

ANTIGUA AND BARBUDA



THE MERCHANT SHIPPING (MARITIME LABOUR CONVENTION, 2006)

REGULATIONS, 2012

STATUTORY INSTRUMENT

2012, No. 15

[Published in the Official Gazette Vol. XXXII No. 41

Dated 2nd August, 2012.]

Printed at the Government Printing Office, Antigua and Barbuda,

By Ralph George, Acting Government Printer
-by Authority, 2012.

**THE MERCHANT SHIPPING (MARITIME LABOUR CONVENTION, 2006)
REGULATIONS, 2012.**

ARRANGEMENT

REGULATIONS

1. Short Title
2. Interpretation
3. Application
4. Purpose of Regulations
5. Exceptions and exclusions
6. Schedule to apply
7. General compliance duty
8. Carriage of documents
9. Detention
10. Penalties
11. Fraud, misuse of certificates, etc.
12. Offences in connection with inspections
13. Revocation

**ANTIGUA AND BARBUDA
THE MERCHANT SHIPPING (MARITIME LABOUR CONVENTION, 2006)
REGULATIONS 2012**

2012, No. 15

The Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2012, made in exercise of the powers contained in section 8 of the Antigua and Barbuda Merchant Shipping Act, 2006, No. 1 of 2006.

1. Short title and repeal

(1) These Regulations may be cited as the Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2012.

(2) The Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2011 are hereby repealed.

2. Interpretation

(1) In these Regulations, except where the context otherwise requires –

“Act” means the Merchant Shipping Act 2006, No. 1 of 2006 as amended;

“ADOMS” means the Antigua and Barbuda Department of Marine Services and Merchant Shipping;

“Authorised officer”, for the purpose of inspections in ports in Antigua and Barbuda, means a surveyor appointed under section 257 of the Act;

“Convention” means the Maritime Labour Convention, 2006, adopted at Geneva on 23rd February 2006, and any amendments for the time being in force;

“after consultation” means after consultation with the appropriate ship owners’ and seafarers’ organisations or, in case there are none, employers’ and workers’ organisations, concerned with the matter in question;

“the Code” means the part of the Convention which comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines) concerning implementation of the Regulations and any amendments to it for the time being in force;

“Directive” means a directive issued under section 7 of the Act;

“Guideline” means a Guideline in Part B of the Code;

“Standard” means a Standard in Part A of the Code;

“the STCW Convention” means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978 as for the time being amended.

(2) Terms used in these Regulations which are also used in the Convention shall bear the meaning they have in the Convention.

(3) Any reference in these Regulations to a Code of Practice is a reference to that Code as for the time being in force.

(4) For the purposes of these Regulations and of the Convention, “competent authority” shall, in reference to Antigua and Barbuda, be a reference to the Director, appointed under section 6 of the Act.

3. Application

(1) (a) These Regulations apply to all seafarers.

(b) In the event of doubt as to whether any categories of persons are to be regarded as seafarers, the question shall be determined by ADOMS, after consultation.

(2) (a) These Regulations apply to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or similar pursuits. These Regulations do not apply to warships or naval auxiliaries.

(b) In the event of doubt as to whether these Regulations apply to a ship or a particular category of ships, the question shall be determined by ADOMS, after consultation.

(3) (a) These Regulations, except regulation 7(5), apply to ships of Antigua and Barbuda wherever they are.

(b) Regulations 7(5) and 9 to 12 apply to ships which are not Antigua and Barbuda ships when in Antigua and Barbuda waters.

4. Purpose of Regulations

(1) It is the purpose of these Regulations to implement the Maritime Labour Convention, 2006, and ensure that every seafarer has the right to –

(a) a safe and secure workplace that complies with safety standards;

(b) fair terms of employment;

(c) decent working and living conditions on board ship; and

(d) health protection, medical care, welfare measures and other forms of social protection.

5. Exceptions and exclusions

(1) ADOMS may, after consultation, determine that all or any of the requirements of the Code shall not apply to ships of less than 200 gross tons not engaged on international voyages, in accordance with Article II. 6 of the Convention.

(2) ADOMS shall determine Antigua and Barbuda waters which are within or closely adjacent to sheltered waters or areas where port regulations apply.

6. Schedule to apply

(1) The Schedule (column 2 of which implements the obligations in the Regulations and Code in the Convention, and contains ancillary provisions thereto) shall apply.

7. General compliance duty

(1) It shall be the duty of the ship owner and the master of an Antigua and Barbuda ship to comply with and ensure compliance with these Regulations.

(2) It shall be the duty of any person—

(a) upon whom an obligation is imposed by these Regulations; or

(b) to whom a direction is given in pursuance of these Regulations (whether under subparagraph (1) or otherwise),

to comply or ensure compliance with these Regulations, as the case may be.

(3) (a) Where any natural or legal person other than the ship owner or master has control of a matter to which subregulation (1) relates because he has responsibility for that aspect of the operation of the ship, then any duty imposed by subregulation (1) shall extend to the person who has control of that matter.

(b) It shall be the duty of the owner and master to take all reasonable steps to ensure that a person referred to in sub-paragraph (a) is aware of the duty imposed by that subregulation and is capable of performing it.

(4) (a) In complying with any requirement of these Regulations the person doing so shall take into account any relevant Guideline; and it shall be a defence to a charge of non compliance with a requirement that the action taken was in accordance with a relevant provision of Part B Guidelines of the Code.

(b) Any question as to the meaning or extent of any requirement of the Schedule may be determined in accordance with a relevant Guideline. (5) It shall be the duty of the ship owner and master of any ship which is not a ship of Antigua and Barbuda, when in Antigua and Barbuda waters, to comply with the Convention in the manner determined by the national authority of the ship's flag state. In the case of ships flying the flag of a State which is not party to the Convention the ship owner and master shall ensure that the ships meet the standards laid down in the Convention.

8. Carriage of documents

(1) Every ship of Antigua and Barbuda shall carry a copy of the Convention and a copy of these Regulations which shall be available to all seafarers working on the ship.

9. Detention

(1) In any case where a ship does not comply with these Regulations, the ship shall be liable to be detained, provided that a ship shall not be unreasonably delayed or detained.

10. Penalties

(1) Where a person specified in subregulation (1), (2), (3) (a) or (5) of regulation 7 contravenes the respective subregulation that person is guilty of an offence and is liable on summary conviction to a fine not exceeding thirty thousand dollars, or to a term of imprisonment not exceeding six years, or to both such fine and term of imprisonment;

(2) In proceedings for an offence under subregulation (1), it shall be a defence for an owner or master to prove that he did not have control of the matter to which the offence relates because he did not have responsibility for that aspect of the operation of the ship and that regulation 7(3) (b) was complied with.

11. Fraud, misuse of certificates, etc.

(1) No person shall—

(a) without valid authority intentionally alter a certificate or declaration issued for the purposes of the Convention or these Regulations;

(b) falsely make a certificate or declaration referred to in the Convention;

(c) knowingly or recklessly furnish false information in connection with any survey required by the Convention;

(d) with intent to deceive, use, lend, or allow to be used by another, a certificate or declaration referred to in the Convention;

(e) fail to surrender a certificate or declaration to be surrendered issued for the purposes of the Convention.

(2) A person who contravenes subregulation (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding thirty thousand dollars, or to a term of imprisonment not exceeding six years, or to both such fine and term of imprisonment.

12. Offences in connection with inspections

(1) Any person who—

(a) obstructs any inspector or authorized officer in the exercise of his powers under the Schedule; or

(b) without reasonable excuse fails to comply with any requirement made by an inspector or authorized officer acting in exercise of his powers in the Schedule; or

(c) knowingly gives a false answer to any question put to him by an inspector or authorized officer acting in exercise of his powers in the Schedule,

is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars, or imprisonment for a term not exceeding six months or both.

13. Revocation

The Merchant Shipping (Maritime labour Convention 2006) 2011. S.I. No. 50 of 2011 is hereby revoked.

SCHEDULE*Regulation 6*

Paragraph.	National requirement
Title 1 Minimum Requirements for a seafarer to work on a ship	
1 <i>Minimum age</i>	<p>(a) No person under the age of 16 shall be employed or engaged or work on board a ship.</p> <p>(b) No seafarer under the age of 18 shall work at night except in accordance with paragraph (c) and 'night' means a period of at least nine hours starting no later than 2100 hours and ending no earlier than 0600 hours.</p> <p>(c) ADOMS may permit exceptions from the prohibition on night work for young seafarers -</p> <ul style="list-style-type: none"> (i) when the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired; or, (ii) when the specific nature of the duty or a recognised training programme requires that the seafarers covered by the exception perform duties at night and ADOMS determines, after consultation, that the work will not be detrimental to their health or well being. <p>(d) Except where the young person has been trained and certified as competent by an appropriate industry body in an area of work a person under the age of 18 shall not be employed or engaged or work on board a ship in the following types of work:-</p> <ul style="list-style-type: none"> (i) work listed under Guideline B4.3.10 paragraph 2, (a-1) of the Convention, (ii) hot work, such as welding and flame-cutting; (iii) work in enclosed or confined spaces; (iv) work aloft; (v) work outboard; (vi) work as a ship's cook, or (vii) such other types of work as ADOMS may at any time determine after consultation, is likely to jeopardise their health or safety.
2 <i>Medical certification</i>	<p>(a) Every shipowner shall ensure that prior to beginning work on a ship, all seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.</p>

	<p>(b) A valid medical certificate is a certificate that is issued to a seafarer in accordance with the standards in Regulation I/9 of the STCW Convention and:-</p> <p>(i) is issued by Antigua and Barbuda or by another member state which is a signatory to the STCW Convention, and</p> <p>(ii) is issued in compliance with the ILO/WHO Guidelines on Conducting Pre-Sea and Periodic Medical Fitness Examinations for Seafarers or any publication superseding it.</p> <p>(c) Standards A1.2 paragraphs 3 to 10 shall apply to medical examinations, medical certificates and the validity of certificates.</p> <p>(d) In cases where a seafarer's medical certificate has expired and it is impracticable to obtain another, ADOMS may on application from the shipowner, permit the seafarer to sail for a period not exceeding 3 months provided that the seafarer's previous medical certificate has expired no more than 3 months previously.</p> <p>(e) A medical practitioner carrying out medical examinations and issuing certificates on behalf of the Antigua and Barbuda Maritime Authority shall comply as a minimum with the following requirements:</p> <p>(i) be a licensed physician;</p> <p>(ii) be experienced in general and occupational medicine or maritime occupational medicine;</p> <p>(iii) have knowledge of the living and working conditions on board ships, gained either through special instruction or through personal experience of seafaring;</p> <p>(iv) be familiar with the guidance contained in ILO / WHO publication Guidelines for Conducting Pre Sea and Periodic Medical Fitness examinations for Seafarers (ILO/WHO/D.2/1997);</p> <p>(v) remain absolutely professionally independent from employers, workers and their representatives in exercising their medical judgement in terms of the medical examination procedures; and</p> <p>(vi) be familiar with the World Health Organization Publication, The International Medical Guide for Ships, or an equivalent medical guide for use on ships.</p>
<p>3 <i>Training</i></p>	<p>(a) Subject to paragraph (b) every seafarer employed in an Antigua and Barbuda ship in a position which is covered by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers 1978, as amended (the STCW Convention) shall be trained and certificated in accordance with the requirements of that Convention as appropriate to his</p>

	<p>role on board.</p> <p>(b) Seafarers whose role on board is not covered by the certification and training provisions of the STCW Convention shall receive familiarisation training and instruction appropriate to their role on board before commencing work on board.</p>
<p>4 <i>Recruitment</i></p>	<p>(a) The operator of every private seafarer recruitment and placement service in Antigua and Barbuda, the primary purpose of which is the recruitment and placement of seafarers or which recruits and places a significant number of seafarers, shall ensure such a service is operated only in conformity with a licence issued by ADOMS.</p> <p>(b) ADOMS shall establish, modify or change such a system of licensing only after consultation. In the event of doubt as to whether this paragraph applies to a service, the question shall be determined by ADOMS after consultation.</p> <p>(c) Paragraphs (a) and (b), to the extent determined by ADOMS to be appropriate after consultation shall apply also to any recruitment and placement services operated by a seafarers' organisation in Antigua and Barbuda for the supply of seafarers who are nationals of Antigua and Barbuda to ships which fly its flag.</p> <p>(d) A service referred to in paragraph (c) is;</p> <ul style="list-style-type: none"> (i) one which is operated pursuant to a collective bargaining agreement between that organisation and a shipowner; (ii) in relation to which both the seafarers' organisation and the ship owner are based in Antigua and Barbuda; and (iii) one in which ADOMS have authorised the collective bargaining agreement permitting the operation of the recruitment and placement service. <p>(e) The operator shall ensure that a service referred to in sub-paragraph (c) is operated in an orderly manner and shall put in place measures to protect and promote seafarers' employment measures comparable to the protection provided by sub-paragraph (g).</p> <p>(f) Any seafarer recruitment and placement service shall not;</p> <ul style="list-style-type: none"> (i) use means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified; or (ii) require that fees or other charges for seafarer recruitment or placement or for providing employment to seafarers be borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel docu-

	<p>ments, not including, however, the cost of visas, which shall be borne by the ship owner.</p> <p>(g) A seafarer recruitment and placement service in Antigua and Barbuda shall:</p> <p>(i) maintain an up-to-date register of all seafarers recruited or placed through them, to be available for inspection by ADOMS;</p> <p>(ii) make sure 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,</p> <p>(iii) verify that seafarers recruited or placed by them are qualified and hold the documents necessary for the job concerned, and that the seafarers' employment agreements are in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement;</p> <p>(iv) make sure, as far as is practicable, that the ship owner has the means to protect seafarers from being stranded in a foreign port;</p> <p>(v) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint; and</p> <p>(vi) establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may incur as a result of the failure of a recruitment and placement service or the relevant ship owner under the seafarers' employment agreement to meet its obligations to them.</p> <p>(h) Shipowners who use seafarer recruitment and placement services that are based in countries or territories in which the Convention does not apply shall ensure, as far as practicable, that those services conform to the requirements set out in Standard A1.4. of the Code and such shipowners shall have evidence to demonstrate that they have taken adequate steps to verify this.</p>
Title 2 – Conditions of employment	
5 <i>Employment agreements</i>	<p>(a) The shipowner shall ensure that every seafarer has a seafarer's employment agreement that is agreed to and signed in accordance with the requirements in sub-paragraphs (a) to (e) of paragraph 1 of Standard A.2.1.</p> <p>(b) A collective bargaining agreement may form all or part of a seafarer's employment agreement provided that, if it does, a copy is available on board in English.</p> <p>(c) An Antigua and Barbuda Seafarer's Book may be used as the record of employment on board provided that no statement as to the quality of a sea-</p>

	<p>farer's work or wages shall be included.</p> <p>(d) In the event that a seafarer does not hold an Antigua and Barbuda Seafarer's Record Book, or wishes the record to be made elsewhere, it may be entered in a seaman's record book from another administration, if held by the seafarer, or may be contained in a certificate of discharge issued by the Master provided that the requirements as to content in sub-paragraph (c) shall apply.</p> <p>(e) Every Seafarer's Employment Agreement shall contain the particulars set out in sub-paragraphs (a) to (j) of paragraph 4 Standard A.2.1.</p> <p>(f) In lieu of "birthplace" specified in sub-paragraph (a) of paragraph 4 of Standard 2.1 the agreement may contain nationality as a substantially equivalent measure in accordance with Article VI of the Convention.</p> <p>(g) The duration of the minimum notice periods to be given by seafarers and shipowners on ships for the early termination of a seafarer's employment agreement shall be seven days.</p> <p>(h) A seafarer shall be entitled to terminate an employment agreement without notice and without penalty and in accordance with any collective bargaining agreement that is in place;</p> <p style="padding-left: 20px;">(i) on compassionate grounds where there has occurred the death or serious illness of a spouse, a partner or a child, or the death or serious illness of a parent in the case of a single seafarer.</p> <p style="padding-left: 20px;">(ii) if the ship is detained for non-compliance with any of the provisions of SOLAS Convention or the Loadline Convention or the Maritime Labour Convention and has remained so detained for a period of 30 days.</p> <p style="padding-left: 20px;">(iii) If the ship in which he is serving is arrested and remains under arrest for a period of 30 days; or</p> <p style="padding-left: 20px;">(iv) If the vessel in which he is serving is about to sail into a warlike area as defined by the ship's insurers and to which the seafarer does not consent to go.</p> <p>(i) A shipowner may terminate a seafarer's employment agreement without notice, or on less than 7 days notice, on any occasion when;</p> <p style="padding-left: 20px;">(i) the ship is sold,</p> <p style="padding-left: 20px;">(ii) the ship is lost,</p> <p style="padding-left: 20px;">(iii) the seafarer is unable to continue to perform his duties on board as a result of injury or illness; or</p> <p style="padding-left: 20px;">(iv) it is established through an agreed disciplinary process that the seafarer is incompetent or has been involved in serious misconduct.</p>
--	--

<p>6 <i>Payment of wages</i></p>	<p>(a) Definitions associated with wages and the calculation and payment of wages in these regulations shall be in accordance with the definitions and principles set out in Guideline B.2.2.1 and B.2.2.2 of the Convention.</p> <p>(b) Payments of wages due to seafarers shall be made at no greater than monthly intervals and in accordance with the seafarer's employment agreement and with any collective bargaining agreements, and</p> <p>(c) Seafarers shall be given a monthly account of the payments due and the amounts paid and the account shall specify at least;</p> <p>(i) wages,</p> <p>(ii) additional payments, and</p> <p>(iii) the rate of exchange used where the payment has been made in a currency or at a rate different from the one agreed to.</p> <p>(d) Seafarers shall be provided with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries. Such means shall include the measures referred to in paragraph 4 of Standard A2.2 .</p> <p>(e) The rate of currency exchange associated with the measures to transmit wages in sub-paragraph (d) shall be the rate set and published internationally for currency transactions on the day of transmission and any charges for the service shall be reasonable and shall not include any charges in excess of those charged by the banks making the transactions.</p> <p>(f) For the purposes of the calculation of wages and payment of wages the requirements in Guideline B2.2.2 paragraphs 1, 2, 3 and 4 shall apply and unless provided otherwise in an applicable collective bargaining agreement;</p> <p>(i) the normal hours per week for calculating basic pay shall be 48, and</p> <p>(ii) overtime shall be at a rate not less than 1.25 times basic pay,</p>
<p>7 <i>Hours of rest</i></p>	<p>(a) Hours of rest means time outside hours when the seafarers are required to do work on account of the ship and does not include short breaks of less than one hour.</p> <p>(b) Except as provided in sub-paragraph (i), every seafarer shall be entitled to minimum hours of rest of not less than;</p> <p>(i) ten hours in any 24-hour period; and</p> <p>(ii) 77 hours in any seven-day period.</p> <p>(c) 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</p>

	<p>periods of rest shall not exceed 14 hours.</p> <p>(d) Time when a seafarer is on call may be regarded as rest time provided that he is not called to work during that time and if he is called to work during the time on call he shall be provided with adequate compensatory rest.</p> <p>(e) Musters, lifeboat drills, security drills and other drills and training exercises required by Antigua and Barbuda laws and by the applicable maritime conventions shall be arranged in such a manner as to minimise the disturbance to hours of rest and to avoid fatigue.</p> <p>(f) The requirements in sub-paragraphs (b) and (c) need not be complied with in a case of emergency or other overriding operational condition provided that on conclusion of the situation the seafarers involved receive suitable compensatory rest so that fatigue is avoided.</p> <p>(g) ADOMS may, after consultation, agree and approve a collective bargaining agreement that varies from the standards in paragraphs (b) and (c) to allow for more frequent or longer leave periods, or the grant of compensatory leave for seafarers working on board ships on short voyages provided that the agreement follows the intent of the standard.</p> <p>(h) Seafarers who are engaged as watchkeeping officers or as ratings forming part of a watch or whose duties involve designated safety, prevention of pollution, or security duties may be exempted from the requirements of sub- paragraph (c) provided that:</p> <ul style="list-style-type: none">(i) they receive not less than 70 hours rest in any 7 day period,(ii) any exception shall not persist for more than two consecutive weeks, and(iii) the period between any two periods of exception is not less than the period of exception. <p>(i) Seafarers who are engaged as watchkeeping officers or as ratings forming part of a watch or whose duties involve designated safety, prevention of pollution, or security duties may exceptionally have the hours of rest in sub-paragraph (b) divided into more than two periods, but no more than 3 periods, provided that;</p> <ul style="list-style-type: none">(i) one period is at least 6 hours in length and the other two are not less than 1 hour,(ii) the intervals between consecutive periods of rest are not more than 14 hours, and(iii) any exception under this paragraph does not extend beyond two 24 hour periods in any 7 day period.
--	--

- (j) Nothing in sub-paragraphs (b), (c), (h), or (i) 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 and the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.
- (k) A table of the shipboard working arrangements shall be posted in accordance with Standard A2.3 paragraph 10. The table shall be in English and in the working language of the ship where that language is not English, and in the format published by the IMO/ ILO in the Guidelines for the Development of Tables of Seafarers' Shipboard Working Arrangements and Formats of Records of Seafarers' Hours of Work or Hours of Rest or in a format recognisably similar.
- (l) Records of seafarers' daily hours of rest shall be maintained and copies kept on board for a period of 3 years. The records shall be in the format published by the IMO/ ILO in the Guidelines for the Development of Tables of Seafarers' Shipboard Working Arrangements and Formats of Records of Seafarers' Hours of Work or Hours of Rest or in a format recognisably similar.
- (m) Each seafarer shall receive a copy of the records pertaining to him which shall be endorsed by the master, or a person authorised by the master, and by the seafarer.
- (n) Records in electronic format may be accepted as meeting the requirements in sub-paragraphs (l) and (m) provided that:
- (i) each seafarer has ready access to his records,
 - (ii) each seafarer can obtain a printed copy at any reasonable time,
 - (iii) the records are electronically endorsed by the seafarer and the master or a person authorised,
 - (iv) the records, once endorsed, are protected against tampering and accessible to Port State Control officers and to Antigua and Barbuda inspectors,
 - (v) the records are available on board for a period of at least 3 years, and
 - (vi) the records are in a format recognisably similar to the format in the IMO/ILO Guidelines.

<p>8 <i>Leave</i></p>	<p>(a) Seafarers on ships shall be entitled to paid annual leave amounting to a minimum of 2.5 calendar days per month of employment paid at the seafarer's normal basic rate of pay or the rate specified in any collective bargaining agreement where that is higher.</p> <p>(b) Justified absences from work, periods off work due to illness or injury arising from work on board, and attendance at approved maritime training courses shall not be considered annual leave. Temporary shore leave granted to a seafarer and Antigua and Barbuda public holidays shall not be counted as part of leave with pay.</p> <p>(c) Any agreement to forgo the minimum annual leave with pay is prohibited.</p> <p>(d) Seafarers shall be granted shore leave whenever possible and where the operational requirements of their position on board permits it and shore leave shall not be counted against the requirement of annual leave.</p>
<p>9 <i>Repatriation</i></p>	<p>(a) Every ship subject to these Regulations shall have financial security which covers the cost of repatriation of seafarers in accordance with these Regulations.</p> <p>(b) Seafarers are entitled to repatriation at no cost to themselves:-</p> <p>(i) when the seafarer's employment agreement expires while the seafarer is abroad,</p> <p>(ii) when the seafarer's employment agreement is terminated by the employer in accordance with its terms,</p> <p>(iii) when the seafarer's employment agreement is terminated by the seafarer for justified reasons,</p> <p>(iv) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel,</p> <p>(v) in the event of shipwreck,</p> <p>(vi) in the event of the shipowner not being able to continue to fulfil his legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship's registration or any other similar reason, and</p> <p>(vii) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers' employment agreements, to which the seafarer does not consent to go.</p> <p>(c) The maximum duration of service periods on board following which a seafarer is entitled to repatriation in accordance with sub-paragraph (b)(iii) shall be specified in his employment agreement, but in every case shall not exceed 9 months.</p>

- (d) The costs to be borne by a ship owner for repatriation under sub-paragraph (b) shall include the following;
- (i) passage to the repatriation destination,
 - (ii) accommodation and food from the moment the seafarer leaves the ship until he reaches the repatriation destination,
 - (iii) pay and allowances from the moment the seafarer leaves the ship until he reaches the repatriation destination,
 - (iv) transportation of 30 kg of the seafarer's personal luggage to the repatriation destination; and
 - (v) medical treatment when necessary until the seafarer is medically fit to travel to the repatriation destination.
- (e) The repatriation destination shall be the place where the seafarer was recruited unless the employment agreement specifies otherwise or the seafarer and the shipowner agree an alternative and the mode of transport to that destination shall normally be by air.
- (f) Seafarers shall not be required to make any contribution towards the cost of repatriation at the commencement of, or in advance of, their employment and the costs of repatriation shall not be recovered from a seafarer's wages or other entitlements except in a case where the seafarer is found to have been in serious default of his employment obligations.
- (g) Nothing in these Regulations shall prejudice the right of a shipowner to recover the cost of repatriation under third party contractual arrangements.
- (h) If a shipowner fails to make arrangements for, or to meet the cost of repatriation of seafarers serving in an Antigua and Barbuda ship who are entitled to be repatriated -
- (i) ADOMS shall arrange for the repatriation of the seafarers involved; and
 - (ii) Costs incurred by ADOMS in meeting this obligation shall be recoverable from the shipowner;
- (i) The expense of repatriation shall in no case be a charge upon seafarers except as provided in sub-paragraph (f).
- (j) The right of repatriation in accordance with these regulations shall not be refused because of the financial circumstances of a shipowner or because of a shipowner's inability or unwillingness to replace a seafarer.
- (k) If ADOMS has repatriated a seafarer pursuant to sub-paragraph (h), and costs incurred have not been recovered, it may arrest the ship until such

	<p>costs are reimbursed, subject to any provisions in the Act relating to arrest of ships.</p> <p>(1) Where the details of requirements governing repatriation are not set out exactly in the seafarer's employment agreement, each seafarer shall have access at any time and in an appropriate language, to the Antigua and Barbuda provisions in these regulations.</p>
10 <i>Seafarer's compensation</i>	<p>(a) In the case of loss or foundering of a ship, the shipowner shall indemnify each of the seafarers on board against the unemployment caused by the loss, at the basic rate of the wages he would have earned up to a maximum of two months wages.</p> <p>(b) Nothing in sub-paragraph (a) shall prejudice any other rights a seafarer may have for losses or injuries arising from a ship's loss or foundering.</p>
11 <i>Manning</i>	<p>(a) All ships shall have a sufficient number of seafarers on board in the appropriate positions to ensure that they are operated safely, efficiently and with due regard to security under all conditions.</p> <p>(b) A ship shall be deemed to be manned by a crew that is adequate, in terms of size and qualifications when it is manned in accordance with the Safe Manning Document issued by ADOMS.</p>
Title 3 Accommodation, recreational facilities, food and catering	
12 <i>Accommodation</i>	<p>(a) Ships shall, subject to sub-paragraph (f), meet such standards as ensure that any accommodation for seafarers, working or living on board is safe and decent.</p> <p>(b) The general standards for on-board accommodation and recreational facilities in ships for which the keels are laid, or which are at a similar stage of construction, on or after the date on which the Convention comes into force shall be as a minimum in accordance with Standard A3.1 paragraphs 6 to 17 of the Convention.</p> <p>(c) Ships which have keel laying dates before the date on which the Convention comes into force shall comply with the standards in the Accommodation of Crews Convention (Revised), 1949 (No. 92) and the Accommodation of Crews (Supplementary provisions) Convention, 1970 (No. 133) as they are applied in Antigua and Barbuda.</p> <p>(d) Ships to which sub-paragraph (b) applies shall comply with the Guidelines in Part B.3.1 of the Convention as the national standards in so far as giving effect to the standards in A.3.1 paragraphs 6 to 17 are concerned and with any Antigua and Barbuda Directives or other guidance that is issued from time to time on the interpretation of those Guidelines and the technical standards required.</p> <p>(e) On any occasion when a ship is first registered or when the seafarer's ac-</p>

	<p>commodation is substantially altered an inspection of the accommodation and facilities provided for seafarers shall be carried out by ADOMS or by a Recognised Organisation on behalf of ADOMS to verify compliance with the standards in these regulations.</p> <p>(f) In the case of ships where there is need to take account, without discrimination, of the interests of seafarers having differing and distinctive religious and social practices, ADOMS may, after consultation, permit fairly applied variations in respect of sub-paragraphs (b) and (c).</p> <p>(g) ADOMS may, after consultation, exempt ships of less than 200 gross tons from the requirements in sub-paragraphs (b) and (c), in accordance with Standard A3.1 paragraph 20 but shall only do so in particular circumstances in which such exemption can be clearly justified on strong grounds and subject to protecting the seafarers' health and safety.</p> <p>(h) Every master of an Antigua and Barbuda ship shall ensure that regular inspections, at not more than monthly intervals, are made of the accommodation provided for seafarers to verify that it remains clean, decently habitable, and maintained in a good state of repair. Defects that are discovered during an inspection shall be rectified promptly and the results of each inspection, including any defects that are found, shall be recorded and the records of inspections shall be retained on board for at least 3 years and available for inspection to any inspector.</p>
13 <i>Food and catering</i>	<p>(a) Ships shall carry on board and serve food and drinking water, having regard to the number of seafarers on board and the duration of the voyage, of appropriate quality, nutritional value, variety and quantity that adequately covers the requirements of the ship and takes into account differing cultural and religious backgrounds.</p> <p>(b) Food and drinking water provided to seafarers during their engagement on board shall be at no charge to the seafarers.</p> <p>(c) Shipowners shall ensure that the organisation of the catering department and the equipment provided is such that adequate, varied, and nutritious meals are prepared and served in hygienic conditions.</p> <p>(d) Ship's operating with a manning level of 10 persons or more shall carry a competent and qualified ships cook.</p> <p>(e) A cook shall be qualified if he is 18 years of age or more and he:</p> <ul style="list-style-type: none"> (i) has attended a training course at an approved school of cookery and passed an approved examination for ship's cooks, or (ii) has served at sea for five years, at least four of which in the capacity of second cook or cook assistant, and also received training in handling foods, storage of foods on board ships and hygiene in the galley and

	<p style="text-align: center;">food preparation areas, or</p> <p>(iii) possesses approved qualifications in cookery valid in a commercial cooking establishment.</p> <p>(f) Approved in sub-paragraph (e)(i) or (e)(iii) means approved by ADOMS or by the maritime administration of another state party to the Convention.</p> <p>(g) On a ship operating with a prescribed manning of less than ten and which does not carry a cook the shipowner shall ensure that anyone processing food in the galley is trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.</p> <p>(h) In any case where due to exceptional circumstances a qualified cook is not available, or has been required to leave a ship in which a qualified cook is required, ADOMS may issue a dispensation permitting another person to serve as cook for a period not exceeding one month or until the next suitable port whichever occurs first provided that the person taking on the role of cook has received instruction or training in food and personal hygiene and the handling and storage of food on board.</p> <p>(i) The master of every Antigua and Barbuda ship shall ensure that weekly inspections are carried out of:</p> <p style="margin-left: 40px;">(i) supplies of food and drinking water,</p> <p style="margin-left: 40px;">(ii) spaces and equipment used for the storage and handling of food and drinking water, and</p> <p style="margin-left: 40px;">(iii) galleys and other equipment for the preparation and service of meals.</p> <p>(j) Defects that are discovered during an inspection shall be rectified promptly and the results of each inspection, including any defects that are found, shall be recorded and the records of inspections shall be retained on board for at least 2 years and available for inspection to any inspector.</p>
Title 4 - Health protection, medical care, welfare and social protection.	
<p>14 <i>Medical care on board and ashore</i></p>	<p>(a) Every seafarer in an Antigua and Barbuda ship shall be provided, wherever practical and where necessary, with an opportunity to visit a doctor or a dentist without delay in any port of call.</p> <p>(b) Medical care, necessary dental care and health protection services provided to seafarers on board, or in a foreign port shall, be provided at no cost to the seafarers.</p> <p>(c) Whenever it is necessary for a ship to arrange medical treatment for seafarers ashore the ship's master shall use the medical report form contained in the International Medical Guide for Ships or in the Ship Captain's Medical Guide or a similar publication to facilitate the treatment of the seafarers and such records, when completed, shall remain confidential.</p>

	<p>(d) Ships shall comply with Standard A4.1, paragraph 4, sub- paragraphs (a) to(c).</p> <p>(e) The matters prescribed in the Annex to this Schedule are mandatory.</p>
<p>15 <i>Shipowner's liability</i></p>	<p>(a) Shipowners shall meet the standards set out in Standard A4.2, paragraph 1, sub-paragraphs (a)-(d).</p> <p>(b) The liability of the shipowner under Standard A4.2, paragraph 1(c) for the expense of medical care and board and lodging is limited to a period of 16 weeks from the day of the injury or the commencement of the sickness, and may cease if and when the seafarer is in a position to claim medical benefits under any scheme of compulsory sickness insurance, compulsory accident insurance, or workers compensation for accidents.</p> <p>(c) Where the sickness or injury results in incapacity for work the shipowner shall be liable:</p> <ul style="list-style-type: none"> (i) to pay full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with these Regulations; and (ii) to pay wages at the seafarer's basic rate of pay or at the rate specified in any applicable collective bargaining agreement from the time when the seafarers are repatriated or landed until their recovery or until they are entitled to cash benefits under the legislation of Antigua and Barbuda if earlier. <p>(d) The ship owner shall not be liable to pay wages under sub-paragraph (b) in respect of a seafarer no longer on board for a period longer than 16 weeks from the day of the injury or the commencement of the sickness.</p> <p>(e) The ship owner is not liable under sub-paragraphs (b) or (c) in respect of:</p> <ul style="list-style-type: none"> (i) injuries incurred otherwise than in the service of the ship; (ii) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer; and (iii) sickness or infirmity intentionally concealed when the engagement is entered into. <p>(f) The ship owner is not liable for the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by any public authority.</p> <p>(g) Shipowners shall take measures for safeguarding property left on board by sick, injured or deceased seafarers and shall be liable for the reasonable costs of returning it to them or to their next of kin.</p>

<p>16 <i>Health and Safety Protection</i></p>	<p>(a) Every shipowner shall put in place measures intended to ensure the health and safety of seafarers and the provision of a working environment on board any ship for which they are responsible in which the occupational health of seafarers is protected and which is safe, clean, and hygienic.</p> <p>(b) Without prejudice to the generality of the ship owner's duty under subparagraph (a), the matters to which that duty extends shall include in particular and so far as is practicable –</p> <ul style="list-style-type: none"> (i) the provision and maintenance of plant, machinery and equipment, and systems of work that are safe and without risk to health; (ii) arrangements for ensuring safety and absence of risk to health in connection with the use, handling, stowage and transport of articles and substances; (iii) the provision to the seafarers of such information, instruction, training and supervision as is necessary to ensure the health and safety of persons aboard ship; (iv) the maintenance of all places of work in the ship in a condition that is safe and without risk to health; and, (v) the provision and maintenance of an environment aboard ship that is safe and without risk to health. <p>(c) It shall be the duty of every ship owner to prepare and, as often as may be appropriate, revise a written statement of his general policy with respect to the health and safety aboard ship and the arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of seafarers.</p> <p>(d) For ships registered in Antigua and Barbuda the standards and practices required for occupational health, risk analysis, safe working practices and measures to reduce the risk of exposure to harmful levels of ambient factors and chemicals and the risk of injury or disease shall be those set out in:-</p> <ul style="list-style-type: none"> (i) The ILO Code – Accident prevention on board ships at sea and in port 1996, (ii) The Code of Safe Working Practices for Merchant Seamen published by the UK, and (iii) Such other guidance as ADOMS may publish from time to time in the form of a Directive or other official guidance. <p>(e) Every Antigua and Barbuda ship shall carry on board an up to date copy of</p>

	<p>the Code of Safe Working Practices for Merchant Seamen which may be in paper format or in electronic format provided that all the seafarers have access at any time to its content appropriate to their roles on board.</p> <p>(f) No ship owner shall levy or permit to be levied on any seafarer any charge in respect of anything done in pursuance of sub-paragraphs (b) or (d).</p> <p>(g) All accidents, injuries and diseases occurring on board any Antigua and Barbuda ship shall be reported to ADOMS at the earliest possible opportunity following the occurrence in accordance with requirements promulgated by ADOMS.</p> <p>(h) In every Antigua and Barbuda ship in which there are five or more seafarers the shipowner shall arrange for a Safety Committee to be established. The Safety Committee shall include representatives from all departments on board.</p> <p>(i) The Safety Committee shall have the authority, and the seafarer representatives on it shall have the duties and authority, as set out in the Code of Safe Working Practices and the committee shall meet at the intervals set out in the Code and operate as set out in the Code.</p>
Title 5 – Compliance and enforcement	
<p>17 <i>Recognised organisations</i></p>	<p>(a) The Classification Societies, members of the International Association of Classification Societies (IACS), which are recognised by ADOMS and with which there is in place an agreement and provided that ADOMS has satisfied itself as to their capability as required by Regulation 5.1.2 of the Convention, are recognised by ADOMS as recognised organisations for the conduct of inspections and the issue of certification in accordance with these regulations.</p> <p>(b) ADOMS may from time to time authorise other recognised organisations and enter into an agreement with them.</p> <p>(c) The recognised organisations referred to in sub-paragraph (a) shall have the authority defined in the agreement between them and ADOMS and shall, in particular, have power to require the rectification of deficiencies that its surveyors identify in seafarer's working and living conditions and to carry out inspections in this regard at the request of Port State Control.</p>
<p>18 <i>Certification</i></p>	<p>(a) Except as provided in sub-paragraph (b) every Antigua and Barbuda ship of 500 GT or over engaged in international voyages or operating from a port, or between ports, in another country shall carry:</p> <p>(i) A valid Maritime Labour Certificate conforming to the model set out in the Convention, and</p> <p>(ii) A Declaration of Maritime Labour Compliance conforming to the</p>

	<p>model set out in the Convention.</p> <p>(b) An interim maritime labour certificate valid for not more than 6 months may be issued to a ship in accordance with Standard A5.1.3 when:</p> <ul style="list-style-type: none">(i) it is a new ship on its delivery,(ii) it is a ship that has changed from another flag to the Antigua and Barbuda flag, or(iii) a shipowner assumes responsibility for the operation of the ship when the ship is new to him. <p>(c) A vessel of less than 500 GT need not carry a Maritime Labour Certificate and declaration of maritime labour compliance but may elect to do so.</p> <p>(d) A Maritime Labour Certificate and Declaration of Maritime Labour compliance issued in accordance with these Regulations shall cease to be valid:</p> <ul style="list-style-type: none">(i) If any of the inspections are not completed within the periods specified in the Convention,(ii) If the certificate is not endorsed in accordance with the Convention,(iii) If the ship changes flag to another flag,(iv) When a shipowner ceases to have the responsibility for the operation of the ship, or(v) When substantial changes are made to the structure or equipment covered by Title 3 of the Convention. <p>(e) ADOMS or a recognised organisation on its behalf may withdraw a Maritime Labour Certificate from any Antigua and Barbuda ship, taking into account the seriousness or the frequency of any deficiencies if there is evidence that the ship concerned does not comply with the requirements of the Convention and these Regulations and any required corrective action has not been taken.</p> <p>(f) Without prejudice to Part XI of the Act (Surveyors and Inspectors), the appointment of inspectors for the 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 this Convention are met, and the conduct of such inspections, shall be in accordance with Standard A5.1.4</p> <p>(g) Nothing in paragraph 7(c) of Standard A5.14 shall affect any right of appeal to the High Court against administrative action.</p> <p>(h) If the ship owner proves that there was not reasonable and probable cause for action taken by an inspector, the Minister shall pay him compensation for loss or damage caused by the action.</p>
--	--

19 <i>Complaints</i>	<p>(a) No person shall victimise any seafarer for filing a complaint and victimisation shall be an offence subject to the penalties specified in Regulation 10 of these regulations.</p> <p>(b) Every shipowner shall develop a formal complaints procedure that is available to all the seafarers on board ships for which he is responsible. The procedure shall;</p> <ul style="list-style-type: none"> (i) seek to resolve complaints at the lowest level possible but shall not prevent a seafarer from making a complaint directly to the ship's master or to ADOMS if the seafarer considers it necessary or appropriate, (ii) provide for the seafarer making a complaint to have the right to be accompanied or represented during the procedure, (iii) include safeguards against victimisation of any seafarer making a complaint where victimisation includes any adverse action taken against a seafarer by any person following a complaint which is not malicious or vexatious. <p>(c) Notwithstanding the general standards in sub-paragraph (b) a complaints procedure shall ensure that:</p> <ul style="list-style-type: none"> (i) Complaints are addressed to the head of the department in which the seafarer works or to his superior officer, (ii) Resolution is attempted by the head of department or the senior officer within 24 hours whenever practicable, (iii) When resolution by the head of department or the superior officer is not successful the seafarer can take the matter to the master who shall deal with it within a stated period which should be not more than 3 days, (iv) Any seafarer making a complaint is allowed to be accompanied and to be represented by another seafarer of their choice on board the ship, (v) All complaints and the decisions made are recorded and a copy of the record is made available to the seafarer concerned, and (vi) When a complaint cannot be resolved on board it is referred to the shipowner or his representative ashore who shall resolve the matter within one month. <p>(d) Every seafarer shall be provided with a copy of the on-board complaints procedure put in place by the shipowner and with ADOMS contact information and contact information for the maritime authorities in the seafarer's country of residence.</p>

	<p>(e) Every seafarer shall be provided, in addition to the complaints procedure, with the name of the person or persons on board who can, on a confidential basis, provide them with impartial advice on a complaint or otherwise assist them.</p> <p>(f) In accordance with Article VI of the Convention ADOMS accepts as a substantial equivalent, provision of the identity of a position on board as meeting the requirements of sub-paragraph (e).</p>
<p>20 <i>Port state control</i></p>	<p>(a) Every ship which is not a ship of Antigua and Barbuda calling, in the normal course of its business or for operational reasons, in a port in Antigua and Barbuda may be the subject of inspection for the purpose of reviewing compliance with the requirements of the Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.</p> <p>(b) Inspections under sub-paragraph (a) shall be carried out by authorised officers. The conduct of such inspections, including action taken as a result of them, shall be in accordance with Standard A5.2.1, paragraphs 1 to 6.</p> <p>(c) If the ship owner proves that the ship was unduly delayed or detained as a result of an inspection under sub-paragraph (a) the Minister shall pay him compensation for loss or damage caused by the action.</p> <p>(d) Seafarers in an Antigua and Barbuda ship in any port and seafarers on Antigua and Barbuda ships and other ships calling at a port in Antigua and Barbuda who allege a breach of the requirements of the Convention (including seafarers' rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.</p> <p>(e) Such reports shall be made to an authorised officer at the port where the ship is located.</p> <p>(f) When such a complaint is made by seafarers on a ship in a port in Antigua and Barbuda the authorised officer shall be ADOMS and the investigation and inspection shall be in accordance with the requirements in Standard A.5.2.</p>

Annex*Paragraph 14(e)***Medical care on board ship***Medical stores*

1. Ships shall continue to comply with Directive 01-2005, The Merchant Shipping (Ship's Medical Stores) Directive 2005 or any Directive that replaces it.

Medical training

2. With regard to the level of medical training to be provided on board ships that are not required to carry a medical doctor:

(a) ships which ordinarily are capable of reaching qualified medical care and medical facilities within eight hours shall have at least one designated seafarer with the approved medical first-aid training required by STCW Convention which will enable such persons to take immediate, effective action in case of accidents or illnesses likely to occur on board a ship and to make use of medical advice by radio or satellite communication; and

(b) all other ships shall have at least one designated seafarer with approved training in medical care required by STCW Convention, including practical training and training in life-saving techniques such as intravenous therapy, which will enable the persons concerned to participate effectively in coordinated schemes for medical assistance to ships at sea, and to provide the sick or injured with a satisfactory standard of medical care during the period they are likely to remain on board.

3. The training referred to in paragraph 2 of this Annex shall be based on the contents of the most recent editions of the International Medical Guide for Ships, the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods, the Document for Guidance - An International Maritime Training Guide, and the medical section of the International Code of Signals.

4. Persons referred to in paragraph 2 of this Annex and such other seafarers as may be required by ADOMS shall undergo, at approximately five-year intervals, refresher courses to enable them to maintain and increase their knowledge and skills and to keep up-to-date with new developments.

EXPLANATORY NOTE

These Regulations replace the Merchant Shipping (Maritime Labour Convention, 2006) Regulations 2011. The main change is to provide in the Schedule more detailed national standards with which shipowners have to comply, (though without substantive change). This results from discussions in the International Labour Office in December on the application of the Convention, and also the experience of Recognised Organisations and shipowners on the operation of the Regulations. In addition there are changes to the body of the Regulations, in that the requirements on certification is now placed in the Schedule, and the application to non-Antigua and Barbuda ships made more precise and in line with the planned operation of the Convention.

Made the 23rd day of July, 2012.

The Hon. Baldwin Spencer Prime,
Minister Responsible for Merchant Shipping
and Registration.