Regulations of 19 December 2017 No. 2293 on financial security related to the entitlements of abandoned employees on Norwegian ships

Legal basis: Laid down by the Norwegian Maritime Authority on 19 December 2017 under the Act of 21 June 2013 No. 102 relating to employment protection etc. for employees on board ships (Ship Labour Act) section 4-7, cf. Regulations of 3 July 2013 No. 974.

Section 1 *Scope of application*

These Regulations apply to Norwegian cargo ships and passenger ships engaged on foreign voyages.

Section 2 *Financial security for expenses in the case of abandonment of employee*

The company shall ensure that financial security is in place in the form of insurance or other similar financial security for the employees' claims against the company or employer, if this is someone other than the company, in the case of abandonment of the employee.

An employee shall be deemed to have been abandoned when the company has initiated bankruptcy proceedings, or when the company in violation of Norwegian law or the employee's employment agreement:

a) fails to cover the cost of the employee's repatriation;
b) has left the employee without the necessary maintenance and support; or
c) has otherwise unilaterally and unwarranted severed the ties with the employee, including failure to pay contractual wages for a period of at least two months.

The financial security shall cover:

a) four months of outstanding wages and other entitlements due to the employee as a result of the employment;
b) expenses reasonably incurred by the employee, including the cost of repatriation;
c) the essential needs of the employee until the employee has arrived at home, including food and drinking water, clothing, accommodation, fuel essential for survival on board the ship, medicine and medical care and other reasonable costs or charges resulting from the employee having been abandoned.

Section 3 Requirements for the financial security provider

The financial security provider shall either be a financial undertaking established in Norway or the EEA which can furnish financial security pursuant to section 2, an insurance company who has a license to carry out such activities in Norway or is affiliated with the International Group of Protection & Indemnity Clubs.

The Ministry may upon application permit other entities to furnish financial security.

Section 4 Claims brought directly against the financial security provider

The employee or his or her nominated representative may bring claims for compensation under the financial security directly against the financial security provider.

When the employee presents sufficient documentation, the financial security provider shall pay the compensation without unnecessary delay.

When the financial security provider finds it necessary to investigate parts of the employee's claims, such investigations shall not prevent payment of incontestable costs.

Section 5 The financial security provider's rights when covering the employee's claims

A financial security provider that has made a payment pursuant to section 2 shall acquire by subrogation, up to the amount it has paid, the rights which the employee would have enjoyed.

The financial security provider has the right of recourse against third parties as far as the employee could have claimed such compensation.

Section 6 Documentation of financial security

To document that the obligation to furnish financial security pursuant to section 2 has been met, a certificate or other documentary evidence issued by the financial security provider shall be carried on board. The documentation shall be readily accessible to the employees.

The documentation required pursuant to the first paragraph shall be in English or be accompanied by an English translation and shall include:

a) name of the ship
b) port of registry of the ship
c) call sign of the ship
d) IMO number of the ship
e) name and address of the provider(s) of the financial security
f) contact details of the person or entity responsible for handling employees' request for relief
g) name of the company
h) period of validity of the financial security
i) an attestation from the financial security provider that the financial security meets the requirements of the Maritime Labour Convention (ILO Convention No. 186) Standard A2.5.2.

Section 7 Cessation

The financial security shall not cease before the end of the period of validity unless that financial security provider has given prior notification of at least 30 days to the Norwegian Maritime Authority that the financial security will cease to be valid.

Section 8 *Entry into force*

These Regulations enter into force immediately.