safeguard the confidentiality of complaints made by seafarers.
40. (1) The Owner or master of a Sri Lanka ship shall adopt the on board complaint procedures referred in sub-regulation (2) for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of the Convention (including seafarers' rights).
- (2) (a) The complainant seafarer shall submit his/her complaint in writing within five days of the occurrence, or according to the circumstances, following the below hierarchy:
- (i) Superior Officer
  - (ii) Head of Department
  - (iii) Master
- Each has a further five days to solve the complaint.
- (b) Complaints should be sought to be resolved at the lowest level possible; and only when the matter cannot be resolved to the satisfaction of both parties, shall it be elevated to the next level.
- (c) Seafarers have the right to complain directly to the master and where they consider it necessary, to the Director-General or to appropriate authorised officer at that port.
- (d) If the complainant seafarer refers the complaint to the master, the master shall handle the complaint personally and may seek the assistance of the person designated by the shipowner to handle complaints.
- (e) If the master is unable to resolve the complaint, the seafarer shall have ten days to bring it through the master to the shipowner, or if the complaint may be to the prejudice of the master, then directly to the shipowner.
- (f) The shipowner and the seafarer concerned shall have a period of twenty days there from to solve the matter.
- (g) If after twenty days, the complaint has not been solved, and then either party shall have a further twenty days to bring the matter to the Director-General.
- (h) Complainant seafarers have the right to be accompanied and to be represented by another seafarer of their choice on board the ship.
- (i) Seafarers have the right to be accompanied or represented during the complaints procedure.
- (j) The complainant seafarer shall not be victimized.

- (k) The master of a ship shall ensure that each seafarer on board the ship is provided with—
- (a) a copy of the complaint procedures in a form as may be determined by the Director-General; and
  - (b) the contact information of—
    - (i) the Director-General; and/or
    - (ii) the competent authority of the seafarer's country of residence.
- (l) In all cases, seafarers shall also have the right to seek redress through whatever legal means the seafarer considers appropriate for the purpose.

41. (1) The Director-General shall hold an official inquiry into any serious marine casualty, leading to injury or loss of life that involves a ship that flies flag of Sri Lanka. The final report of an inquiry shall normally be made public.
- (2) The Director-General shall cooperate with other contracting States to facilitate the investigation of serious marine casualties referred to in sub-regulation 1 of this regulation.
- (3) official inquiry referred to in sub-regulation (1) shall be conducted in accordance with the provisions of the Code of International Standards and Recommended Practices for a Safety Investigation into Marine Casualty or Marine Incident (Casualty Investigation Code) adopted by IMO.
42. Any person who contravenes provisions of this part commits an offence and on conviction thereof shall be liable to a fine not exceeding One million rupees.

## PART VII

### General Provisions

- 43.(1) The Director-General shall encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce and to help the seafarers, strengthen their competencies, qualifications and employment opportunities.
- (2) The Director-General, shall in consultation with the owners and seafarers' organisations 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.
44. The Director-General may, with the concurrence of the Minister issue such Implementing Standards under Section 321A of the Act for the compliance with the minimum technical standards of the provisions of the Convention as may be required for the implementation of the provisions of these regulations.
45. The Director-General may issue implementation standards from time to time for providing seafarers on ships that are in Sri Lanka ports with access to adequate welfare facilities and services.

46. In these regulations-

“Act” means the Merchant Shipping Act, 52 of 1971;

“anniversary date” means the day and the month of each year which will correspond to the date of expiry of the relevant certificate.

“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.

“collective bargaining agreement” means,

- (i) an agreement signed, from time to time, between the seafarers’ trade unions and the Sri Lankan ship owners for employment of seafarers on board Sri Lankan flag ships; or
- (ii) an agreement signed between the concerned trade unions and employers for an employment on board foreign flag ships, which is in conformity with the laws of the flag State concerned;

“gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention; for ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969);

“IBC Code” means the International Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk, adopted by the Maritime Safety Committee of the IMO by resolution MSC.4 (48), as amended.

“ILO” means International Labour Organisation

“IMO” means International Maritime Organisation

“IMDG Code” means the International Maritime Dangerous Goods adopted by the Maritime Safety Committee of the IMO by resolution MSC.122(75), as amended.

“International Safety Management Code means the International Management Code for the Safe Operation of Ships and for Pollution Prevention 2002 adopted by the International Maritime Organization.

“Maritime Labour Convention” means, the Convention known as Maritime Labour Convention 2006 adopted on 23rd February 2006 by the General Conference of the International Labour Organisation and ratified by Sri Lanka on January 12, 2016;

“piracy” shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982

“recognised organisation” means any organisation that has been recognized by the Director-General in accordance with the provisions of the Code for Recognised Organisations adopted by the Organisation

“requirements of this convention” means the requirements in these Articles and in the Regulations and Part A of the Code of Convention;



“seafarer” means any person, including a master, who is employed or engaged or works in any capacity on board a ship to which this Convention applies, but does not include;

- (a) a pilot;
- (b) a port worker;
- (c) a person temporarily employed on the ship during the period it is in port;
- (d) diver;
- (e) marine superintendent;
- (f) marine surveyor;
- (g) repair technician;
- (h) researcher;
- (i) scientist;
- (j) ship inspector; and
- (k) any person who is employed or engaged or who works in any capacity on board a ship and who fulfills the following criteria set out in sub-paragraphs (i) and (ii) together with any one of the following criteria as set out in sub-paragraphs (iii), (iv) and (v) :-
  - (i) his duration of stay on board that ship does not exceed 45 consecutive days;
  - (ii) his working duration on board that ship in the aggregate does not exceed fourmonths in anytwelve-month period;
  - (iii) the nature of his work does not form part of the routine business of the ship;
  - (iv) the work he performs is *ad-hoc*, with his principal place of employment on-shore; and
  - (v) labour and social conditions offered by his principal employer are comparable to those provided under these regulations;

“seafarers’ employment agreement” includes both a contract of employment and articles of agreement;

“seafarer recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;

“shipowner” means the owner of the ship or another organization 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 organization or persons fulfill certain of the duties or responsibilities on behalf of the shipowner;

“STCWConvention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended from time to time;

“trainee” means, a person whose sole purpose in working on a ship is to receive training, is present on a ship under the terms of a written agreement (a “training agreement”) with a training provider; and

“WHO” means World Health Organisation.

47. The Amendment to the Merchant Shipping (Employment of Young Persons) Regulations, 1975 published in *Extraordinary Gazette* No.97/5 of July 16, 1975 Merchant Shipping (Apprenticeship to Sea Service) Regulations, 1975 published in *Extraordinary Gazette* No. 183/7 of October 01, 1975 and Merchant Shipping (Engagement and Conditions of Service of Seamen) Regulations, 1980 published in *Extraordinary Gazette* No. 99/6 of July 29, 1980 are hereby rescinded.

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