
STATUTORY INSTRUMENTS

1972 No. 1635

MERCHANT SHIPPING

MASTERS AND SEAMEN

THE MERCHANT SHIPPING (MAINTENANCE OF SEAMEN'S DEPENDANTS) 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) (Application) Order 1980 (GC 68/80)	1972/1635
2. Merchant Shipping (Masters and Seamen) (Application) Order 1988 (GC 332/88)	1988/479

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1972 No. 1635

MERCHANT SHIPPING

MASTERS AND SEAMEN

THE MERCHANT SHIPPING (MAINTENANCE OF SEAMEN'S DEPENDANTS) REGULATIONS 1972

Made.....31st October 1972

Laid before Parliament...8th 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 17 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 (Maintenance of Seamen's Dependants) Regulations 1972 and shall come into operation on *the same day as section 13 of the Merchant Shipping (Masters and Seamen) Act 1979 (an Act of Tynwald)* ^(c).

(2) In these Regulations "retention notice" means a notice by a responsible authority to a seaman's employer under *paragraph 1 of Schedule 1 to the said Act of 1979* (which relates to a claim against a seaman's wages for the maintenance etc. of his dependants).

(2A) References in these Regulations to a responsible authority shall be construed as references to the responsible authority as defined in paragraph 8 of Schedule 1 to the said Act of 1979.

(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.

(a) 1970 c. 36

(b) See the Secretary of State for Trade and Industry Order 1970 (S.I. 1970/1537 (1970 III, p.5293))

(c) 1979 c. 14

(d) 52 & 53 Vict. C. 63.

Conditions for service of a retention notice

2. A responsible authority may serve a retention notice on a seaman's employer if the following conditions are satisfied, namely -

- (a) that the responsible authority has incurred expenses of any of the descriptions and in the circumstances specified in regulation 4; and
- (b) that the employer has a residence or a registered or principal office in the *Isle of Man* .

Form of and information to be contained in a retention notice

3.- (1) A retention notice shall state -

- (a) that it is served under section *Schedule 1 to the said Act of 1979* and that, during the seaman's employment in a ship, the responsible authority serving the notice has incurred expenses of one or more of the descriptions specified in regulation 4; and
- (b) that the seaman's employer is required -
 - (i) to retain, for the period beginning with the service of the retention notice and ending 28 days after the seaman's discharge from the ship, a proportion (which shall be specified in the notice) of the seaman's net wages ascertained in accordance with the provisions of regulation 5, not exceeding, if the notice relates to two or more dependants, two thirds; and
 - (ii) to give to the responsible authority as soon as may be notice in writing of such discharge.

(2) A retention notice shall contain the following particulars -

- (a) the name and address of the responsible authority;
- (b) the name of the seaman's employer;
- (c) the name of the seaman;
- (d) (if known to the responsible authority) the name of the ship in which the seaman is employed;
- (e) (if known to the responsible authority) the capacity in which the seaman is employed;
- (f) the description of the expenses in respect of which the notice is served;
- (g) the name of the person in respect of whom the expenses are incurred; and
- (h) the name of the person to whom any payment forming part of those expenses has been or is intended to be made.

Expenses in respect of which a retention notice may be served

4. The expenses, in respect of which a responsible authority may serve a retention notice, are expenses incurred [...] during the seaman's employment in a ship being -

- (a) benefit awarded under the *Social Security Act 1986 as applied to the Isle of Man*, to meet requirements which are or include those of the seaman's spouse or any children whom for the purposes of that Act he is liable to maintain; or
- (b) expenses of the provision of accommodation under *Part III of the National Assistance (Isle of Man) Act 1951 (An Act of Tynwald)* for the seaman's spouse or any children whom, for the purposes of the Act under which the accommodation is provided he is liable to maintain in cases where -
 - (i) payment for that accommodation is not made at the standard rate fixed therefor; or
 - (ii) either such accommodation is temporary accommodation provided for less than a week or in special circumstances *and payment is not made at such rate as the Department of Health and Social Security may determine; or*
- (c) expenses of provision made by *the Department of Education -*
 - (i) in respect of a child under the age of sixteen received into their care under *section 82(1) of the Children and Young Persons Act 1966 (an Act of Tynwald)* ; or
 - (ii) in respect of a child or young person under the age of sixteen committed to their care under an order *under the Children and Young Persons Acts 1966 to 1971 (being Acts of Tynwald)*;
 - (iii) *(Omitted by GC 168/80)*;
 - (iv) *(Omitted by GC 168/80)*;

in such circumstances that the seaman becomes liable to make contribution in respect of that child or young person, under or in accordance with *the said Acts of 1966 to 1971*.

Rules for ascertaining net wages

5. For the purposes of a retention notice, the net wages of a seaman (whether he is employed under a crew agreement or not) are the full amount of the wages due to him at the time of his discharge subject only to the deduction of -

- (a) contributions *under the Social Security Act 1975*;
- (b) income tax required to be deducted from the seaman's wages;
- (c) any deduction which the employer is required to make from the wages paid to a seaman employed in a fishing vessel by an attachment of earnings order in accordance with the provisions of the *Maintenance Orders (Attachment of Earnings) Act 1962 (an Act of Tynwald)*;
- (d) contributions 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 11 of the Act* applies.
- (e) sums allotted by the seaman by allotment notes issued in accordance

with regulations made under section 13 of the Merchant Shipping Act 1970 to -

- (i) his spouse; or
- (ii) any other person in respect of whom expenses are stated in a retention notice to be incurred by the responsible authority or to whom any payment forming part of those expenses is so stated to have been paid or to be payable; or
- (iii) any other person known to the seaman's employer to have the custody of or the care of any child whom the seaman is liable to maintain; or
- (iv) any responsible authority in respect of any such expenses (whenever incurred) as are specified in paragraphs (a) to (c) of regulation 4;

whenever payable; and any other sums so allotted which are payable before the retention notice is served;

- (f) any sums (excluding loans) paid by the employer on account of a seaman's wages to or to the order of the seaman before the retention notice is served; and
- (g) the amount of any liability to the employer incurred by the seaman before the retention notice is served in respect of canteen bills, goods supplied, radio or telephone calls and postage expenses.

Michael Heseltine,

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

31st October 1972.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under *Schedule 1 to the Merchant Shipping (Masters and Seamen) Act 1979*, a responsible authority, *the Isle of Man Department of Health and Social Security*, is empowered to seek an order of a magistrates' court to recover out of a seaman's wages, a sum which cannot be subject to an attachment of earnings order, in respect of expenses incurred by the authority in the maintenance of his dependants. These Regulations make provisions about the notice which the authority may serve under the section on the seaman's employer requiring him to retain a proportion of the seaman's wages which may be the subject of an order of the court, the calculation of those wages and the expenses in respect of which a notice may be served.

The *Schedule* and these Regulations supersede existing provisions.