

Seafarer's Employment Agreement - MLC 2006 Regulation 2.1
Wages - Regulation 2.2 , Entitlement to Leave- Regulation 2.4
Repatriation- Regulation 2.5 , Shipowner's Liability- Regulation 4.2
Social security – Regulation 4.5

1. DEFINITIONS:

Definitions have been taken from the MLC,2006 and where necessary, Sri Lankan national interpretations.

- 1.1 **Basic pay or wages :** The pay,however composed for normal hours of work: it does not include payments for overtime worked,bonuses , allowances , paid leave or any other additional remuneration.
- 1.2 **Consolidated wage:** The wage or salary which includes the basic pay and other pay-related benefits; a consolidated wage may include compensation for all overtime hours worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation.
- 1.3 **Hours of Rest:** Time outside hours of work; this term does not include short breaks of less than 01 hour.
- 1.4 **Hours of Work:** Time during which seafarers are required to do work on account of the ship.
- 1.5 **Overtime:** Time worked in excess of the normal hours of work.
- 1.6 **Seafarers Employment Agreement:** Includes both a contract of employment and the articles of agreement.
- 1.7 **Seafarer :** means any person who is employed or engaged or works in any capacity on board a ship to Which the MLC 2006 convention applies.

2. Seafarers employment agreements

A seafarers' employment agreement is a legally enforceable agreement setting out the terms and conditions for employment of a seafarer and includes both the contract of employment and the articles of agreement and may incorporate any applicable collective bargaining agreement (CBA)

Shipowners shall ensure that the Sri Lankan Crew agreement prescribed by the Director General of Merchant Shipping which shall be used on Sri Lankan flagged vessel, signed by both the seafarer and the shipowner or a representative of the shipowner prior to commencing work on board ship.

2.3 Model format of Seafarer Employment Agreement is appended to this annex, Ship owners are free to use any other Seafarer employment agreement including any Collective bargaining agreement, provided that the standards stipulated in MLC 2006 A 2.1 are met.

2.4 The seafarers employment agreement shall contain at least the following particulars (MLC 2006 A 2.1/4)

- a) the seafarers' full name, date of birth or age and place of birth
- b) the shipowners 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 seafarer's wages or where applicable, the formula used for calculating it
- f) the amount of paid leave, or where applicable, the formula used for calculating it
- g) the termination of agreement and 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 (minimum 07 days) which shall not be less for the shipowner than for the seafarer
 - (ii) if the agreement has been made for 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 seafarers entitlement to repatriation
- j) reference to CBA if applicable and
- k) the number of hours of work for the corresponding wage and any additional allowances.

3. Wages (Regulation 2.2)

3.1 for the calculating wages the normal hours of work at sea and in port should not exceed Eight hours per day

3.2 the seafarer's normal normal working week of Monday to Friday will be forty hours and Four hours on Saturday morning. Any hours work in excess of eight hours per day and Four hours on Saturday in the working week shall be compensated for at the applicable Hourly overtime rate as specified in the SEA. In no case this shall be less than one and One quarter times the basic pay or wages per hour.

3.3 Any additional hours worked by the seafarers on National and Public holidays as Specified in the relevant SEA should be compensated as hours of overtime.

3.4 Hours of all overtime worked should be clearly specified in the monthly account and Endorsed by the seafarer at no longer than monthly intervals.

- 3.5 No deduction should be made from the wages unless properly authorized by the Seafarers.
- 3.6 Cash advance on board should be provided to seafarers in appropriate currency.
- 3.7 Wages should be paid in legal tender as specified in SEA and where appropriate they May be paid by bank transfer , bank checque , postal checque or money order.
- 3.8 On termination of engagement all remuneration due should be paid without undue delay
- 3.9 No deduction should be made from seafarer's remuneration in respect of obtaining or Retaining employment.
- 3.10 Monetary fines against seafarers other than those authorized by national laws or regulations, or employment agreement including CBA, should not be deducted from seafarer's remuneration.

4. Entitlement to leave (Regulation 2.4)

- 4.1 Seafarers employed on Sri lankan flagged vessel should be given paid annual leave.
- 4.2 Seafarers annual leave with pay entitlement shall not be less than 2.5 calender days Per month of employment.
- 4.3 Any agreement to forgo the minimum annual leave with pay shall be prohibited
- 4.4 Seafarer's justified absences from work shall not be considered as annual leave
- 4.5 Seafarers shall be granted shore leave to benefit their health and well being.

5. Repatriation (Regulation 2.5)

- 5.1 The maximum duration of service periods on board following which a seafarer is entitled To repatriation – such periods to be less than 12 months.
- 5.2 Seafarers should be repatriated at no cost to themselves
- 5.3 Shipowners shall require to provide financial security or equivalent means to ensure seafarers are duly repatriated.
- 5.4 Seafarers on Sri Lankan flagged ships are entitled for repatriation in the following circumstances
 - a). if the seafarers employment agreement expires while they are abroad
 - b). when the seafarer's employment agreement is terminated by the shipowner or seafarer for justified reasons
 - c). when the seafarers are no longer able to carry out their duties under their employment agreement due to illness or injury or other medical condition
 - d) in the event of shipwreck
 - e) in the event of a ship bound for a war zone operations area as defined by national or international laws or regulation or seafarer's employment agreement to which the seafarer does not consent to go
 - f) in the event of ship being declared unseaworthy by relevant classification society or an competent authority.
 - g). in the event of shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarer due to reasons of insolvency

,sale , loss or lay up of the ship.

5.6 Shipowners shall ensure that seafarers are repatriated by appropriate and expeditious means to the place specified in the SEA or seafarer's country of residence or such other place may be agreed mutually at the time of engagement. The normal mode of transport should be air.

5.7 Shipowners shall ensure where practicable that the seafarers are provided with transportation Of 30 kg of seafarer's personal luggage to the repatriation destination.

6. Ship owners liability (regulation 4.2)

Ship owners shall be liable to bear the cost arrange to pay compensation for seafares working on their ships in respect of

a). Unemployment due to ship loss or foundering- the shipowner is required to pay to seafarer an indemnity against unemployment which shall not me less than two months wages (payable under the employment agreement).

b).Sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between these days and

c).Sickness and injury while off the ship pursuant to an actual mission assigned to the seafarer, by the master or by the authority of the master

d) Where the sickness or injury results in incapacity for work, the ship owner shall pay full wages as the sick or injured seafarers remain onboard or until the seafarers have been repatriated. Ship owner shall also pay to the seafarers who is repatriated to his port of engagement unfit as a result of sickness or injury, basic wages or amount of wages as provided in SEA from the time when the seafares are repatriated or landed until their recovery.(which shall be not less than 16 weeks from the day of the injury or commencement of the sickness.)

e).Shipowner shall pay the expenses of medical care,including medical treatment and supply of medicine to a minimum period of 16 weeks from the day of injury or commencement sickness

f). Ship owner shall pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.

6.1 Shipsowners are excluded from liability in respect of :

a). Injury incurred otherwise than in the service of the ship

b) Injury or sickness due to willful misconduct of the sick, injured or deceased seafarer

c) sickness of infirmity intentionally concealed when the engagement is entered in to

6.2 Shipowner or their representatives shall take measures to safeguard property left onboard by the sick , injured or deceased seafares and for returning it to them or their next of kin.

7. Social Security (Regulation 4.5)

Shipowners shall ensure at least three of the nine branches listed below are provided to seafarers Employed or engaged on Sri Lankan registered ships

Medical care , Sickness benefit , Unemployment benefit , Old age benefit , Employment injury benefit , Family benefit , Maternity benefit , Invalidity benefit and Survivors benefit, complementing the protection provided for under regulation 4.1 on medical care and 4.2 on shipowners liability.

Note: Model format(page 5-8 for Seafarer employment agreement is appended to this annex

MODEL FORMAT FOR SEAFARER EMPLOYMENT AGREEMENT

THIS AGREEMENT IS BETWEEN:-

.....
(insert Seafarer's full name)

.....
(insert date of birth)

.....
(insert place of birth – town and country)

and

.....
(insert Shipowner's name)

.....
(insert Shipowner's full address)

CAPACITY IN WHICH SEAFARER IS TO BE EMPLOYED

The capacity in which you are initially employed is

.....
(insert capacity)

PLACE OF WORK

You will be employed on

.....
(insert name of vessel or state any vessel owned , managed or chartered by the shipowner)

WAGES

Your wages will be (insert amount and currency) per week/month/year
(delete as appropriate) or formula for determining wages – (Reference annex 06)

MEANS OF PAYMENT OF WAGES

Your wages will be payable by..... (insert method of payment) at weekly/monthly (delete as appropriate) intervals on the(insert number) day of each week/month (delete as appropriate)

(Overtime hours i.e. hours worked outside of normal working hours will be paid at a rate of
..... (insert overtime rate) (Delete this sentence if not applicable) – (Reference annex06)

PAID ANNUAL LEAVE (depending on nature of employment(permanent or contracted)

You are entitled to take (*insert number*) working days as paid leave in each year of employment.

If your employment commenced or terminates part way through the holiday year, your entitlement to paid annual leave will be assessed on a pro rata basis. Deductions from final salary due to you ,on termination of employment will be made in respect of any paid annual leave taken in excess of your entitlement. There is no provision for the transfer of paid annual leave from one year to the next. All paid annual leave must be taken in the year in which it accrues. There is also no provision for payment to be made in lieu of untaken leave except where paid annual leave has accrued but has not been taken at the date of termination of employment. –(**Reference annex 6**)

NOTICE OF TERMINATION OF EMPLOYMENT (*Delete whichever is not applicable*)

Definite Period Agreement

Your employment is for a period commencing on (*insert date*) and ending on (*insert date*) unless it is terminated for justified reasons in advance of this point or the ship is at sea at that point of time in which event it will continue until its arrival in port at which point it will terminate. – (**Reference annex 6**)

or Indefinite Agreement

The length of notice which you are obliged to give to terminate your employment is (*insert notice period which is to be not less than seven days*).

The length of notice which you are entitled to receive from the shipowner to terminate your employment is (*insert notice period which is to be not less than seven days*).

or Voyage Agreement

Your employment is for the length of the voyage of [*ship*] commencing on(*insert date*) from the port of.....(*insert name of port*) until(*insert date*) or the vessel' arrival in the port of(*insert name of port*) at which point it will terminate, unless it is terminated for justified reasons in advance of this point.

HEALTH AND SOCIAL SECURITY BENEFITS

If you become sick or injured whilst on a voyage, you will be paid your normal basic wages until you have been repatriated in accordance with the repatriation provisions set out below. After you have been repatriated you will be paidper cent (*insert number*) of your normal basic wages up to a maximum ofweeks .(*insert number which shall be 16 or above*)

If you require medical care while you are on-board this will be provided free of charge, including access to necessary medicines, medical equipment and facilities for diagnosis and treatment and medical information

and expertise. Where practicable and appropriate, you will be given leave to visit a qualified medical doctor or dentists in ports of call for the purpose of obtaining treatment.

In the event of sickness or incapacity, you will be provided with medical care, including medical treatment and the supply of necessary medicines and therapeutic devices and board and lodging away from home until your

recovery or until your sickness or incapacity has been declared of a permanent character, subject to a maximum period of.....weeks (*insert number which shall be 16 or above*). In addition the shipowner will meet the cost of the return of your property left on board to you or your next of kin.

In the event of your death occurring on board or ashore during a voyage, the shipowner will meet the cost of burial expenses, or cremation where appropriate or required by local legislation, and the return of your property left on board to your next of kin. –(**Reference annex 6**)

REPATRIATION

You will be entitled to repatriation, at the expense of the shipowner, if you are away from your country of residence when this agreement is terminated:-

- by the shipowner
- by you in the event of illness or injury or other medical condition requiring your repatriation, the event that the ship is proceeding to a Warlike Operations Area or the event of termination or interruption of employment in accordance with national regulations (reference annex 6) or collective agreement.
- in circumstances where you are no longer able to carry out your duties under this agreement or cannot be expected to do so e.g. shipwreck, the sale of your ship or a change in your ship's registration.

The entitlement to repatriation entails transport by (*insert means of transport*) to.....(*insert place name or country*):.

Note: - You may not be entitled to repatriation at the expense of the shipowner in circumstances where you have been dismissed on disciplinary grounds or have breached your obligations under this Agreement. In such circumstances the shipowner will still be liable to repatriate you but is entitled to recover from any wages due to you the cost of doing so.

Maximum duration of service periods after which you are entitled to repatriation

The maximum period of service following which you will be entitled to repatriation at no cost to you ismonths (*insert number of months –no more than 12 months*) – (**Reference annex 6**)

APPLICABLE COLLECTIVE BARGAINING AGREEMENT(S) / CREW AGREEMENT(S)

(*delete if not applicable*)

You employment will also be subject to the Collective Bargaining Agreement(s)/Crew agreement(s) entered into on.....(*insert date(s)*) between the shipowner and(*insert details of the other parties to the collective bargaining agreement(s)*) contains additional terms and conditions and forms part of this Seafarers' Employment Agreement, as attached. –(**Reference annex 6**)

HOURS OF WORK

Your normal hours of work are from (insert time) to(insert time) from(insert day of week) to(insert day of week) inclusive.

Your hours of work will be arranged such as to ensure that you receive a minimum of 10 hours available for rest in each 24-hour period and a minimum of 77 hours rest in each seven-day period. This minimum period of rest may not be reduced below 10 hours except in an emergency.

You may be required, at the absolute discretion of the Master, to work additional hours during an emergency affecting the safety of the ship, its passengers, crew or cargo or the marine environment or to give assistance to other ships or persons in peril. You may also be required to work additional hours for safety drills such as musters, fire-fighting and lifeboat drills. In such circumstances you will be provided subsequently with (a) compensatory rest period(s). –(Reference annex 7).

COMPLAINTS AND DISCIPLINARY PROCEDURES

(a) Complaints

If you have a complaint regarding your employment you should follow the shipowner's complaints procedure a copy of which will be provided to you when you join the vessel. – (Reference annex 5)

(b) Disciplinary Rules and Procedure

The disciplinary rules applicable to you are set out in the

- Merchant Shipping act and Crew Agreement

ADDITIONAL PROVISIONS INCLUDED BY SHIPOWNER

.....
.....
.....
.....
.....
.....
.....
.....

Signature of Seafarer

.....
Signature of Shipowner or Shipowner's representative
..... (State position held)

.....
Place where this Agreement is entered into

.....
Date when this Agreement is entered into