
STATUTORY INSTRUMENTS

1972 No. 1701

MERCHANT SHIPPING

MASTERS AND SEAMEN

**THE MERCHANT SHIPPING (SEAMEN'S WAGES AND ACCOUNTS)
(FISHING VESSELS) REGULATIONS 1972**

*Text of the Regulations as they have effect in the Isle of Man. Amendments are indicated by **Bold italics***

| <i>MANX EXTENDING INSTRUMENT</i> | <i>UK S.I.s APPLIED</i> |
|--|-------------------------|
| 1. Merchant Shipping (Masters and Seamen) (Fishing Vessels) (Application) Order 1981 (GC 163/81) | 1972/1701 |
| 2. Merchant Shipping (Masters and Seamen) (Application) Order 1990 (GC 38/90) | 1988/2064 |

TEXT REVISED : JANUARY 1998

PRICE : £1.50

STATUTORY INSTRUMENTS

1972 No. 1701

MERCHANT SHIPPING

MASTERS AND SEAMEN

THE MERCHANT SHIPPING (SEAMEN'S WAGES AND ACCOUNTS) (FISHING VESSELS) REGULATIONS 1972

Made.....9th November 1972

Laid before Parliament...17th November 1972

Coming into operation.....1st January 1973

The Secretary of State, after consulting with the organisations referred to in section 99(2) of the Merchant Shipping Act 1970 ^(a), in exercise of powers conferred by section 8 (as set out in Part II of Schedule 2) and section 9 of that Act and now vested in him ^(b), and of all other powers enabling him in that behalf, hereby makes the following Regulations :-

Citation, commencement and interpretation

1.- (1) These Regulations may be cited as the Merchant Shipping (Seamen's Wages and Accounts) (Fishing Vessels) Regulations 1972 and shall come into operation on *1st August 1981*.

(2) In these Regulations -

"the Act" means the Merchant Shipping (Masters and Seamen) Act 1979 (an Act of Tynwald) and references to section 5 of the Act are references to that section as set out in Part II of Schedule 3 to the Act.

"seaman" means a seaman serving in a fishing vessel;

"fishing vessel" means a ship which is a fishing vessel registered in the *Isle of Man under Part III of the Merchant Shipping Registration Act 1991 (an Act of Tynwald)* ^(c).

(a) 1970 c. 36

(b) See the Secretary of State for Trade and Industry Order 1970 (S.I. 1970/1537)

(c) 1991 c. 15

(3) The Interpretation Act 1889 ^(d) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Manner in which wages due to a seaman under a crew agreement are to be paid

2.- (1) Subject to paragraph (2) of this regulation, the wages due to a seaman under a crew agreement shall be paid in cash.

(2) If the seaman has so agreed, the whole or part of the wages due to him may be paid by means of a cheque, money order or directly to a bank or giro account.

Account of wages etc.

3.- The account of wages to be delivered by a seaman's employer under section 5(1) of the Act to a seaman employed under a crew agreement in a fishing vessel shall -

- (a) contain the particulars prescribed in Parts I and II of the Schedule to these Regulations; and
- (b) be delivered to him at the time when the amount to which it relates, being, or being part of, the net wages, is to be paid in accordance with the provisions of the crew agreement.

4.- (1) The account of wages to be delivered by a seaman's employer to the master or, if the master is himself the seaman's employer, to be made out by him under *section 5(2)* of the Act (which has effect where the wages of any person employed in a fishing vessel are in any manner related to the catch) shall -

- (a) contain the particulars prescribed in Parts I and III of the Schedule to these Regulations; and
- (b) be delivered or made out at the time when the amount to which it relates being, or being part of, the net wages is to be paid in accordance with the provisions of that agreement.

(2) When the wages are paid, the master shall -

- (a) deliver to the seaman a copy of so much of the account as contains particulars specified in Part I of the Schedule and paragraphs 1 to 3 of Part III of the Schedule and, in respect of the seaman, in paragraphs 4 to 10 of that Part; and
- (b) if the seaman so requests, produce to him so much of the account as is referred to in sub-paragraph (a) of this paragraph.

(d) 52 & 53 Vict. c, 63

5.- (1) The account to be made out by the owner of a fishing vessel under **section 5(3)** of the Act (which has effect where there is a partnership between the master and any members of the crew of a fishing vessel) shall be made out by the owner of the fishing vessel at the time when the amounts to which it relates, being, or being part of, the sums due to each partner in respect of his share, are to be paid in accordance with the provisions of the agreement between the partners.

(2) When an amount due to a partner being, or being part of the sums due to him in respect of his share, is paid to him, the owner of the fishing vessel shall -

- (a) deliver to him a copy of the account or a sufficient extract therefrom showing how the amounts being, or being part of, the sums due to each partner in respect of his share are calculated; and
- (b) if the partner so requests, produce the account to him.

Deductions from wages due to a seaman under a crew agreement

6.- (1) The deductions specified in regulation 7 are hereby authorised to be made from the wages due to a seaman under a crew agreement.

(2) The deductions authorised by this regulation-

- (a) shall be without prejudice to any dispute relating to the amount payable to a seaman under the crew agreement and, subject to the provisions of the Act, to the rights and obligations, whether of the employer or of the seaman, under the agreement or otherwise; and
- (b) shall be in addition to any deduction authorised by any provision of the Act [...] or of any other enactment.

7. The deductions referred to in regulation 6 are-

- (a) deductions of any amount payable by the seaman to his employer in respect of -
 - (i) canteen bills;
 - (ii) goods supplied;
 - (iii) radio or telephone calls;
 - (iv) postage expenses;
 - (v) cash advances;
 - (vi) allotments;

- (b) contributions by the seaman to a fund or in respect of membership of a body declared by regulations under section 11(3) of *the Merchant Shipping Act 1970* to be a fund or body to which *section 7 of the Act applies* ^(e).
- (c) Subject to regulations 8, 9, and 10, a deduction of an amount being the actual expense or pecuniary loss incurred or sustained by the employer in consequence of the seaman's absence or absences without leave, where the employer is satisfied on reasonable grounds that such absence is a breach of the seaman's obligations under the crew agreement;
- (d) subject to regulations 8 and 10 and to any additional limitations imposed by the crew agreement, a deduction of an amount being the actual expense or pecuniary loss incurred or sustained by the employer, where the employer is satisfied on reasonable grounds that the expense or loss was caused by a breach or breaches of the seaman's obligations under the crew agreement not falling within paragraph (c) of this regulation;
- (e) deductions authorised by the provisions of the crew agreement other than deductions authorised by paragraphs (a) to (d) of this regulation;
- (f) any amount specified in the account required by section 5 of the Act to be delivered or made out, as the case may be, being part of the wages due to the seaman under the crew agreement which, in accordance with the provisions of the agreement, is to be paid at a time later than that at which the account is required by regulation 3(b) or regulation 4(1)(b) to be delivered or made out.

8. The amount which may be deducted from a seaman's wages in respect of any number of breaches of his obligations under the crew agreement -

- (a) by virtue of regulation 7(c), shall not exceed **£200**; and
- (b) by virtue of regulation 7(d), shall not exceed **£200**.

9. No deduction shall be made by virtue of regulation 7(c) if the seaman satisfies the master -

- (a) that his absence was due to an accident or mistake or some other cause beyond his control; and
- (b) that he took all reasonable precautions to avoid being absent.

(e) see S.I. 1972/1699

10.- (1) A deduction shall not be made by virtue of regulation 7(c) or (d) unless the provisions of paragraph (2) or paragraph (3) of this regulation have been complied with.

(2) Where it is possible for him to give a notice of deduction complying with paragraph (4) of this regulation not less than 24 hours before the seaman's wages fall due to be paid, the seaman's employer or the master on his behalf shall give to the seaman -

- (a) a notice of deduction complying with paragraph (4) of this regulation; and
- (b) an opportunity to make representations about the deduction to the employer or to the master.

(3) Where it is not possible for him to give a notice of deduction complying with paragraph (4) of this regulation not less than 24 hours before the seaman's wages fall due to be paid, the seaman's employer or the master on his behalf shall -

- (a) if it is possible to do so before the seaman's wages fall due to be paid, give to the seaman -
 - (i) a notice of deduction complying with paragraph (4) of this regulation; and
 - (ii) an opportunity to make representations about the deduction to the employer or to the master; or
- (b) if the seaman has not been given such notice and opportunity, send to the seaman by registered post at his last known address a notice of deduction complying with paragraph (4) of this regulation.

(4) A notice of deduction shall state that the employer is satisfied on reasonable grounds that there has been a breach or breaches, as the case may be, of the seaman's obligations under the crew agreement and that, subject to the provisions of regulations 6 to 9, the deduction specified in the notice appears to the employer to be authorised to be made from the wages due to the seaman under the crew agreement; and such notice shall also-

- (i) identify each provision of the crew agreement of which the employer is satisfied on reasonable grounds that there has been a breach and in respect of which he intends to make a deduction;
- (ii) state the grounds upon which the employer is satisfied that each such breach has taken place;
- (iii) specify, with sufficient particulars to show how it is calculated, the amount of the actual expense or pecuniary loss incurred or sustained by the employer in respect of each such breach or, if that amount exceeds £50, with sufficient particulars to show that it exceeds £50; and.

- (iv) specify the total amount of the deduction proposed to be made.

Michael Heseltine,

Minister for Aerospace and Shipping,
Department of Trade and Industry.

9th November 1972.

THE SCHEDULE

ACCOUNTS OF SEAMEN'S WAGES

PART I

Particulars to be contained in the accounts to be delivered or made out under subsections (1) and (2) of section 5 of the Act

1. Name of the seaman and -
 - (a) his reference number in the crew agreement;
 - (b) his income tax code;
 - (c) his national insurance number, and the dates on which his national insurance contributions commenced and ceased.

2. Name of the fishing vessel and
 - (a) its port of registry;
 - (b) its port number;
 - (c) the name and address of its owner, managing owner, ship's husband or manager;
 - (d) dates of commencement and of close of voyage.

PART II

Further particulars to be contained in the account of wages to be delivered under section 5(1) of the Act

Particulars of employment

1. Capacity in which the seaman is employed.

2. Date when employment commenced and ceased and total period of employment in which wages were earned, showing separately the dates of the beginning and end of any period in which wages were not earned.

Allotments

3. Sums payable under each allotment note, date when the first payment was due, the intervals between payments, and the total of all such sums.

Gross Wages

4. Total amount of gross wages earned with, shown separately and with sufficient detail to indicate how each is calculated, the total amounts in respect of -
 - (a) the wages at the rate specified in the crew agreement;
 - (b) increases in wages;
 - (c) leave pay;
 - (d) subsistence;
 - (e) any other earnings except any which are in any manner related to the catch.

Deductions

5. Deductions authorised by regulations 6 and 7, specifying separately the nature of each deduction and showing the total amount in respect of each deduction.
6. Deductions authorised by enactments other than the Act, specifying the nature of the deduction and showing the total amount in respect of each deduction.
7. Amount of net wages paid in accordance with a previous account.
8. Total of amounts deducted from gross wages.

Net Wages

9. Total amount of net wages payable at the time when the account is delivered or made out.

Special retentions

10. Amount of net wages retained pursuant to a notice (relating to a claim for maintenance etc. of the seaman's dependants) under **section 13 of, and Schedule 1 to, the Act**, stating by whom any such notice was served.

Balance Payable

11. Balance of wages payable at the time when the account is delivered or made out.

PART III

Particulars to be contained in the account of wages to be delivered or made out under section 5(2) of the Act where the wages of any person employed in a fishing vessel are in any manner related to the catch

Profits of voyage

1. Gross receipts in respect of the catch or that part of the catch to which the account relates with, shown separately and with sufficient detail to show how each amount is calculated, the total amounts received for and the dates of sale of -
 - (a) fish sold for cash;
 - (b) fish sold on credit.
2. Expenses of or in relation to the voyage or the catch, which are chargeable against the gross receipts, showing each expense separately and with sufficient detail to show how it is calculated.
3. The net sum available for distribution as wages.

Wages due to each seaman

4. The amount of wages related to the catch due to each seaman being a proportion of the net sum available for distribution of wages with sufficient particulars to show how each amount is determined.
5. Where any wages are earned in addition to those related to the catch, such of the particulars specified in paragraphs 1 to 4 of Part II of this Schedule as are applicable.
6. Total of gross wages.

Deductions from wages due to each seaman

7. Where any deductions referred to in paragraphs 6 to 8 of Part I of this Schedule are to be made from the wages, the particulars specified in those paragraphs.

Net Wages

8. Total amount of net wages payable at the time when the account is delivered or made out.

Special retention

9. Amount of net wages retained pursuant to any such notice as is referred to in paragraph 10 of Part II of this Schedule, stating by whom such notice was served.

Balance Payable

10. Balance payable at the time when the account is delivered or made out.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to seamen employed in fishing vessels registered in the *Isle of Man*.

The Regulations deal with the manner of payment of wages and the form, contents and delivery of accounts. They also specify the deductions which are authorised to be made from the seaman's wages and the conditions which are to be observed before deductions relating to breaches of the crew agreement may be made.

These Regulations supersede existing provisions.