

No. S 67

MERCHANT SHIPPING ORDER, 2002

(S 27/02)

**MERCHANT SHIPPING (CREW AGREEMENTS, LISTS OF CREW AND
DISCHARGE OF SEAMEN) REGULATIONS, 2007**

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**MERCHANT SHIPPING (CREW AGREEMENTS, LISTS OF CREW AND
DISCHARGE OF SEAMEN) REGULATIONS, 2007**

In exercise of the powers conferred by sections 58 and 213 of the Merchant Shipping Order, 2002, the Minister of Communications, with the approval of His Majesty the Sultan and Yang Di-Pertuan, hereby makes the following Regulations —

Citation.

1. These Regulations may be cited as the Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) Regulations, 2007.

Exemption from requirements of section 57.

2. The requirements of section 57 relating to crew agreements shall not apply to —

(a) any ship belonging to the Government or a statutory body; and

(b) any ship proceeding to sea solely for the purpose of trials of the ship, its machinery or equipment.

Carrying copy of crew agreement on ships.

3. (1) A ship required under section 57 to carry a crew agreement may, in the case of an agreement which relates both to that ship and to other ships and which is kept at an address ashore in Brunei Darussalam, comply with that requirement by carrying a copy of the crew agreement certified in the manner provided by sub-regulation (2).

(2) A copy of a crew agreement carried on a ship in accordance with sub-regulation (1) shall bear a certificate signed by the master certifying that it is a true copy of the crew agreement and specifying the address in Brunei Darussalam at which the crew agreement is kept and the name of the person by whom it is so kept.

Delivery of crew agreements.

4. (1) The master or employer shall —

(a) when a crew agreement is made, deliver a duplicate copy of the agreement to the Director;

(b) notify the Director in a form approved by the Director of any subsequent engagement or discharge, otherwise than under paragraph (c), of a seaman under an existing agreement; and

(c) deliver the crew agreement to the Director when the last person remaining employed under the crew agreement is discharged,

as the case may be, within the period specified in sub-regulation (2).

(2) The period referred to in sub-regulation (1) is —

(a) in the case where the ship to which the crew agreement relates is in Brunei Darussalam, 2 days from the date on which the crew agreement or subsequent engagement or discharge, as the case may be, is made; and

(b) in the case where the ship to which the crew agreement relates is not in Brunei Darussalam, 21 days from the date on which the crew agreement or subsequent engagement or discharge is made.

Posting of crew agreements.

5. The master shall cause —

(a) a legible copy of any crew agreement relating to the ship, omitting the signatures; or

(b) an extract containing the terms of that agreement applicable —

(i) to all seamen employed under it; and

(ii) to each description of seamen so employed,

to be posted in a conspicuous place on board the ship where it may be read by the persons employed under the crew agreement and he shall cause it to be kept so posted and legible so long as any seaman is employed in the ship under the crew agreement.

Supply and production of duplicate documents.

6. Upon a seaman making a demand of his employer or of the master, the employer or master, as the case may be, shall —

(a) cause to be supplied to him a copy of the crew agreement under which he is employed or such extracts therefrom as are necessary to show the terms on which he is employed; and

(b) cause to be made available to him a copy of any document referred to in the agreement.

Particulars required in crew agreements.

7. (1) A crew agreement shall contain the following particulars —

(a) in respect of every ship to which the crew agreement relates —

- (i) the name of the ship, its port of registry and official number;
- (ii) the name of the owner of the ship and his address; and
- (iii) the nature of the voyage and as far as practicable, the duration or maximum period of the intended voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;

(b) in respect of every seaman employed on board the ship —

- (i) his name;
- (ii) his nationality;
- (iii) his address;
- (iv) the number of his identity card or passport and the date and place of his birth;
- (v) the name of the ship in which he was last employed and, if he was discharged from that ship more than 12 months before he became employed in the ship, the year in which he was so discharged;
- (vi) the capacity in which he is employed in the ship;

- (vii) the grade, number and nationality of any certificate of competency held by him;
- (viii) the amount of wages he is to receive;
- (ix) a scale of provisions, if any, which are to be furnished to each seaman and which the parties agree to accept;
- (x) the amount of allotment to be made from his wages;
- (xi) the date which he went on board the ship to commence his employment in it;
- (xii) the date and place at which he left the ship and if he left on discharge, the reason for his discharge;
- (xiii) if he is left behind otherwise than on discharge, the date and place of and the reason, if known to the master, for this being done;
- (xiv) the name and relationship of his next of kin and the address of his next of kin, if different from that of the seaman;
- (xv) any regulations as to conduct, disciplinary offences and as to fines, or other lawful punishment for misconduct.

(2) The crew agreement shall be so framed as to admit such stipulations to be adopted at the will of the parties thereto, as are not contrary to law.

Period of validity of crew agreements.

8. A crew agreement shall remain in force —

(a) until all the persons employed under that agreement in the ship have been discharged; or

(b) until the ship first calls at a convenient port after the date of expiry stipulated in the crew agreement.

Particulars of master and seamen.

9. (1) The master shall enter the particulars required under regulation 7(1)(b) in the crew agreement in respect of himself and any seaman.

(2) The master or employer of such a seaman shall, within 21 days of the date when the seaman, including the master himself, is engaged or discharged, notify the Director of the engagement or discharge.

Execution of crew agreements.

10. (1) A crew agreement shall be dated at the time of the first signature thereof and shall be signed by the master or employer of the seaman or by a person authorised by the master or employer in that behalf, before a seaman signs the agreement.

(2) The master or employer of the seaman or any person authorised by the master or employer in that behalf, shall read over and explain the agreement to the seaman or otherwise ascertain that the seaman understands the agreement before the seaman signs it.

Alterations in crew agreements.

11. Every erasure, interlineation or alteration in any crew agreement, except additions made for the purpose of shipping substitutes or persons engaged after the agreement has been made, shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in the erasure, interlineation or alteration and such erasure, interlineation or alteration shall —

(a) if made in Brunei Darussalam, be attested or endorsed by the Director; or

(b) if made elsewhere, be attested or endorsed by a Brunei Darussalam consular officer or any person holding public office in that place.

Procedure on discharge.

12. (1) Where a seaman is present when he is discharged —

(a) the master, or one of the ship's officers authorised by him in that behalf, shall, before the seaman is discharged —

(i) if the seaman produces his discharge book to him, record in it the name of the ship, its port of registry, gross or registered tonnage and official number, the description of the voyage, the capacity in which the seaman has been employed in the ship, the date and place at which he began to be so employed and the date and place of his discharge; or

- (ii) if the seaman does not produce his discharge book to him, give to the seaman a certificate of discharge containing the like particulars;

(b) the master shall ensure that the seaman is discharged in the presence of —

- (i) the master himself;
- (ii) the seaman's employer; or
- (iii) a person authorised in that behalf by the master or employer;

(c) the person mentioned in paragraph (b) in whose presence the seaman is being discharged shall —

- (i) make and sign an entry in the official log-book recording the place, date and time of the seaman's discharge; and
- (ii) make and sign an entry in the crew agreement recording the place and date of, and the reason for, the seaman's discharge; and

(d) the seaman shall sign the entry in the crew agreement.

(2) Where a seaman is not present when he is discharged, the master, or a person authorised in that behalf by the master, shall make the entries referred to in sub-regulation (1)(c).

(3) If a seaman so requests, the master or one of the ship's officers authorised in that behalf by the master shall give to the seaman a certificate, which shall be separate from any other document, either as to the quality of his work or indicating whether he has fully discharged his obligations under his contract of employment.

Penalty.

13. Any person who fails to comply with any provision of these Regulations shall be guilty of an offence and liable on conviction to a fine not exceeding \$500.

Fees.

14. Shipowners, ship charterers or their appointed agents shall pay the fees for the services stipulated in the Schedule with regard to the crew agreement.

SCHEDULE

(regulation 14)

FEES

1.	Opening of crew agreement of a ship in Brunei Darussalam	\$30
2.	Opening of crew agreement of a Brunei Darussalam ship outside Brunei Darussalam	\$50
3.	Closing of crew agreement of a ship*	\$15
4.	Engagement or discharge of a seaman of a ship*	\$5
5.	Search fee for crew agreement	\$30
6.	Copy of crew agreement	\$0.30 per page

* For Brunei Darussalam ships, the fee for closing a crew agreement or for the engagement or discharge of a seaman shall be paid at the time of opening the crew agreement or of the engagement or discharge of the seaman respectively.

Made this 12th. day of Zulhijjah, 1428 Hijriah corresponding to the 22nd. day of December, 2007.

PEHIN ORANG KAYA SERI KERNA DATO SERI SETIA
DR. HAJI AWANG ABU BAKAR BIN HAJI APONG
Minister of Communications,
Brunei Darussalam.