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Seafarers' Rights On Bahamian Flag Ships



As a seafarer on a Bahamian flag ship, you have certain rights which are guaranteed by the law and maritime regulations of the Commonwealth of the Bahamas.

This booklet has been written to inform you of some of your rights and to help you find assistance if your rights are violated. This booklet is based on the "Merchant Shipping Act," called in this booklet, "MS," followed with the section number of the Act. Some provisions of this law may have changed since the publication of this booklet. This is a summary of portions of Bahamian law and regulations. It does not replace the full text of law nor the advice of qualified counsel.

The Center for Seafarers' Rights publishes this and other booklets on seafarers' rights aboard ships of various nations and registries, because we believe that an informed seafarer is better able to defend his or her rights while employed. The Center for Seafarers' Rights is ready to assist all seafarers to protect their rights to fair and decent working conditions.

We encourage questions, comments and suggestions from readers of this booklet. Comments and contributions regarding the text are welcome so that corrections and improvements may be incorporated in future editions.

Articles of Agreement

Every person working on a Bahamian flag ship of 100 gross tons or more, must sign an agreement with the ship's Master. This agreement is known as "Articles" or "Crew Agreement." This agreement constitutes your "contract." (MSA, Sec. 80.)

Two copies of this Agreement must be signed by each member of the crew. The Master must sign the agreement first, and then you, the seafarer, must sign. It is to be dated the day that the Master signs it. One signed copy of the agreement is to be given to the owner (company), and the other is to be kept by the Master. (MSA, Sec. 82(c).)

Before you sign this agreement, you have a right to read and understand this agreement. If you need help in understanding this agreement, you are entitled to ask someone for help, and the Master must be sure that you understand the agreement before you sign it. (MSA, Sec. 82(b).)

If you had no time to review and sign the agreement before going to sea because you were engaged as a substitute within 24 hours of sailing, then, as soon as possible after sailing, the Master must make sure you understand the agreement and have you sign it in the presence of a witness. (MSA, Sec. 82(d).)

The Agreement must include:

- No secret agreements. You and the owner and the Master have no right to

make any agreement to depart from the written contents of the agreement (contract) you sign (ILO Convention #22);

- Your name, place of birth and date of birth, or age;

- Place and date that the agreement is signed;

- The name of the ship or ships on which you will work;

- A list of the food and other provisions you will receive;

- Your job on the ship;

- Your wages; and

- The length of your agreement to work, which cannot be more than 12 months. (MSA, Sec. 81(2)(b).)

NOTE: The law does not require that you receive a copy of the agreement, but it does require that, on every voyage, a copy of the agreement, without signatures, be posted in a place where you can read it. (MSA, Sec. 83.) It is a good idea to have your own copy of this agreement, if you can get one.

Payment of Wages

A seafarer has a right to be paid the wages promised in the agreement.

You begin to earn wages when you start working, or on a date shown in the

agreement, whichever comes first. (MSA, Sec. 99.)

You have a right to receive all of the wages which you have earned according to your contract. Under *no* condition can the company reduce your wages because the company has not earned enough money. (MSA, Sec. 101(i).)

If the agreement you signed provides for it, you may receive up to 2 weeks' wages in advance of joining the ship (MSA, Sec. 95), except in a U.S. port where you may not receive any wages before you have actually earned them. (46 U.S.C. 599.)

The agreement *may* include an arrangement for you to have a portion of your wages forwarded to a near relative or

a bank. (MSA, Sec. 96.)

If You Leave Before the End of the Agreement

If you stop working because you miss the ship, or because you are sick, or for any other reason, you will receive no more wages than you have earned.. (MSA, Sec. 102(1).)

If, however, you stop working because the ship founders, or is lost, you are entitled to two (2) months' additional pay, unless you begin work right away on another ship. (MSA, Sec. 102(2).)

Holidays and Vacation

There are no provisions under Bahamian law specifying your entitlement to

days off. Therefore, if possible, insist that your contract specify your days off before you sign it.

You are entitled to nine (9) days of paid leave each year in lieu of public holidays. (MSA. Sec. 108(4).)

After one year of employment on a particular ship, or with a particular company, you are entitled to at least 12 working days of vacation with pay (18 working days for officers). (MSA, Sec. 108.)

If you have worked more than 30 days, but less than one year when you leave the ship, you are entitled to be paid vacation pay on a "pro-rata" basis. (MSA, Sec. 108.)

If the ship is sold while you are working on it, the new owner is responsible to pay your new vacation pay just as though you have been working for him all along. (MSA, Sec. 108(2)(c).) (Remember, however, that when a Bahamian-registered ship is sold or otherwise disposed of, all seafarers belonging to that ship shall be discharged unless they consent in writing to keep working until the end of the voyage. (MSA, Sec. 154.)

Hours of Work

There are no provisions under Bahamian law covering the hours of work by a seafarer on a Bahamian flag ship. For that reason, it is advisable, if at all possible, to make sure that the agreement you sign sets forth the days of the week and the number of hours each day that you will be

expected to work.

Health

If you are sick or suffer an accident while working under a Bahamian crewing agreement, you have a right to receive expenses of medical, surgical, dental or optical treatment, both on board and ashore. (MSA, Sec. 123.)

However, if it is your fault that you are injured or sick, or if you were sick before you signed your agreement and did not tell the Master when you signed the agreement, then you will earn no wages until you work again. (MSA, Sec. 104.)

If you must leave the ship because of sickness, all expenses incurred in returning you to the proper port, including

all maintenance and medical expenses *en route*, must be paid by the company (owner). (MSA, Sec. 150(1).)

Ship Safety

You have a right to work on a safe ship. Your ship must be inspected regularly by a safety inspector authorized by the Bahamian Government. A passenger ship must be inspected at least every year. Life-saving equipment on a cargo ship must be inspected at least every two years and machinery on a cargo ship at least every four years. Inspection and safety certificates must be posted where everyone on board can see them. (MSA, Secs. 170, 174, 179.)

If you believe that your ship is unsafe and should not sail, you can make a complaint in the following way: First, to make any such complaint, at least one-fourth of all the crew, and not less than three people on the ship, must sign the complaint. Prepare a written report, including your names and addresses, and give a copy to the owner or Master. Address the complaint to the Minister of Transport, Commonwealth of the Bahamas, or to his authorized inspector. You could, however, be punished for making a *false* complaint. (MSA, Secs. 210(6), 211 and 212.)

The Master is required by law to allow you to make a complaint. When the ship is in port where there is a magistrate, consular officer, registrar, or inspector, the Master *must* allow you to go ashore to

make your complaint. (MSA, Sec. 125.)

Provisions

You have a right to adequate water and provisions. If three or more crew members consider the water or food provisions to be bad or inadequate, they have a right to complain to a consular officer, registrar, or inspector. If your complaint is *unreasonable*, however, you could be punished for making such a complaint by losing some portion of your wages. If your complaint is *justified*, and the ship could have obtained better provisions, you could receive extra wages. (MSA, Sec. 117.)

Termination

If, after you sign an agreement, but

before you begin the voyage or earn one month's wages, you are discharged through no fault of your own, you have a right to all of the wages you have earned up to that time, plus additional money equal to not more than one month's wages. (MSA, Sec. 106.)

When you leave the ship and "sign off," you have a right to receive from the Master a "certificate of discharge" stating how long you were on the ship and the place of discharge. This certificate is not to contain any remarks about the quality of your work. (MSA, Sec. 86.)

On a separate paper, the Master will make a report of your character, conduct and qualifications. You have a right to a copy of this report if you request it. (MSA, Sec. 87.)

If you and the Master or owner disagree about wages, you can have a hearing before the director of the Bahamas Maritime Affairs, if you and the Master, or owner, agree in writing to accept the director's decision. (MSA, Sec. 92.)

When you are discharged and paid off, you and the Master or owner will sign a release stating that all wages and other payments are accepted and final. (MSA, Sec. 91.)

Repatriation

When you are discharged, you have a right to be repatriated at the owner's expense to a "return port" which is the port from which you began, a port in your home country, or some other port which you agree on; except that if you began in

the Bahamas, you will be returned to the Bahamas unless you agree to be sent elsewhere. (MSA, Sec. 162.)

If, however, you decide to stop working and leave the ship before the end of your contract, the owner is not responsible for paying your repatriation expenses. (MSA, Sec. 153(1).)

If, at the time of discharge, you are fit for duty, you may be required to work on a ship going to your "return port" and, in this case, you must be paid for the work you do on the voyage to your "return port." You may also be repatriated by public transportation. Also, the owner must provide for all of your expenses during the trip to your "return port." (MSA, Sec. 163.)

Unions, Strikes

Seafarers on a Bahamian flag ship have a right to join a union. Seafarers also have a right to engage in a lawful strike in the Bahamas after the ship has been safely secured to the satisfaction of the Master and the Bahamian port authority. (MSA, Sec. 129(2).)

Remedies for Violations of Rights

In addition to the complaint procedures described above, as a seafarer on a Bahamian flag ship, you have a right to do the following, if you feel your rights have been denied:

- if you are discharged in the Bahamas and you have not been paid in full, you can sue the owner in the appropriate Bahamian court (MSA, Sec. 109);

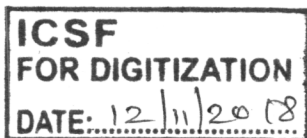
- you can sue in a Bahamian court to have the terms of the contract between yourself and the owner rescinded and the Court can, if justice demands, rescind the terms of the agreement (MSA, Sec. 112);

- you can make certain complaints as suggested above under the section entitled: "Ship Safety." (See, for example, MSA, Sec. 125.) If the Master of the ship fails, without reasonable cause, to comply with this section, i.e., if he does not allow you to go ashore to make a complaint, the Master can be found guilty of an offense. (MSA, Sec. 125(2).)

Where to Get Help

If you feel your rights have been violated, you may contact any of the following:

- Your union, if any.
- Bahamas High Commission
Ministry of Transport
(Maritime Division)
10 Chesterfield Street
London W1X 8AH
England
☎ Telephone: 071-493-5515
Telex: 892617
Fax: 071-491-0587



- Director, Maritime Affairs
Commonwealth of the Bahamas
Box H-3008
Bahamas
Telephone: (809) 322-8108

- The Center for Seafarers' Rights
241 Water Street
New York, N. Y. 10038 USA
Telephone: (212) 349-9090
Fax: (212) 349-8342

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