

## Part 3 - Maritime Labour Standards

**Note to reader:**

Amendments are proposed to align Part 3 with Maritime Labour Convention, as amended.

### Definitions

**300** The following definitions apply in this Part.

**Convention** means the Maritime Labour Convention, 2006, as amended. (*Convention*)

**domestic waters** (*eaux de navigation intérieure*)

**hours of rest** means time outside hours of work and does not include short breaks. (*heures de repos*)

**hours of work** means time during which seafarers are required to do work on account of the vessel. (*heures de travail*)

**seafarer recruitment and placement service** means any person, company, institution, agency or other organization, in the public or the private sector, that is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners. (*service de recrutement et de placement des marins*)

**shipowner** means

- (a) the registered owner of a vessel; or
- (b) the manager, agent, bare-boat charterer of a vessel or any other person, who has assumed responsibility for the operation of a vessel from its registered owner and who, on assuming that responsibility, has agreed to take over the duties and responsibilities imposed on shipowners under the Convention. (*armateur*)

### Application

**301 (1)** Except as otherwise provided in this Part and subject to subsections (3) and (4), this Part applies in respect of

- (a) Canadian vessels everywhere and foreign vessels in Canadian waters; and
- (b) seafarer recruitment and placement services that recruit or place persons for work on
- (i) Canadian vessels that are engaged on a voyage outside domestic waters,

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(ii) foreign vessels.

### **Exception — pleasure craft and vessels of traditional build**

(2) This Part does not apply to

- (a) pleasure crafts; or
- (b) canoes, kayaks and other vessels of traditional build.

### **Exception — fishing vessels**

(3) Subject to section 302, subsections 322(3) to (5) and sections 323 and 324, this Part does not apply in respect of fishing vessels.

### **Vessels engaged in oil and gas activities**

(4) This Part, other than sections 339 and 340, applies in respect of vessels that are capable of engaging in the drilling for, or the production, conservation or processing of, oil or gas and that are engaged in navigation.

## Division 1 - Requirements Regarding Age

### **Minimum Age**

302 The shipowner of a vessel shall ensure that every person who is employed, engaged or works on the vessel is at least 16 years of age or, if the vessel is a fishing vessel, a sail training vessel or a recreational boating school vessel, at least 15 years of age.

### **Age — Night work**

303 (1) The shipowner of a vessel that is engaged on a voyage outside domestic waters shall ensure that every person under 18 years of age who is employed, engaged or works on the vessel does not work during the night.

### **Night**

(2) For the purposes of subsection (1), night means any 9 hours period which begins at or before midnight and ends at or after 5:00 a.m.

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### Exceptions

- (3) Subsection (1) does not apply in respect of a person if
- (a) the training of the person in accordance with an approved training program would be impaired; or
  - (b) the specific nature of the person's duties or an approved training program requires the person to work during that period and the work will not have a detrimental impact on the person's health or well-being.

### Circumstances determined by the Minister

- (4) For the application of paragraph (3)(b), the Minister may determine after consultation with the shipowners' and crew members' organizations concerned, if any, circumstances in which the work would have a detrimental impact on the person's health or well-being.

## Divison 2 - Seafarer Recruitment and Placement Services

### Prohibition

**304 (1)** No person shall operate a seafarer recruitment and placement service unless they hold a licence issued for that purpose by the Minister.

### Requirements for shipowner

- (2) The shipowner of a vessel shall ensure that persons are not recruited or placed for work on the vessel by a seafarer recruitment and placement service unless
- (a) if the service carries on business in Canada, it holds a Seafarer Recruitment and Placement Service Licence issued by the Minister;
  - (b) if the service carries on business in a foreign state that has ratified the Convention, the requirements set out in Standard A1.4 of the Convention are met; or
  - (c) if the service carries on business in a foreign state that has not ratified the Convention, the requirements set out in Standard A1.4 of the Convention are met.

### Non-application

- (3) This section does not apply in respect of a seafarer recruitment and placement service operated by a trade union that is certified under the *Canada Labour Code* by the Canada Industrial Relations Board as

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the bargaining agent for the employees in a bargaining unit.

### **Licence**

**305** On application, the Minister shall issue a Seafarer Recruitment and Placement Service Licence if

- (a) the applicant has procedures in place to ensure compliance with Part 1 of the *Personal Information Protection and Electronic Documents Act*;
- (b) the applicant's staff responsible for the supervision of seafarer recruitment and placement services for a vessel's crew with responsibility for the vessel's safe navigation and pollution prevention operations have had training in those operations, including the sea-service experience required to obtain a certificate under Part 1, and have knowledge of the maritime industry, including the STCW Convention and the maritime labour conventions and recommendations published by the International Labour Organization;
- (c) the applicant has a system of quality standards in place; and
- (d) the applicant has insurance or other financial arrangements sufficient to compensate seafarers for monetary loss that they may reasonably incur as a result of a failure of the applicant or the shipowner to meet its obligations to the seafarers under their contracts of employment.

### **Requirements for Licensees**

**306 (1)** Every licensee shall

- (a) maintain on their premises an up-to-date register of all persons they recruit or place;
- (b) ensure that every seafarer recruited or placed by them is qualified and holds the documents necessary for the position concerned, and that the person's contract of employment is in accordance with the applicable laws and regulations and any applicable collective agreement;
- (c) ensure that every person recruited or placed by them is informed of their rights and obligations under their contract of employment before or in the process of engagement and that proper arrangements are made for them to examine their contract of employment before and after they are signed and for them to receive a copy of the contract;
- (d) ensure, as far as feasible, that the shipowner has the means to protect persons that the licensee recruits or places for work on the vessel from being stranded in a foreign port; and
- (e) examine and respond to any complaint concerning their activities and advise the Minister of any unresolved complaint.

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### Prohibition — lists

(2) No licensee shall use means, mechanisms or lists intended to prevent or deter any person from gaining employment for which they are qualified on board a vessel.

### Prohibition — Fees or Other Charges

**307 (3) No person shall impose, directly or indirectly, fees or other charges on any seafarer for recruiting, placing or providing employment to them on board a vessel, other than the cost of obtaining a medical certificate, the seafarer's record of sea service or a passport or any other similar personal travel document other than a visa.**

## Division 3 - Conditions of Employment

### Articles of agreement

#### Articles of agreement

**308 (1)** For the purpose of subsection 91(1) of the Act, the master of a Canadian vessel shall enter into articles of agreement if the vessel is of 200 gross tonnage or more and engages in voyages outside domestic waters.

#### Information

(2) In addition to the information required by subsection 91(2) of the Act, articles of agreement must contain the following information:

- (a) the crew member's date and place of birth;
- (b) the shipowner's name and address;
- (c) the place at which and the date on which the articles of agreement were entered into;
- (d) the capacity in which the crew member is to be employed;
- (e) the amount of the crew member's wages or the formula for calculating them if they are calculated using a formula;
- (f) the amount of the crew member's paid annual leave or the formula for calculating it if it is calculated using a formula;
- (g) the termination of the agreement and the conditions of its termination, including
- (i) if the agreement has been made for an indefinite period, the conditions entitling either party to

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terminate it, as well as the required notice period, which shall not be less for the shipowner than for the crew member,

- (ii) if the agreement has been made for a definite period, the date fixed for its expiry, and
- (iii) if the agreement has been made for a voyage, the port of destination and the time that has to expire after arrival before the crew member should be discharged; and
- (h) whether a collective agreement or employment agreement applies to the crew member;
- (i) the health and social security protection benefits to be provided to the seafarer by the shipowner;
- (j) the seafarer entitlement to repatriation;

### Requirements — shipowner

- (3) The shipowner shall ensure that
  - (a) each person working on board the vessel is provided with decent working and living conditions;
  - (b) each crew member is in possession of articles of agreement signed by both the crew member and the master which sets out the conditions referred to in paragraph (a);
  - (c) each person other than a crew member has a document attesting to a contractual agreement signed by both the crew member and the authorized representative which sets out the conditions referred to in paragraph (a); and
  - (d) each person working on board the vessel is provided with a way to communicate with a consultant of their choice about their rights and responsibilities.

### Collective Agreement

309 If a collective agreement is part of the articles of agreement of a crew member of a Canadian vessel of 200 gross tonnage or more that is engaged in voyages outside domestic waters, the vessel's master shall ensure that a copy of the collective agreement is available on board in both official languages.

### Visas

#### Visas

310 The authorized representative of a Canadian vessel and the shipowner, in the case of a foreign vessel, shall pay for the visas of crew members on board.

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Termination of Employment and Payment of Wages and Compensation

Application

**Application**

311 Sections 312 to 318 apply in respect of Canadian vessels that are engaged on a voyage outside domestic waters.

Termination of Employment by Employer

312 (1) Subject to any collective agreement that applies to the crew member, the master of a vessel who intends to terminate a crew member's employment shall give the crew member

- (a) a notice in writing at least one week before the intended date of termination of employment; or
- (b) an indemnity equal to one week's wages at their regular rate of pay for their regular hours of work.

**Non application**

(2) Subsection (1) does not apply if

- (a) section 230 of the *Canada Labour Code* applies; or
- (b) the crew member's employment is terminated for committing a serious violation of their contract of employment.
- (c) the master and the crew member agree on a shorter notice of termination.

Termination of Employment by Crew Member

**Notice**

313 (1) Subject to any collective agreement that applies to the crew member, a crew member employed on board a vessel shall give the vessel's master at least one week's notice of the crew member's intention to terminate their employment.

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### Non-application

(2) Subsection (1) does not apply if

- (a) the crew member is unable by reason of illness to perform their duties; or
- (b) the master and the crew member agree on a shorter notice of termination .

### Loss of Vessel or Death

### Termination of Employment

314 A crew member's employment on a vessel is terminated if

- (a) they are no longer able to carry out their duties under their employment agreement; or
- (b) they can no longer be expected to carry out their duties because the vessel is shipwrecked or otherwise totally unseaworthy or taking into account other special circumstances.

### Monthly Payment and Accounting

### Wages

315 (1) The shipowner shall ensure that crew members' and other seafarers' wages are paid

- (a) monthly or at more frequent regular intervals; or
- (b) in accordance with any applicable collective agreement.

### Monthly statement

(2) The shipowner shall give every crew member and other seafarers a monthly statement of the sums due and the amounts paid, including the amount of wages. The statement must indicate the rate of exchange used if payment is made in currency or at a rate different from the one agreed to.

### Payment on Termination of Employment

### Payment of wages

316 The shipowner shall ensure that a crew member and other seafarer is paid any wages due when their employment is terminated

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- (a) without undue delay; or
- (b) in accordance with any applicable collective agreement.

### Transmittal of Wages

#### **Measures**

**317 (1)** The shipowner shall take measures to provide crew members and other seafarers with a means to transmit all or part of their wages to their families, dependants, assigns or successors. The measures may include a system to enable crew members or seafarers, when they enter into articles of agreement or an employment contract while working on board, to allot a portion of their earnings to their families by bank transfers or similar means.

#### **Remittance of allotments**

(2) The shipowner shall ensure that the allotments are remitted in due time and directly to the person or persons nominated by the crew members or seafarers.

#### **Market rate of exchange**

(3) The shipowner shall ensure that any charge for the measures taken under subsection (1) is reasonable and that the rate of currency exchange is determined in accordance with any applicable collective agreement or at the prevailing market rate and is not unfavourable to the crew member or seafarer.

### Compensation of Crew Members in Case of Shipwrecks

#### **Indemnity — shipwreck**

**318 (1)** The shipowner of a shipwrecked vessel shall pay to every crew member and any other seafarer who was on board immediately before the shipwreck an indemnity against unemployment resulting from the shipwreck.

#### **Rate and amount of indemnity**

(2) The indemnity shall be paid for the days during which the crew member remains unemployed at the same rate as the wages payable under the contract of employment and the total indemnity payable must correspond to at least two months' wages.

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### Legal remedies

(3) Crew members and other seafarers shall have the same legal remedies for recovering the indemnities as they have for recovering arrears of wages .

## Hours of Work and Hours of Rest

### Domestic voyages

#### Note to reader:

Clarifies that transit time to and from a place of rest where the seafarer is not accommodated on board the vessel is not counted as hours of rest.

#### Note to reader

Table of qualifications and means of demonstration similar to deck and engineering certificates added.

Distinction now drawn between self-propelled and non-self-propelled units in line with AMI Res. A. 1079(28)

New OIM and Barge Supervisor certificates specific to FPSO and FSO

**319 (1)** The master of a Canadian vessel in domestic waters shall ensure that

(a) every master, crew member and any other seafarer is provided

(i) at least 6 hours consecutive hours of rest in any 24-hour period, and

(ii) at least 16 hours of rest in any 48-hour period; and

(b) the interval between consecutive periods of rest does not exceed 18 hours.

(c) For vessels where the crew is not accommodated onboard, the rest period for every master and crew member must exclude travel to and from the person's place of rest.

### Voyages other than domestic voyages

**320** Subject to section 321, the master of a Canadian vessel engaged in a voyage other than a domestic voyage and the master of a foreign vessel in Canadian waters shall ensure that

(a) every master, crew member and any other seafarer meet the following requirements:

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- (i) do not work more than 14 hours in any 24-hour period and not more than 72 hours in any 7-day period, or
- (ii) are provided with at least 10 hours of rest in any 24-hour period and at least 77 hours in any 7-day period;
- (b) the hours of rest are divided into no more than two periods, one of which is at least 6 hours in length; and
- (c) the interval between two consecutive periods of rest does not exceed 14 hours.

### **Voyages other than domestic voyages — special duties**

321 (1) The master of a Canadian vessel engaged in a voyage other than a domestic voyage and the master of a foreign vessel in Canadian waters shall ensure that

- (a) each person assigned duty as an officer in charge of a watch or as a rating forming part of a watch and those whose duties involve designated safety, prevention of pollution or security duties shall be provided with
  - (i) at least 10 hours of rest in any 24-hour period, and
  - (ii) at least 77 hours of rest in any 7-day period; and
  - (b) the hours of rest are divided into no more than two periods, one of which is at least 6 hours in length; and
  - (c) the interval between two consecutive periods of rest does not exceed 14 hours.

### **Emergency and other operational conditions**

- (2) The requirements of subsection (1) do not apply in the case of overriding operational conditions.

### **Exception — weekly period of rest**

- (3) The requirements of subparagraph (1)(a)(ii) do not apply if:
  - (a) the crew member or seafarer is provided a rest period of at least 70 hours in any 7-day period;
  - (b) the exception from the weekly rest period is not allowed for more than two consecutive weeks; and
  - (c) the interval between two periods of exception shall be at least twice the duration of the first period of exception.

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### **Exception — Division of periods of rest**

- (4) The requirements of paragraph (1)(b) do not apply if:
- (a) the hours of rest may be divided into no more than three periods, one of which shall be at least 6 hours in length, and the other two periods shall be at least one hour in length;
  - (b) the intervals between consecutive periods of rest shall not exceed 14 hours; and
  - (c) exceptions shall not extend beyond two 24-hour periods in any 7-day period.

### **General requirement**

322 (1) The master of a vessel shall ensure that the danger posed by the fatigue of the master, crew members, or other seafarers, especially those whose duties involve navigational safety, in charge of a watch and the safe and secure operation of the vessel, is taken into account when determining the scheduled hours of work and rest.

### **Collective agreement**

- (2) The master of a vessel is not required to comply with sections 319 to 321, if the applicable collective agreement provides for hours of work and rest on a basis no less favourable to crew members.

### **Emergency drills**

- (3) The master of a vessel is not required to comply with section 319 to 321 when conducting practice musters, fire-fighting drills or survival craft drills in accordance with regulations made under the Act if the master does so in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

### **Compensatory rest period**

- (4) The master or crew member who is on call shall receive adequate compensatory rest periods, if the normal period of rest required by sections 319 to 321 is disturbed by call-outs to work.

### **Suspension of schedule**

- (5) The master of a vessel is not required to comply with sections 319 to 321 or the provisions of the collective agreement related to hours of work and rest, if it is necessary to do so for the immediate safety of the vessel, for persons on board or the cargo, or for the purposes of giving assistance to other

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vessels or persons in distress at sea. As soon as feasible, the master shall ensure that every crew member and the master who has performed work in a scheduled rest period is provided with an adequate compensatory rest period.

### Records

323 (1) The master of a Canadian vessel shall keep a record of every crew member's, seafarer's and the master's daily hours of work or hours of rest that meet the requirements of TP xxx.

(2) The shipowner of a foreign vessel must keep records of daily hours of rest of each seafarer of the vessel that are maintained in accordance with Regulation 7 of Section A-VIII/1 of the STCW Code for the retention period.

- (a) The records must be available for inspection by an inspector during the retention period.
- (b) In this section: *retention period* means:
  - (i) if the Administration for the vessel has specified a period of time for retention of the records — that period of time; or
  - (ii) in any other case — the 12 months after the daily hours of rest of the seafarer are recorded.

### Table and schedules

324 (1) The master of a vessel shall ensure that a table with the shipboard working arrangements and watch schedules are posted in a conspicuous place on board the vessel. For every position on board, the table and watch schedule shall contain:

- (a) the schedule of service at sea and in port; and
- (b) the maximum hours of work or the minimum hours of rest required by sections 319 to 321 or any applicable collective agreement.

### Languages

(2) The table and watch schedule shall be in the working language of the vessel and in English and French.

### Copy of the Maritime Labour Convention

325 The shipowner of a Canadian vessel, or a vessel to which the Convention applies, shall ensure that a copy of the Convention is available on board.

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### Annual Leave

#### Application

326 (1) This section applies to Canadian vessels engaged in voyages outside domestic waters.

#### Annual leave — Time

(2) Unless the time for a crew member or seafarer to take paid annual leave is fixed by the applicable collective agreement or an arbitration award, the vessel's shipowner shall determine when it is to be taken after consultation and, as far as possible, in agreement with the crew member, seafarer or their representative.

#### Annual leave — other place

(3) If a crew member is required to take their paid annual leave from a place other than the place at which they first came on board, the vessel's shipowner shall ensure that

(a) they are entitled to free transportation to the latter place, including the subsistence and other costs directly involved in their return; and

(b) the travel time involved is not deducted from their paid annual leave.

#### Extreme emergency

(4) The shipowner shall ensure that no crew member who is on paid annual leave is recalled unless there is an extreme emergency and only if the crew member consents.

### Shore Leave

#### Shore leave

327 (1) The master of a Canadian vessel shall grant crew members shore leave consistent with their health and well-being and with the operational requirements of their positions.

#### Welfare agencies

(2) The master of a vessel must ensure that when the vessel is in a port where shore based welfare facilities are available:

(a) a seafarer may visit the facilities; and

(b) shore based welfare providers may visit seafarers on the vessel.

## Return and Repatriation

### **Prohibition — advance payment**

328 (1) The shipowner of a Canadian vessel shall ensure that no seafarer is required to make an advance payment at the beginning of their employment towards the expenses referred to in subsection 94(1) of the Act or section 329 and that such expenses are not recovered from the seafarer's wages, except if in serious default of employment obligations.

### **Prohibition — deductions from leave**

(2) The authorized representative shall ensure that the following hours are not deducted from the accumulated paid leave accrued:

- (a) hours spent by the seafarer waiting to be returned or hours spent being returned under subsection 94(1) of the Act; and
- (b) hours spent by the seafarer waiting to be repatriated or hours spent being repatriated under section 329.

### **Repatriation**

329 (1) Except in the case of desertion or mutual agreement, before a Canadian vessel is disposed of or is transferred to the flag of a foreign state or when a Canadian vessel is totally unseaworthy, the vessel's authorized representative shall

- (a) at no cost to the seafarer, ensure that arrangements are made to return every seafarer on board to the place where they first came on board or to another place to which they have agreed when;
  - (i) the seafarer's contract of employment expires while they are abroad;
  - (ii) the seafarer's contract of employment is terminated by the shipowner or by the crew member for justified reasons; or
  - (iii) when the seafarer is no longer able to carry out its duties under their contract of employment or cannot be expected to carry them out in the specific circumstances ;
- (b) ensure that the maximum duration of sea service on board following which a seafarer is entitled to repatriation shall be less than 12 months; and
- (c) pay the expenses of every returning person as well as all expenses, including medical expenses, that

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the seafarer reasonably incurs before being returned.

### **Insurance or other financial arrangements**

(2) The shipowner of a Canadian vessel shall have insurance or other financial arrangements sufficient to compensate seafarers for any monetary loss that they may reasonably incur as a result of a failure of the authorized representative to meet its obligations to them under subsection 94(1) of the Act or subsection (1).

### **Failure to make arrangements**

(3) If the shipowner or a recruitment and placement service fails to make arrangements for or to meet the cost of repatriation of persons who are entitled to be repatriated:

- (a) the Minister may act in place of the shipowner or a recruitment and placement service; and
- (b) any expenses incurred by the Minister constitute a debt due to Her Majesty in right of Canada by the authorized representative, a shipowner of a foreign flag vessel or a recruitment and placement service and may be recovered as such in a court of competent jurisdiction.

### **Canadian provisions**

(4) The authorized representative of a Canadian vessel shall carry on board and make available to seafarers a copy of the present section.

### **Crew members — under 18 years of age**

(5) If a seafarer under the age of 18 has acquired sea service on a vessel for at least four months during their first foreign-going voyage, and it becomes apparent that they are unsuited to life at sea, the shipowner of the vessel must:

- (a) give the seafarer the opportunity of being repatriated, at no expense to themselves, from the first suitable port of call in which there are Canadian consular services, or the State of nationality or residence of the seafarer; and
- (b) notify the authority which issued the papers enabling the crew member concerned to take up employment on the vessel of any such repatriation along with its reasons.

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### Financial Security

#### **Prohibition**

(XXX) A shipowner or master onboard a Canadian vessel, must not take the vessel to sea if the vessel does not have on board documentary evidence of financial security to meet liability arising from abandonment of any seafarer of the vessel.

#### **Abandoned crew member**

**330 (1)** For the purposes of these Regulations, a seafarer is considered to have been abandoned where, in violation of the requirements of this Part or the terms of the contract of employment, the shipowner:

- (a) fails to cover the cost of the seafarer's repatriation;
- (b) has left the seafarer without the necessary maintenance and support mentioned in paragraph 2(b) and paragraphs 5 and 9 of MLC standard A2.5.2; or
- (c) has otherwise unilaterally severed their ties with the seafarer, including failure to pay wages for a period of at least two months.

#### **Proof of financial security**

(2) The master and shipowner of a Canadian vessel shall carry on board documentary evidence of financial security issued by the financial security provider, in both official languages. If the financial security is provided by more than one provider, a copy of the documents of each provider must be carried on board.

#### **Content**

(3) The documentary evidence referred to in subsection (2) shall include the following information:

- (a) name of the vessel;
- (b) port of registry of the vessel;
- (c) call sign of the vessel;
- (d) IMO number of the vessel;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarer's requests for relief;
- (g) name of shipowner;

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- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that security meets the requirements of MLC standard A2.5.2..

(4) The shipowner of a Canadian vessel must ensure that documentary evidence of financial security is placed on board the vessel in a location where it is available for seafarer access, without the need for a seafarer to ask to access it.

### **Subrogation**

(4) If the financial security provider or the Minister has made any payment to any abandoned seafarer, in accordance with this section, the financial security provider or the Minister shall be subrogated to the rights of the abandoned seafarer, up to the amount financial security provider or the Minister has paid.

### **Interpretation — recourse of the insurer**

(5) This section shall not prejudice any right of recourse of the financial security provider or the Minister against third parties.

## Food and Water

### **Food and water**

**331 (1)** The master of a Canadian vessel that is engaged on a voyage outside domestic waters shall ensure that

(a) the food provided to the seafarers meets the recommendations of the *Eating Well with Canada's Food Guide*, published by Health Canada, taking into consideration religious requirements and cultural practices and that there is sufficient quantity of food taking into consideration the duration of the trip; and

(b) there is made available sufficient potable water that meets the recommendations of the *Guidelines for Canadian Drinking Water Quality*, published by Health Canada, for all seafarers, taking into consideration the duration of the voyage.

(2) The master of a foreign vessel must not take the vessel to sea, or cause or permit the vessel to be taken to sea, unless the vessel is carrying:

- (a) drinking water of suitable quality and quantity; and
- (b) food of suitable quality, quantity, nutritive value and variety;

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having regard to the nature and duration of the voyage and the number, and cultural practices and religious requirements of the vessel's seafarers.

### **Prohibition - fees**

(2) The shipowner of a vessel must provide or ensure the provision of free provisions to the vessel's seafarers. .

## Obligation of Persons Who Provide Crew Members

### **Compliance**

332 If the shipowner of a Canadian vessel enters into an agreement with another person to provide crew members, that other person shall, in lieu of the shipowner or the master with respect to those crew members, comply with the following requirements set out in:

- (a) section 310, in respect of visas required to join the vessel;
- (b) subsection 328(1); and
- (c) subsections 329(1) and (2).

## Division 4 - Separate Hospital Accommodation

### **Note to reader:**

Discussions are underway with Transport Canada to move these provisions to other regulations under the Canada Shipping Act, 2001

### **Hospital**

333 (1) The shipowner of a Canadian vessel constructed after August xxx 2013, that is carrying 15 or more crew members and special personnel, and is engaged on an unlimited voyage, a near coastal voyage, Class 1 or an international voyage, other than an inland voyage, of more than three days' duration beyond near coastal voyage, class 2 shall ensure that there is separate hospital accommodation on board, used exclusively for medical purposes, that is easy to access, is suitable to accommodate persons in need of medical care and is conducive to their promptly receiving the necessary care.

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### Non-application

(2) This section does not apply in respect of vessels constructed before June 15, 2010.

### Date of construction

(3) For the purpose of this section, a vessel is constructed on the earlier of

- (a) the day on which its keel is laid, and
- (b) the day on which construction identifiable with a specific vessel begins.

## Division 5 - On-board Complaint Procedures

### Master — requirements

334 (1) The master of a Canadian vessel that is engaged on a voyage outside domestic waters, shall ensure that the crew members can avail themselves of an on-board complaint procedure that meet the requirements of this section.

### Complaints

(2) Crew members may make a complaint with respect to

- (a) an alleged breach of
  - (i) a provision of this Part implementing the Convention;
  - (ii) any applicable provisions set out in subsection 336(1),
  - (iii) subsections 93(1) or 94(1) of Act,
  - (iv) section 423 of the *Criminal Code* in respect of compelling someone to work,
  - (v) section 425 of the *Criminal Code* or any provision set out in Part I of the *Canada Labour Code* concerning the right to freedom of association and to collective bargaining, or
- (b) an alleged discriminatory practice described in
  - (i) sections 7 to 12 and paragraph 14(1)(c) of the *Canadian Human Rights Act*, or
  - (ii) section 14.1 of that Act in respect of a complaint related to an alleged discriminatory practice described in a provision referred to in subparagraph (i).

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### **Lodging complaints**

- (3) The complaint may be made to
- (a) the head of the crew member's department;
  - (b) the crew member's superior officer;
  - (c) the vessel's master; or
  - (d) the vessel's shipowner.

### **Representation**

- (4) A complainant may be represented or accompanied by any other crew member on board if that crew member consents.

### **Participation in the hearing**

- (5) The complainant and their representative may attend any meeting or hearing with respect to the complaint.

### **Resolution of complaint**

- (6) If a person referred to in paragraph (3)(a) or (b) cannot resolve a complaint to the satisfaction of the complainant, the person shall refer it to the vessel's master. However, if the master cannot resolve a complaint to the satisfaction of the complainant, the master shall refer it to the vessel's shipowner.

### **Resolution — time**

- (7) The person to whom a complaint is made or referred shall attempt to resolve it as soon as feasible.

### **Record and copies**

- (8) The person who resolves a complaint shall record in writing the details of the complaint and its resolution and give a copy of the record to the complainant and any other parties involved.

### **Procedures**

- (9) The shipowner of a vessel must provide to every crew member a copy of the on board complaint

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procedures applicable. The document must include the following:

- (a) the name of a person or persons on board the vessel who can, on a confidential basis, provide crew members with impartial advice on their complaint and assist them in following the complaint procedures;
- (b) the contact information of the competent authority in the flag state; and the crew member's country of residence.

### **Interpretation**

(10) Nothing in this section shall be construed as limiting or restricting any right a crew member may have under any other law or under any custom, contract or arrangement.

### **No adverse action**

(x) A person must not take adverse action against a seafarer in response to the seafarer making or proposing to make a complaint.

### **Non-application**

(11) This section does not apply in respect of complaints to which section 127.1 of the *Canada Labour Code* applies.

## Division 6 - Maritime Labour Certificates and Declaration of Compliance

### General requirements

#### **Certificate**

335 (1) A Canadian vessel of 500 gross tonnage or more that is engaged on voyage outside domestic waters, must hold a Maritime Labour Certificate or an Interim Maritime Labour Certificate.

#### **Declaration**

(2) The shipowner of a Canadian vessel of 500 gross tonnage or more that is engaged on a voyage outside domestic waters, must hold a Declaration of Maritime Labour Compliance.

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### Non-application

(3) Subsection (2) does not apply in respect of a vessel during the period of validity of an Interim Maritime Labour Certificate.

### Foreign vessels $\geq 500$ GT registered in country where MLC in force

(x) A foreign vessel that is at least 500 gross tonnage or more and is registered in a country where the Maritime Labour Convention is in force must:

- (a) have a maritime labour certificate (MLC) and a declaration of maritime labour compliance, or an interim maritime labour certificate (MLC), issued by the competent authority;
- (b) demonstrate that conditions of the vessel or its equipment aligns with the particulars of the certificate held in (x)(a); and
- (b) comply with the requirements of the competent authority that give effect to the Maritime Labour Convention.

### Foreign vessel $< 500$ GT registered in country where MLC in force

(x) A foreign vessel that is less than 500 GT and registered in a country where the Maritime Labour Convention is in force must:

- (a) if the vessel's competent authority has issued a certificate or other document stating that the vessel complies with the requirements of the competent authority that give effect to the Maritime Labour Convention — comply with those requirements; or
- (b) if there is no certificate or other document as mentioned in paragraph (a) — demonstrate to the Minister's satisfaction that every seafarer on board the vessel has:
  - (i) a safe and secure workplace that complies with the safety standards that apply to the vessel;
  - (ii) fair terms of employment;
  - (iii) decent working and living conditions on board the vessel; and
  - (iv) health protection, medical care, welfare measures and other forms of social protection.

### Foreign vessel registered in country where MLC not in force

(x) The owner of a foreign vessel that is registered in a country where the Maritime Labour Convention is not in force must demonstrate to the Minister's satisfaction that every seafarer on board the vessel has:

- (a) a safe and secure workplace that complies with the safety standards that apply to the

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- vessel; and
- (b) fair terms of employment; and
- (c) decent working and living conditions on board the vessel; and
- (d) health protection, medical care, welfare measures and other forms of social protection.

### Issuance of Maritime Labour Certificates

#### Conditions

336 (1) On request by an shipowner of a Canadian vessel, the Minister shall issue a Maritime Labour Certificate in respect of the vessel and a declaration of maritime labour compliance to the shipowner, if the following requirements are met or if the shipowner has the ability to comply with the requirements:

- (a) the qualifications of crew members as set out in Part 1;
- (b) crewing levels for the vessel as set out in Part 2;
- (c) the age requirements of crew members as set out in sections 302 and 303;
- (d) the articles of agreement as set out in section 91 of the Act and section 308, collective agreements as set out in section 309 and certificates of discharge as set out in section 92 of the Act;
- (e) use of any seafarer recruitment and placement service as set out in subsection 304(2);
- (f) hours of work or rest as set out in sections 319 to 324;
- (g) health and safety as set out in Part II of the *Canada Labour Code*, as well as
- (i) food and catering as set out in section 331,
- (ii) the accommodation and on-board recreational facility requirements set out in the *Crew Accommodation Regulations* or the *Towboat Crew Accommodation Regulations* or,
- (iii) accident prevention as set out in the *Tackle Regulations*;
- (h) on-board medical care as set out in subsection 205(8) and paragraph 207(3)(f) and section 333 of these regulations and sections 55 and 115 of the *Maritime Occupational Health and Safety Regulations*;
- (i) on-board complaint procedures as set out in section 334 and section 127.1 of the *Canada Labour Code*; and
- (j) payment and transmittal of wages as set out in sections 317 to 318.

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### Measures

(2) The declaration of maritime labour compliance must identify the measures adopted by the shipowner to ensure compliance with the requirements set out in subsection (1).

### Interim maritime labour certificates

(3) Subject to subsection (4), on application by the shipowner, the Minister shall issue an Interim Maritime Labour Certificate in respect of a vessel, for a period not exceeding six (6) months, in the following cases to:

- (a) a new vessel on delivery;
- (b) a vessel registered or listed under Part 2 of the Act ; or
- (c) a vessel which is the subject of a transfer of ownership and the shipowner changes as a result of the transfer.

### Conditions

(4) The following requirements must be met for the issuance of an Interim Maritime Labour certificate:

- (a) the requirements referred to in paragraphs 1 (a) and (d);
- (b) the requirements referred to in paragraphs (1)(b), (c) and (e) to (j), as feasible; and
- (c) the vessel's master demonstrates to the Minister that it is familiar with the requirements referred to in subsection (1) and who is to comply with them.

### Non renewable

(5) The Interim Maritime Labour Certificate cannot be renewed.

### Validity of a Maritime Labour Certificate

(6) A certificate issued under (6) shall cease to be valid in any of the following cases:

- (a) if the relevant inspections are not completed within the periods specified in subsection 339(1);

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- (b) if the certificate is not endorsed in accordance with subsection 338(1);
- (c) when a ship changes flag;
- (d) when a shipowner ceases to assume the responsibility for the operation of a ship; and
- (e) when substantial changes have been made to the structure or equipment covered.

### Availability

#### **Retention**

337 (1) A master of a Canadian vessel must keep the Maritime Labour Certificate on board — along with a copy of the declaration of maritime labour compliance issued in respect of the vessel attached to it — or an Interim Maritime Labour Certificate, as the case may be.

#### **Availability**

(2) The master of a vessel must ensure that a copy of the documents referred to in subsection (1) are posted on board the vessel's notice board and are made available to crew members and their representatives, and port state control officers in foreign states.

### Endorsements or renewal of Maritime Labour Certificates

#### **Endorsement**

338 (1) The shipowner of a Canadian vessel that holds a Maritime Labour Certificate must ensure that the certificate is endorsed in accordance with paragraph (2) of Standard A5.1.3 of the Convention.

#### **Renewal**

(2) The shipowner of a Canadian vessel that holds a Maritime Labour Certificate must ensure that the certificate is renewed in accordance with paragraphs (3) and (4) of Standard A5.1.3 of the Convention.

### Records of Inspections

#### **Records**

339 (1) The master of a Canadian vessel that holds a Maritime Labour Certificate must ensure that records of the results of inspections carried out to ensure ongoing compliance with any of the applicable

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requirements referred to in subsection 336(1) are

- (a) attached to the Declaration of Maritime Labour Compliance issued in respect of the vessel; or
- (b) kept on board in electronic form and made available in that form to
  - (i) seafarers and their representatives, and
  - (ii) port state control officers in foreign states.

### Copy of records

- (2) The master must provide a copy of the records to crew members on request.

### Translation

- (3) If the records are not in English, the master must ensure that an English translation accompanies the records or the copy, as the case may be.

## Division 7 - Log Books

### Log book

**340 (1)** The master of a Canadian vessel of 200 gross tonnage or more that is engaged on a voyage outside of domestic waters , must keep an official log book in accordance with TP xx.

### Entries

- (2) The master must ensure that the following requirements are met for each entry :
  - (a) it is made as soon as feasible;
  - (b) it is dated to show the date of the event and of the entry if the entry is in respect of an event; and
  - (c) it is made not more than 24 hours after the arrival of the vessel at its final place of discharge if the entry is in respect of an event that happens before that arrival.

### Signature

- (3) The master must sign every entry in the official log book and must ensure that every entry is also signed by the chief mate or another crew member and, if it is an entry in respect of an injury or a death, by the medical doctor on board, if there is one.

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- (x) When an entry in the official log book for a birth is made, the entry must be signed as soon as practicable by:
- (a) the birth parents of the child; and
  - (b) another person, if any, present at the birth of the child.

### **Information to the Minister**

- (4) The master must send the following information to the Minister at the end of the voyage or when the master leaves the vessel, but in any event no later than when the registration or listing of the vessel changes or the vessel is shipwrecked or abandoned:
- (a) the vessel's name, official number, port of registration and registered gross tonnage and net tonnage;
  - (b) the master's name and certificate number; and
  - (c) the place at which and the date on which the voyage starts, the classification of the voyage and the place at which and the date on which the voyage ends.

### **Information to the shipowner**

- (5) The master must provide each of the vessel's completed official log books to the vessel's shipowner.

### **Retention of log book**

- (6) The shipowner must ensure that each of the vessel's official log books is kept until the earlier of
- (a) five years after the day on which the log book was completed, and
  - (b) the day on which a change is made in the registration or listing of the vessel.

### **Information to the Minister — log book**

- (7) On request, the shipowner must provide the vessel's official log books to the Minister.

## Coming into force

These Regulations come into force on the day on which they are registered.